

ARTICLE

EU-driven judicial reforms in Romania: a success story?

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This article examines the impact of the European Union (EU) and domestic actors on the development of judicial quality (rule of law) across two key dimensions: judicial capacity and judicial impartiality. It argues and shows empirically that although the EU has been crucial in eliciting change in the judicial capacity dimension, it was largely unsuccessful in changing aspects of the judicial impartiality dimension. The author concludes that the EU's involvement in Romania through accession conditionality has been of limited success: that is, the EU had a considerable impact on improving *de jure* judicial quality, but it was unable to affect rule implementation and thus failed to create *de facto* judicial quality. Methodologically, this article makes use of a detailed case-study method with process-tracing. Data are drawn from a number of primary and secondary sources such as official governmental documents, reports, surveys and scholarly literature relevant to the topic.

Keywords: Romania; EU; conditionality; Europeanisation; rule of law; judicial reform

Judicial reforms were somewhat neglected in the first decade of post-communist transition. According to a World Bank study, 'less overall progress has been made in judicial reform and strengthening than in almost any other area of policy or institutional reform in transition countries since 1990' (Anderson *et al.* 2005, p. 57). This tendency is especially obvious in Romania, where despite formal legal change in the 1990s, a judicial reform strategy was developed only in 2003, being part of the broad reform efforts required for European Union (EU) accession. Insufficient progress in rule of law¹ was among the last stumbling blocks in Romania's way to EU membership and, therefore, subject to increased EU conditionality. The EU's leverage, which has been recognised as a strong external stimulus for domestic change (Vachudova 2005, Pridham 2007), has triggered Romanian judicial reform and led to considerable change. But change does not automatically mean improvement in judicial quality, and controversy surrounds the EU's transformative impact on the rule of law in Romania.

According to Vachudova (2005), who has analysed the EU's overall impact on political change, 'Romania represents the greatest success – and also the greatest failure – of the EU's active leverage' (p. 220). This apparently ambiguous observation is reflected in Romania's rule of law development. Although Romania was praised by the EU (European Commission 2006a) and scholars as a candidate country that transformed itself into a 'successful laggard' (Noutcheva and Bechev 2008), a superficial or patchy rule of law reform process has led more recently to critical evaluations (Gallagher 2009, p. 7, European Commission 2010). In fact, the

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World Bank (2010) composite governance indicator for the rule of law has not improved for Romania over the period 2000–2008. The vagueness about the success of judicial reform leaves the Romanian case as an unresolved puzzle. My intention is to resolve this puzzle empirically through a qualitative case study.

Therefore, how successful the EU-driven judicial reforms have been in Romania is extremely pertinent. Have these reforms led to an improvement of judicial quality (rule of law)? My answer to this question is differentiated. I conceive judicial quality as a multi-dimensional concept which distinguishes between *de jure* and *de facto* aspects and between judicial capacity and judicial impartiality dimensions. The main argument of this article is that while the EU has been a very important change agent (among other domestic ones) in triggering judicial reforms and bringing about change in *de jure* and capacity-related aspects of judicial quality, it has not been able to change domestic power structures and create a fully independent, impartial and incorrupt judiciary. The limited improvement of the impartiality dimension has undermined progress in *de facto* judicial quality and has not resulted in the creation of the rule of law. This uneven and relatively disappointing outcome is explained here in terms of the inappropriate reform approach adopted by the EU (technocratic efficiency-focused and elite-driven) and with the resistance of domestic anti-reform actors.

The next section offers a conceptually grounded, indicator-based analysis of judicial quality in Romania between 2000 and 2009. This section will show empirically how the EU and its domestic supporters exerted a stronger impact on the judicial capacity dimension than on the judicial impartiality dimension. It is then followed by a detailed explanation as to why there has been such uneven development and why Romanian judicial reforms have only been partially successful.

Judicial reforms in Romania: the struggle between change agents and veto players

A conceptual framework of analysis

The two distinct approaches adopted by international donors to judicial and democratic reforms reflect wider theoretical approaches to democratisation and regime change. The first approach highlights the beneficial role of economic development, state capacity and human capital in the creation of democracy and rule of law (e.g. Lipset 1959, Fukuyama 2004, Besley and Persson 2009). This modernisation approach is reflected in the dominant strategies to judicial reform adopted by international donors (e.g. World Bank and the EU), who emphasise the importance of judicial capacity- and institution-building (Open Society Institute 2002, Anderson *et al.* 2005, Hammergren 2007). The second approach focuses on the role of politics and political power. It underlines various measures required to ensure the creation of the rule of law, such as the presence of fair and impartial rules (North 1990, Rothstein and Teorell 2008), judicial independence (Larkins 1996), an independent media (Norris 2008), civic culture and horizontal power structures (Putnam 1993, Bideleux 2007), checks and balances, that is, government bound by law (Hayek 1978, North and Weingast 1989), law and order or personal security (Samuels 2006, Haggard *et al.* 2008) as well as the absence of anti-democratic veto players in the form of organised crime, intent on state capture and judicial corruption (Dakolias and Thachuk 2000, Hellman and Kaufmann 2001, Allum and Siebert 2003, Merkel 2008). Some of these variables are reflected partly in judicial reform strategies and in the international principles and declarations of international donors or non-governmental organisations (NGOs) (e.g. United Nations 1985, USAID 2008).

The main argument of this article is developed directly from these two diverse approaches and illustrated using the case of Romania. I argue that the EU and its domestic supporters, by employing a modernisation approach to reform, which has mainly focused on the creation of judicial capacity (e.g. increase in judicial salaries, personnel and budget), have not been able to transform

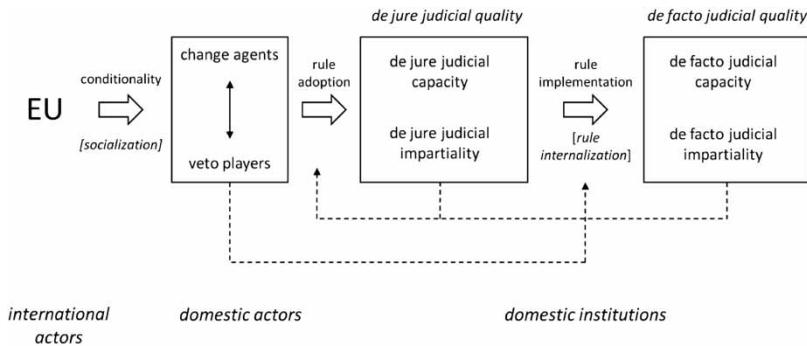


Figure 1. The impact of EU conditionality on judicial quality. Source: Own elaboration.

existing vertical power structures and change the judicial and political culture. While the capacity of the Romanian judiciary has increased, impartiality-related features (e.g. extent of corruption, politicisation, etc.) have remained almost unchanged. Ultimately, this divergent development has left the rule of law levels unchanged despite considerable reforms.

Figure 1 illustrates a conceptual framework for analysing the impact of EU conditionality on the quality of the judiciary, which addresses two closely interrelated dimensions: first, efficiency-related aspects which focus on the judicial capacity dimension (e.g. increasing the number of judicial staff, salary levels, training, computerisation, etc.), and second, power-related aspects which relate to judicial impartiality (e.g. merit-based recruitment/promotion, absence of politicisation and measures for impartial enforcement of rules). A conceptual distinction of judicial quality is made between formal, *de jure*, judicial institutions (*de jure* judicial capacity, accountability and independence) and their enforcement in practice, that is, *de facto* institutions.² While the *de jure* and *de facto* distinction is used mostly in the context of rules – for instance, to highlight the existence of an implementation gap between the rules on the book and the rules in practice – I extend this concept to the deployment and use of resources in order to consider a possible discrepancy between the *potentially* usable and the *actually* used. An example for such a gap could be the non-functioning of new administrative system in practice due to missing practical knowledge about it.

The core premise on which the framework is based is the potential role of international actors (and in particular that of the EU) in generating domestic change through a strategy of conditionality (Schimmelfennig and Sedelmeier 2004). While the role of the EU (understood as the demands expressed by the EU Commission) in triggering (judicial) reforms is said to be crucial in the pre-accession period of candidate countries (mainly because of an asymmetric bargaining power) (Moravcsik and Vachudova 2003), the impact ultimately depends on a complex interplay of domestic mediating factors, such as domestic actors, formal institutions or informal practices (Risse *et al.* 2001). The conceptual framework is actor-centred and focuses on the crucial role of rational domestic actors in institutional change, but at the same time acknowledges formal (*de jure*) and informal (e.g. judicial culture) institutions as a second type of mediating factor (Börzel and Risse 2003). Similar to historical institutionalism (Thelen 1999), the approach takes a power-distributional view of rational actors and views their actorness as being embedded in existing domestic institutions. This implies that the stability or persistence of institutions does not result only from passive inertia but also from ‘active, ongoing political mobilisation’ (Mahoney and Thelen 2010). Institutions are, therefore, not automatically self-reinforcing, but rather they reflect the compromises of power struggles between different coalitions. Such coalitions of change and resistance can consist of only domestic players (pro- and anti-reformers)

or of a more transnational reformist coalition made up of the EU and its domestic reform supporters (Jacoby 2006).

The main assumption of the conceptual framework is that the EU can engender change and influence judicial quality only indirectly. The EU's impact is mitigated or reinforced by domestic actors (Vachudova 2005), which can be divided into reformist change agents and reform opponents (i.e. veto players). These two types of actors can be found among a variety of domestic organisations, such as the legislature, the executive, the judiciary, the public administration, interest groups and companies. Through its strategy of conditionality, the EU has the ability to empower change agents (reform supporters) or to weaken veto players (reform opponents) and, in this way, influences the domestic redistribution of power (Risse *et al.* 2001, p. 11, Tsebelis 2002). It has thus been asserted that the EU has 'transformative power' (Grabbe 2006) or 'democratisation power' (Ekiert *et al.* 2007). By spreading democratic values among citizens and providing diverse incentives for political elites, the EU's strategy of external democracy promotion is said to shift the domestic power balance in favour of liberal democracy and rule of law. However, the question to be answered is whether the EU's approach, which tends to focus on particular political election outcomes rather than on the process of democratisation (Stewart 2009), leads to the transformation of vertical power structures or just replaces one group of elites with another.

The outcome of the power struggle among political actors might nevertheless be necessary (albeit not sufficient) for formal institutional change, as the victory of reformist change agents over non-reformist veto players at elections can accelerate judicial reforms and bring about substantial (EU-demanded) formal rule adoption as well as the transfer of financial resources. It is expected that judicial reforms increase *de jure* judicial quality, which then translates into *de facto* judicial quality. However, formal rule adoption and resource transfer are not the end of the story as the new rules have to be implemented and the new resources have to function in practice (e.g. computers and management system). Effective rule implementation (effective use of resources) depends in turn on the existing (*de jure* and *de facto*) judicial capacity and the political will of domestic actors. This complex interdependence between domestic agency and structure, which Risse *et al.* (2001, p. 12) call a 'circular flow of causal relationships closed by feedback loops', is reflected in Figure 1 by the dashed arrows.

Besides the two main layers of EU impact (rule adoption and rule implementation), the influence of the EU could be additionally conceptualised at a third layer of impact as rule internalisation, which I acknowledge only indirectly as a potential additional way of EU influence in the long run. I would argue that external socialisation (e.g. through training measures or twinning) and social learning (March and Olsen 1989) are less relevant in the short and medium term as only few elites have the opportunity to socialise with foreign experts and elites. Recent studies have shown that rule internalisation (change in judicial culture) has not yet occurred in Romania (Parvulescu and Vetrici-Soimu 2005, Beers 2010), and it has been suggested that the EU's socialisation measures (see ECOTEC 2004, MWH Consortium 2007) affect only superficial learning as opposed to deep complex learning (Checkel 2005). This is somewhat consistent with the Europeanisation literature, which emphasises the relevance of actor-centred, rational institutionalist approaches and the higher effectiveness of conditionality as opposed to socialisation and learning strategies (Dimitrova and Pridham 2004, Schimmelfennig and Sedelmeier 2005). While external socialisation seems to be potentially less transformative, the impacts of domestic socialisation and learning do matter. The effects of domestic socialisation are mostly reflected in the persistence of informal institutions which are crucial for institutional change in transition (see Helmke and Levitsky 2004). Most authors explain the failure to apply new knowledge and to develop new formal institutions and new knowledge at the domestic level in terms of passive institutional inertia resulting from the incompatibility between new formal laws and domestic informal institutions (North 1990, Berkowitz *et al.* 2003). It is argued here that active

resistance by veto players undermines the implementation of formal rules and the success of judicial reform.

It is clear that two kinds of mediating factors (domestic actors and institutions) are crucial for the functioning of rule adoption and implementation and thus for the effectiveness of EU conditionality. Mediating factors serve as a filter of EU conditionality and can either be a catalyst or be an impediment to reform. Ultimately, the two mediating factors are *the presence of judicial capacity* and *impartiality*, which, together, link the independent variables (the EU and domestic structures) with the dependent variable (judicial quality). The implication for the success of reforms is, therefore, clear: successful judicial reforms should ideally improve both dimensions of judicial quality (capacity and impartiality) and thus ensure both the low-cost/efficient *and* impartial enforcement of formal rules. Unsuccessful judicial reforms would instead result in the absence of rule implementation due to a lack of capacity (i.e. resource constraints) or to a lack of impartiality (i.e. influence of veto players).

Candidate countries deemed to be judicially weak or inadequate face a quandary, which I call the dilemma of the mediating factor, namely that the mediating factor (judicial actors and institutions) is also the factor to be reformed. Put differently, the dependent variable is at the same time the intervening variable. This dilemma represents a problem for reformers, but also for scholars in terms of research design. How can EU conditionality be successful when domestic judicial actors and institutions (the mediating factors), responsible for rule adoption and implementation, do not function adequately? How can an external actor reform the judiciary in partnership with a weak, biased and corrupt judiciary, which does all that it can to uphold the *status quo*? This dilemma makes judicial reforms particularly difficult and may explain why EU democratic conditionality (relating to the Copenhagen political criteria), as opposed to *acquis* conditionality (related to the *acquis communautaire*), is more prone to failure (Schimmel-fennig and Sedelmeier 2005).

How does the proposed framework address institutional change and in particular the ‘net impact’ of the EU on judicial quality over time? In order not to prejudge the EU’s impact and to address the complex interplay between internal and external actors and structures, I use a time-sensitive design based on the bottom-up approach suggested by Radaelli and Pasquier (2007). By tracing back the development of judicial quality over different points in time, I identify the causal mechanisms which connect different potential independent variables (the EU and domestic structures) with the dependent variable (judicial quality). Institutional change is traced back by comparing different sets of direct and indirect judicial quality indicators during a period of increased EU involvement (2000–2009). During this period, three different points in time (t_0 , t_1 and t_2) are identified. As the starting point of analysis (t_0), I select the year 2000, that is, the opening of EU accession negotiations with Romania, which represents the beginning of EU leverage and at the same time reflects the situation of a mostly unreformed Romanian judiciary. The two other reference points in time (t_1 = introduction of a safeguard clause in 2005; t_2 = introduction of cooperation and verification mechanism (CVM) in December 2006) reflect intensified EU conditionality in the area of judicial reforms and will be contrasted with possible alternative domestic explanations (e.g. change in government). This time-sensitive and process-oriented model which considers the interplay of external and domestic actors will be applied in a qualitative cases study to examine the development of the rule of law in Romania.

The role of the EU as an external driver for judicial reforms in Romania

How can an external actor such as the EU be a driver for domestic judicial reforms? What evidence exists to prove the importance and the potential impact of the EU for judicial reforms in Romania? According to Europeanisation scholars, the main and potentially most effective

strategy to bring about domestic change in candidate countries is conditionality. Conditionality means that candidate countries must fulfil certain membership requirements in order to become an EU member (strategy of reinforcement by reward). An essential condition or requirement for EU membership is adherence to the rule of law. While there is no *acquis* which directly addresses judicial reforms, the Copenhagen political criteria include the establishment of the rule of law and the ability to take on the obligations of membership (European Council 1993). These are indeed two broad criteria which leave much scope for interpretation. Further clarification was given at the Madrid European Council meeting in 1995 and more specific conditions were identified as part of the accession process (European Council 1995). Insofar as the mechanisms of Europeanisation (i.e. how conditionality works) have undergone detailed examination elsewhere (Grabbe 2006), it is sufficient here to point out the two distinctive features of EU conditionality with regard to Romanian judicial reforms. First, the EU influenced Romania's reform strategy through *guidance and monitoring*. This mechanism included a set of different measures – such as the Europe agreements, Accession Partnerships, regularly issued progress and monitoring reports, speeches of high-level politicians and the introduction of a safeguard clause – which enabled the EU to guide judicial reform and monitor progress. The introduction of the safeguard (postponement) clause³ and the accompanying CVM⁴ were further elements of guidance and monitoring. These were additional momentum-upholding mechanisms for judicial and anti-corruption reforms, which were more specific in nature and increased conditionality beyond the end of accession negotiations. This armada of principles, criticisms and recommendations provided (at least on paper) a well-elaborated judicial reform strategy for the Romanian government. Evidence that EU criticism and the safeguard clause were taken seriously by Romanian elites (especially by change agents) is reflected in the reform strategy and Action Plans formulated by the Romanian authorities and developed jointly with the EU Commission. The Action Plan to strengthen Romania's administrative and judicial capacity referred specifically to the EU membership requirements and addressed the criticism and suggestions made in the EU progress/evaluation reports (e.g. see the Strategy for the Reform of the Judiciary 2005–2007). It is noteworthy that all suggestions and criticisms which were mentioned in the EU progress reports were highlighted in the reform Action Plans⁵ with a short remark in bold letters: *European Union Common Position Commitment*.

The second mechanism of conditionality was *institutional capacity-building*. It included the financial and technical assistance as well as the provision of advice and twinning to build up the necessary judicial (administrative) capacity for the enforcement of the *acquis communautaire*. The importance of strengthening judicial and administrative capacities in the Romanian case was highlighted in relevant EU communications and in the 2002 road maps and supported through raising the allocations which were dedicated to judicial and administrative reforms (European Commission 2002a, 2002b). The Phare programme allocations between 1998 and 2006 to support public administration reform and judicial capacity in Romania were a total of 452 million euros. An estimated 20% of these funds were devoted to the judicial sector (ECOTEC 2006a, pp. 12–13, 2006b, p. 9). Additional support was provided through the Twinning programme (i.e. the long-term secondment of EU experts and practitioners to Romania), under which several of the 44 projects in the area of Justice and Home Affairs addressed judicial capacity requirements (European Communities 2005). Additionally, Technical Assistance and Information Exchange provided advice on the fight against corruption and law enforcement. In addition to Phare funds, the Transition Facility was established to further strengthen administrative and judicial capacities.

From this short overview, it becomes evident that during the last decade, the EU has constantly pushed for and deployed resources towards judicial reform in Romania. Certainly, many other external donors (e.g. World Bank, Council of Europe, USAID and NGOs)

were involved in this process, but there is consensus among scholars that the EU's engagement and support were decisive in the Romanian case (Pridham 2007, p. 252, Papadimitriou and Phinnemore 2008). Yet simply demonstrating that the EU had a significant potential leverage on initiating and upholding judicial reforms in Romania does not automatically mean that judicial reforms were successful, that is, that *de facto* judicial quality was improved. Therefore, this article proceeds with a detailed examination of judicial quality across two dimensions.

Rule adoption works: success in creating judicial capacity

The first reform attempts of the Romanian judicial system which can be linked to the EU membership requirements were made in late 1999 and included the amendment of formal legislation (e.g. Law on the Organisation of the Judiciary and Civil Procedure Code) as well as the creation of new agencies with responsibility for training, administration, the implementation of the new legislation (e.g. Training Centre for Clerks, court administrators) and the fight against (judicial) corruption (e.g. the National Anti-Corruption Prosecutor's Office (NAPO)). These new, as well as previously created bodies (e.g. National Institute of Magistrates and Superior Council of Magistrates (SCM)), were, however, weak in terms of capacity (resources, staff and budget) and, therefore, not independent and powerful enough to improve *de facto* judicial quality. The first few years of judicial reform were also characterised by substantial EU-inspired formal change (rule adoption),⁶ which included the drafting of new legislation or the revision of existing laws through constitutional amendments (emergency ordinances).⁷ Despite the adoption of a considerable number of new rules, weak administrative and judicial capacities hindered the implementation in practice in many cases. The EU urged Romanian elites to overcome the lack of judicial capacity and independence. Romanian elites addressed this problem initially in a superficial way. The judicial reform strategy was badly drafted and poorly implemented during the mandate of Minister of Justice Rodica Stănoiu (2000–2004) (Gallagher 2009, p. 149).

From 2005 onwards, the newly established Romanian government accelerated judicial reforms and, as a consequence, the country's reputation within the EU started to improve.⁸ Committed change agents (such as the new Minister of Justice, Monica Macovei, and President Băsescu) were able to accelerate judicial reforms due to the additional pressure of the postponement safeguard clause (Parvulescu and Vetrici-Soimu 2005, p. 11, Demsorean *et al.* 2008, p. 96). Under Macovei's guidance, three new laws were passed in July 2005, which introduced several provisions for stronger accountability, merit-based selection, independent court management and budgetary responsibility. The new judicial leadership prepared a revised and well-elaborated *Strategy for the Reform of the Judiciary 2005–2007*, which aimed to improve judicial capacity through the introduction of technical and efficiency-related measures (e.g. strengthening the administrative capacity and providing IT hardware) and a commitment to strengthening judicial independence and accountability. Increased judicial capacity was most evident in the case of the SCM, the guarantor of judicial independence. Backed by the EU – which had criticised the SCM for insufficient capacity and weak accountability (European Commission 2006b, p. 6) and had made improvement one of the benchmarks of the safeguard clause – domestic change agents were able to increase its administrative capacity and strengthen *de jure* judicial independence, which translated partly into an improved *de facto* judicial independence. Within a short period of time (2005–2008), the annual budget of the SCM increased from nearly 3 million euros to 20.1 million euros and the number of administrative posts was augmented from 151 to 240 filled positions (European Commission 2006a, 2008a). The judicial reform strategy was accompanied by the national anti-corruption strategy, which included several measures to fight judicial corruption.⁹

Since the introduction of the CVM in December 2006, Romania's judicial reform actions were subjected to benchmark-based monitoring and focused on several projects of judicial strengthening: the judicial capacity-building of specific judicial bodies (e.g. the SCM), the unification of the jurisprudence of courts and prosecutor offices in Romania, strengthening of the public ministry's institutional capacity, improvement of the system of Romanian judicial statistics, strengthening of the Romanian probation system and improvement of the management and media training for magistrates. However, in terms of judicial improvement, the post-accession period has been evaluated by the Commission as mixed. While judicial strengthening has continued, the EU has pointed out specific human resource problems and managerial shortcomings in the Romanian judicial system. Although a new Human Resource Strategy for the judiciary was adopted in November 2008, the EU Commission remarked that 'the situation remains a challenge for Romania in terms of the budgetary costs and in providing qualified personnel and support infrastructure' (European Commission 2009b, p. 4). Whereas in earlier years the number of magistrates had increased, after accession there was a downward trend, resulting in a heavy case workload for magistrates. Moreover, the Commission recently identified a decline in the quality of judicial personnel, a phenomenon which has arguably been caused by the introduction of a direct entry examination for legal professionals that permits the recruitment of non-experienced magistrates as opposed to better-trained graduates from the National Institute of Magistracy (European Commission 2010, p. 5).

What effect have the reforms had? As to judicial capacity, there was considerable improvement between 2002 and 2008 (Table 1). The number of judicial personnel increased between 2002 and 2006 (although between 2006 and 2008, it slightly declined again), and the annual budget of the judiciary and the salaries of magistrates tripled between 2002 and 2008. In addition, diverse technical and administration-related measures enhanced the computerisation and the court management of the Romanian judiciary considerably. According to a survey of magistrates, the rate of daily computer use for judicial tasks increased from 51.7% to 78.8% between 2005 and 2007 (Transparency International 2007, p. 83).

In summary, the recent judicial reforms led to considerable improvement in judicial capacity. Despite overall positive development, a caveat remains, namely that after Romania's accession in

Table 1. Selected indicators of judicial capacity.

	2002	2004	2006	2008	Net change (%)
Number of professional judges per 100,000 inhabitants	17.0	18.6	20.7	19.2	+29.9
Number of full-time court staff per 100,000 inhabitants	40.7	41.4	43.0	40.2	-1.2
Number of public prosecutors per 100,000 inhabitants	9.5	12.8	12.7	11.1	+16.8
Annual budget for courts and prosecution per inhabitant, in euros	7.8	9.0	17.0	25.0	+221.8
Annual salary, judge in the highest court, in euros	13,017	18,894	34,082	36,802	+182.7
Annual salary, public prosecutor at the beginning of career, in euros	-	4056	7936	15,667	+286.3
Direct assistance to the judge, on scale from 1 to 4	-	2.6	3.4	4.0	+53.8
Administration and management, on scale from 1 to 4	-	1.0	3.7	3.0	+200.0

Sources: Council of Europe (2005, 2006, 2008, 2010).

Notes: Direct assistance to the judge includes word processing, electronic database, electronic files, e-mail and internet connection (100% = highest level). Administration and management includes case registration system, court management information system and financial information system (100% = highest level).

2007, the number of magistrates and court staff has decreased. Since the global economic and financial crisis is likely to result in more cutbacks, the sustainability of judicial strengthening is questionable. Furthermore, we have to recall that the improvement of judicial capacity does not automatically translate into improved *de facto* judicial quality, especially when there is no similar positive development in the impartiality dimension.

Rule implementation fails: failure to establish judicial impartiality

Until 2004, the Romanian judicial system exhibited many problems with regard to judicial impartiality. First, there was a general lack of *de facto* judicial independence resulting from the interference of the Ministry of Justice and court presidents in judicial selection and appointments. According to critics, political and personal connections were more important than merit and the quality of judges (American Bar Association 2002). Almost no progress was made towards improving judicial independence under the mandate of Justice Minister Rodica Stanoiu (2000–2004), a period characterised by two Romanian judges as ‘...the darkest period for the Romanian legal system from the standpoint of the independence of post-communist justice’ (Dumbravă and Călin 2009, p. 126). While some reforms did take place under Rodica Stanoiu, her reform strategy did not include the participation of civil society and judicial associations, which provoked stark domestic and external criticism by the EU (Coman 2006, p. 1021, 2007, p. 182). Under domestic and external pressure, the Constitution was revised in 2003 so that High Court judges were to be appointed for life. Three new laws to improve judicial independence were adopted in June 2004. However, the three-law package was not effectively implemented and substantial formal changes were not reflected in the revised Judicial System Reform Strategy or in the related Action Plan (European Commission 2004, p. 18).

The second unresolved issue which undermined judicial impartiality and *de facto* judicial quality is judicial corruption. A World Bank study from the year 2001 revealed that Romanians saw levels of judicial corruption to be very high, surpassed only by a widely held perception of corruption within the customs authorities (World Bank 2001). The European Commission (2003, p. 19) advocated for an increase in judicial salaries by stressing the positive effect that this would have. However, despite an increase in judicial salaries, corruption within the legal system did not decline, prompting the Commission to make the fight against corruption a top priority in the newly introduced postponement clause (European Commission 2005). Nor did the creation of the NAPO in 2002 improve the fight against high-level corruption. This agency was initially understaffed, underfunded and dependent on the Ministry of Justice and the General Prosecutor. Bitter wrangling occurred between the transnational coalition of reformers, who supported a strong and independent agency, and reform opponents from the Romanian parliament, who supported the *status quo*, over the competencies to be handed to the NAPO. This dispute was reflected in frequent legislative changes and the volume of emergency ordinances, so much so that legislation on the NAPO was changed ‘more than a dozen times, making it one of the most amended and changed pieces of legislation in post-communist Romania’ (Ristei 2010, p. 351). Politicians who blocked the empowerment of the NAPO were helped by a verdict of the Constitutional Court in May 2005 restricting the powers of the NAPO to investigate and prosecute members of parliament and the government. The first package of anti-corruption legislation in April 2003 was similarly ineffective. While these formal changes introduced for the first time the concept of ‘conflict of interest’ into Romanian law and extended requirements on the public disclosure of assets, they were only weakly implemented in practice (European Commission 2003, p. 2).

Under the new Justice Minister, Monica Macovei (2004–2007), a former civil society activist, the reform approach changed considerably. First, Macovei’s reform approach involved to a certain degree the participation of civil society (e.g. civil society groups and professional associations of

magistrates), and second, she did not interfere in judicial selection and appointment as previous ministers had done (Papadimitriou and Phinnemore 2008, p. 136). Backed by President Basescu, Macovei was able to introduce several provisions for stronger accountability, merit-based selection, independent court management and budgetary responsibility.¹⁰ Indeed, the positive trend on judicial independence in this period is attributed to the reforms of Monica Macovei, ‘who avoided any personal intervention, either official or underground, into the legal affairs of judges, prosecutors, or the Public Ministry’ (Dumbravă and Călin 2009, p. 9), and additional domestic change agents (civil society groups, professional associations of magistrates reform-oriented judges and prosecutors).

Despite Macovei’s strong reform commitment, her actions encountered strong resistance among politicians and judges. The resistance to judicial independence reforms was, for instance, reflected in reform-blocking decisions of senior judges from the Partidul Social Democrat (Social Democratic Party)-influenced Constitutional Court, which declared some of the Tăriceanu government’s proposed reforms as unconstitutional in order to assure the survival of its loyal senior members in the judiciary (Romanian Digest 2005). Furthermore, even after the change of government in 2005, reform-opposing political elites from the previous Năstase government continued to influence the judiciary via party networks despite the reform actions of committed change agents (Pridham 2006, p. 21). The role of ‘old guard figures’ (Gallagher 2009, p. 121, 240), that is, senior networks left in power as a result of Romania’s incomplete post-communist transformation of judicial and political elites, has been especially important (Pridham 2007, p. 250). Senior judges continue to occupy the most important positions, be it in the Constitutional Court and the SCM or in the function of court presidents, while reform-minded young magistrates have positions in the low- and middle-level courts. The persistence of such a hierarchical structure based on seniority may be, on the one hand, advantageous insofar as experienced judges occupy the highest posts, but, on the other hand, it may considerably hinder the advancement of fast reforms. Monica Macovei, as a young reformist figure in the system, tried to challenge the old clientelistic structures and build a base for fighting against high-level corruption, clientelism, nepotism, etc. Unfortunately, apart from the EU’s and President Basescu’s support, most other domestic politicians and powerful senior magistrates had a vested interest in preserving the *status quo*.¹¹

Another reason for the failure of the reform attempts was the method and style of conducting judicial reforms. Monica Macovei, who focused on fighting judicial corruption as the main problem of the Romanian judicial system, fought the corruption battle with autonomous elements outside of the judicial system, such as the Anti-corruption Directorate (DNA) and the Directorate for Organised Crime and Terrorism (DIICOT), without any supporting consensus on anti-corruption reforms by politicians. Unfortunately, these newly established independent bodies created severe incoherence within the judicial system and have undermined its overall efficiency insofar as they exist as autonomous islands, with a lack of transparent appointment criteria which can lead to a situation in which not the most competent magistrates are selected.¹²

The post-accession period since January 2007 has been characterised by a general lack of progress regarding the judicial impartiality dimension (Table 2). This is puzzling since the EU continued to exert conditionality through the introduction of more tailored instruments of monitoring (e.g. the safeguard clause and the CVM) after Romania’s accession. Recent reports reported weak *de facto* judicial independence after Romania’s accession to the EU in January 2007 (Initiative for a Clean Justice 2007, Transparency International 2007, p. 17). High-ranking national-level judges in the Constitutional Courts continue to be appointed on a political basis and ‘seniority and networking still matter more than performance or qualification’ (Global Integrity 2008, p. 56). Survey results show that *de facto* judicial independence continues to be directly and indirectly undermined through the absence of a free press, pressure exercised by political parties and other judiciary-related factors (e.g. pressure by the chief of the section or legal instability)

Table 2. Selected indicators of judicial impartiality.

	2002	2004	2006	2008	Net change (%)
Judicial independence, WEFEOS, scale from 1 to 7	2.7	3.0	2.9	3.3	+22.2
Efficiency of legal framework, WEFEOS, scale from 1 to 7	2.6	3.2	3.1	3.2	+23.1
Independent media, FH, scale from 1 to 7	4.5	4.25	4.0	4.25	-5.6
Separation of powers, BTI, scale from 1 to 10	-	8.0	9.0	9.0	+12.5
Civil society participation, BTI, scale from 1 to 10	-	6.0	7.0	6.0	0
Corruption in the legal system, TI, scale from 1 to 5	-	1.9	2.1	1.8	-5.3
Law and order, PRSG, scale from 1 to 6	4.0	4.0	4.0	4.0	0
Criminalisation and/or delegitimation of the state, FfP, scale from 1 to 10	-	3.8	3.9	3.8	0
Trust in justice, EB, in percentages	35	28	30	27	-22.9

Sources: World Economic Forum's Executive Opinion Survey (WEFEOS); Freedom House (FH); Bertelsmann Transformation Index (BTI); Transparency International (TI); Political Risk Services Group (PRSG); The Fund for Peace (FfP); Eurobarometer (EB).

Note: The original scales by FH, TI and FfP were inverted so that higher scores indicate better performance.

(Transparency International 2007). Most of the pressure on the judicial system is exerted by the mass media, which, according to Freedom House, is far from independent, often being in the hands of powerful media oligarchs who are politicians and businessmen at the same time (Freedom House 2009). Furthermore, the SCM, as a guarantor of independence, is perceived as 'politically biased in its functioning, selectively using internal investigations to stop prosecutors who are too pushy against politicians' (Global Integrity 2008, p. 57).

The limited impact of EU conditionality is reflected in the poorly functioning SCM, the supposed guarantor of judicial independence. In a public statement of six NGOs ('Initiative for a Clean Justice'), the SCM was criticised for taking only measures in fields which do not directly concern SCM members (unification of jurisprudence and filling in vacant positions) and was described as an institution 'not accountable to anyone, which takes fundamental decisions in an non-transparent and unjustified manner, and whose standards do not guarantee the impartiality in the decision making process' (Initiative for a Clean Justice 2007, p. 5). Recently, the EU Commission admitted that 'despite its key role in promoting a transparent and efficient judicial process, the SCM has not yet fully taken responsibility for judicial reform and for its own accountability and integrity' (European Commission 2008b, p. 7).

Despite many changes and the introduction of anti-corruption legislation and new bodies, the fight against high-level corruption and judicial corruption has not advanced. Several recent reports as well as press articles reveal that the pace of the fight against high-level corruption after accession has not been maintained. Stagnation and regression in the fight against high-level corruption have been reported by several recent reports (e.g. Freedom House 2009). In particular, there have been attempts to modify previously adopted anti-corruption legislation or diminish the power of anti-corruption agencies. Despite ongoing formal *de jure* changes (e.g. adoption of new civil and criminal code in June 2010), the recent decision by the Romanian Constitutional Court to declare on the law on the National Integrity Agency (ANI) as unconstitutional is an example of continued resistance to anti-corruption measures by political and judicial elites. According to the European Commission (2010), the revised and less strict version of this law 'seriously undermines the process for effective verification, sanctioning and forfeiture of unjustified assets' and in general 'represents a significant step back in the fight against corruption' (pp. 3, 5). In addition, the EU Commission has observed that 'exceptions of unconstitutionality continue to delay high-level corruption cases while a draft law eliminating the suspension of trial

proceedings when unconstitutionality exceptions are raised still awaits adoption in the Parliament' and that corruption-related 'trials remain lengthy with only a few against prominent politicians having yet reached a first instance decision' (European Commission 2010, p. 6).

The absence of impartiality continues to be a problem. In 2006, pre-accession period, the European Commission (2006a, p. 7) wrote that 'a consistent interpretation of the law at all level of courts is not fully ensured yet throughout the country'. More recent reports indicate the persistence of a biased and inconsistent application of law (via resorting to emergency ordinances), especially with regard to high-level corruption cases (Initiative for a Clean Justice 2007, European Commission 2008a, p. 4, 2009b, pp. 4–6). According to the EU Commission:

the jurisprudence of the Romanian judiciary is contradictory, generating undue delays which, in turn, are addressed in a legislative patchwork of emergency ordinances, implementing rules and practices. The ensuing complexity is the result of a politicised process and the broad based political consensus behind reform and the unequivocal commitment across political parties to ensuring real progress in the interest of the Romanian people is not yet there. (European Commission 2009b, p. 6)

Legal incoherence has been a point heavily emphasised during the interviews conducted with Romanian judges for this research. It has been continually stated that judicial impartiality arises not from the lack of quality and integrity of the judges, but from an incoherent judicial system.¹³ The current incoherence in the Romanian judicial system results from repeatedly changing legislation, the introduction of new independent bodies outside the judicial system (e.g. the anti-corruption agencies), the decentralised organisation of the judiciary (e.g. there are 15 courts of appeal in Romania), insufficient attention to coordination and communication between the courts, and the inadequate quality of legislation that allows considerable leeway for individual interpretation. Even when judges attempt to interpret the law in an impartial manner, legal and institutional incoherence can lead in the aggregate to significant differences in judicial decisions on similar cases, producing overall bias in the application of justice. The lack of impartiality raises the rate of appeals and, by producing more caseloads, undermines the overall efficiency of the judicial system.

These recent worrying trends are reflected in several indicators of judicial impartiality as identified in Table 2 for the period 2002–2008. Overall, indicators of judicial impartiality improved less than those of judicial capacity. While three indicators have improved moderately, judicial independence, efficiency of the legal framework and separation of powers, the remaining six indicators have remained unchanged or regressed slightly. Institutions of oversight – the media and civil society – also have not improved. Law and order and the criminalisation and/or delegitimisation of the state indicators remained unchanged. The perception of corruption in the legal system remained at similarly low levels as before the reform. Declining trust levels of citizens in the Romanian justice system reflect the overall weak *de facto* judicial quality.

While formal and efficiency-related *de jure* reform measures have been relatively successful, there is evidence that overall *de facto* judicial impartiality continues to be weak. The Global Integrity Index,¹⁴ which distinguishes between *de jure* ('in law') and *de facto* ('in practice') measures of judicial appointments, independence, accountability, conflict of interest and asset disclosure legislation, points to continuing weak implementation of the new laws after Romania's accession (Table 3).

To sum up the argument thus far, while it is impossible to isolate the net impact of the EU, the analysis shows that EU conditionality has been most effective when accompanied by reform actions of committed domestic change agents (and vice versa). Regardless of constant EU pressure and financial support, certain aspects of judicial reform were only possible with the help of dedicated domestic reformers who benefited from existing EU pressure and mutually reinforced each other. However, the EU-driven judicial reforms have been, for the most part,

Table 3. *De jure* and *de facto* judicial average scores on a scale from 0 to 100% (2008).

	<i>De jure</i>	<i>De facto</i>
Judicial appointment	100	25.0
Judicial independence	100	50.0
Judicial accountability	100	42.7
Conflict of interest	100	50.0
Asset disclosure	100	50.0

Source: Global Integrity Index. (from dataset available at <http://www.globalintegrity.org/documents/GlobalIntegrityIndex2008.xls>).

guided by a capacity-based modernisation strategy, which is not sufficient to tackle politicisation, corruption, and lack of *de facto* impartiality and accountability. In other words, the reform approach was not good enough to change the way of doing things in Romania (judicial and political culture). The overall backsliding in judicial reform is reflected in the most recent EU monitoring report from 20 July 2010, which reveals ‘important shortcomings in Romania’s efforts to achieve progress’. It points to the lack of ‘political commitment’ and to ‘a degree of unwillingness within the leadership of the judiciary to cooperate and take responsibility for the benefit of reform’ (European Commission 2010, pp. 2, 7).

Towards an explanation of failure: why change did not result in progress?

Why have the EU-driven judicial reforms not created an accountable, impartial, non-corrupt and completely independent judiciary and why has there been a lack of progress in enshrining the rule of law despite many changes?

First, the EU-driven reform approach to the rule of law reforms in Romania has been inappropriate and has suffered from several shortcomings, which ultimately constrained the improvement of *de facto* judicial quality. The judicial reform strategy was based largely on a top-down, elite-driven approach which was not comprehensive enough to produce systematic change. The main change agents were the European Commission and reform-minded domestic elites (e.g. Monica Macovei, Traian Băsescu and Romania’s anti-corruption chief Daniel Morar). In this way, the success of reforms was dependent on a few committed domestic change agents who faced fierce resistance and could be simply replaced or dismissed (for instance, through a motion or in the parliament) by powerful veto players from the government, the parliament or the judiciary. This happened, for instance, to Monica Macovei in 2007 and to chief prosecutor Doru Tulus of the DNA in May 2007. Even President Băsescu (a strong supporter of judiciary and corruption reforms) was not safe in his position and escaped demission only through the positive outcome of an impeachment referendum.

Thus, change agents underestimated the persistence and *de facto* (informal) power of various domestic veto players, who continued to undermine rule adoption and implementation in practice. Furthermore, the reform strategy was guided by technocratic efficiency-driven and modernisation-related measures, such as the focus on formal institutional change, increasing magistrates’ salaries or the introduction of computer devices and management systems. While such measures improve to a certain extent the capacity of the judiciary, they do not necessarily produce better and more accountable and impartial judges or change the overall judicial and political culture (Buscaglia and Dakolias 1999). In the absence of a comprehensive, qualitative and long-term strategy, the EU-driven reforms have actually produced negative side-effects, such as (i) competition for well-paid judicial posts in the newly established anti-corruption offices; (ii) the success of reforms being dependent on EU monitoring and financial support; (iii) less legal stability and more systemic incoherence due to the revision of legislation and the introduction of newly created

agencies and bodies (e.g. DNA and the DIICOT) and (iv) a more independent but less accountable judiciary.

Second, an important obstacle to the creation of the rule of law has been the resistance of clientelistic networks of politicians, influential businessmen and media moguls, as well as members of the judiciary and the bureaucracy (HotNews 2007; Freedom House 2009). The actions of clientelistic elite networks which ‘play a dominant role in politics on all levels’ (Bertelsmann Stiftung 2006, p. 17) reflect the problem of state capture and the continuing perception by citizens that politicians and the rich ‘are above the law’ (Mungiu-Pippidi 2005, p. 58). Veto players, while on the surface promoting formal reform and the modernisation of the judiciary, have opposed genuine and *de facto* judicial reforms in practice (Acemoglu and Robinson 2006). In particular, veto players did not contest those reforms which left their power position intact (e.g. capacity- and efficiency-related reforms), but fervently opposed those reforms which could endanger their *status quo* (such reforms to strengthen *de facto* judicial independence or high-level anti-corruption reforms). The most evident reform-blocking actions were reflected in the decisions of the Constitutional Court, which, on a number of occasions, rejected reform proposals on the grounds of unconstitutionality. Less evident influence and resistance occurred in a more informal way. By offsetting the loss in *de jure* political power – for instance, through continued control of key offices, corruption and manipulation¹⁵ and lobbying (Gallagher 2009, p. 56) – veto players were able to keep *de facto* power and to pick the most convenient ingredients of reform. Such a ‘cherry-picking’ reform approach in the Romanian case is reflected in the selection of reform elements, such as building judicial capacity, which did not endanger the *status quo* of the well-established elites. In contrast, many well-elaborated reforms on paper, which would have altered existing power structures, failed to be implemented. Such a fundamental difference in the conceptualisation of reform (modernisation versus the creation of a non-politicised and impartial judiciary) among Romanian elites is reflected in the generational divide between judicial and political old guard figures and reform-minded young magistrates or administrators. While in quantitative terms, most magistrates are young, skilled and impartial, they do not have the scope of authority (Larkins 1996, p. 12) to challenge the power of politicians and conservative senior judges, who are located in the Highest Romanian Courts as well as in the CSM and continue to undermine *de facto* change.

In summary, impediments to improving judicial quality in Romania stem from an inappropriate approach to reform which did not entirely consider the specific domestic circumstances. While certain structural problems (lack of judicial capacity) have been to a great extent overcome courtesy of the EU, the resistance of powerful domestic actors has proved to be a strong impediment not just to reform, but critically to EU conditionality, ultimately making many EU-driven reform efforts prone to reform reversal and backsliding.

Conclusion

The intention of this article was to illustrate the processes (drivers of reform) and outcomes (reform success) of judicial reforms in Romania. With regard to processes, it was demonstrated that the EU has had a considerable impact on launching judicial reforms and maintaining reform momentum, but at the same time the positive effects and long-term success have been heavily dependent on the will and commitment of domestic actors as well as existing domestic capacity. The Romanian case suggests that EU conditionality alone is not sufficient to bring about change without the will and commitment of domestic change agents, who at the same time gain their empowerment from the EU. Moreover, it has been demonstrated that powerful domestic veto players, despite formal rule adoption, can successfully oppose rule implementation and even reverse reforms after accession. In short, agency matters and can produce considerable change.

With regard to outcomes, two things can be observed. First, judicial reforms have brought considerable change in the capacity-related dimension of judicial quality, leading to increased *de jure* judicial quality and the rapid modernisation of Romania's central judicial system (albeit not necessarily at the regional level). Second, as regards the impartiality dimension, that is, the more informal and power-related aspects of judicial quality, considerable persistence is observable. This uneven development has ultimately undermined the functioning of new formal institutions and the utilisation of new resources and, therefore, of *de facto* judicial quality. The EU-driven judicial reforms in Romania can, therefore, be characterised as change within a context of continuity, resulting in limited success overall. These results should caution against simplistic assumptions on the 'transformative power of the EU' and make us aware that countries can become stuck for many years in a mixed state of 'transitional rule of law' with all its problems and peculiarities (Teitel 2005). In short, more change does not necessarily translate into greater judicial quality.

What implications can be drawn from this case study? As to the theoretical relevance of this study, there are two important implications for the Europeanisation literature. First, the Romanian case demonstrates that EU impact varies not only across policy areas (Haughton 2007), but also across different aspects of one and the same policy field. Second, the impact of the EU should not be taken as given, but recognised as either weakened or reinforced by domestic actors. It is then the combination of EU conditionality and reinforcing domestic elites which leads eventually to institutional change. In this regard, the limited success of Romanian judicial reforms seems to support some recent theoretical elaborations on the development of democracy, governance and the rule of law (O'Donnell 1996, Jensen and Heller 2003, Acemoglu and Robinson 2006, Bideleux 2007, North *et al.* 2009). These authors have underlined the important role of clientelistic veto players in domestic power structures and informal institutions (judicial culture) which can hamper the enforcement of transplanted Western institutions from abroad.

As to the policy relevance of this study, the limited success of judicial reforms in Romania should make the practitioner aware of two mistaken approaches to judicial reform. First, one-dimensional, efficiency-driven reforms which focus on the introduction of new formal legislation and the creation of judicial capacity are not enough to improve *de facto* judicial quality and create genuine rule of law. A more efficient and capable judiciary is not necessarily a more impartial, accountable and less corrupt one. Or in the words of Buscaglia/Dacolias, '...factors that affect efficiency do not always improve the overall quality of justice, and in some cases can even undermine it' (Buscaglia and Dakolias 1999, p. 2). While capacity- and efficiency-related measures are a necessary aspect of reform, they are not sufficient, as such measures have to be accompanied by impartiality- and power-related aspects of reform. Second, the Romanian case demonstrates that a non-political, technocratic and top-down reform approach which does not transform the vertical domestic power structures as well as the political and judicial culture will hardly produce the desired results and result in superficial changes which can be reversed.

But what should a solution look like? It is crucial to link both dimensions of judicial quality in a complementary way in order to create a genuine rule of law culture and tradition. The Romanian case (as well as the failure of most reforms in Latin America) tells us that a simplistic reform approach – that is, which is based on the quantitative addition of capacity-related reform ingredients, which does not pay attention to legal coherence and which does not challenge the established legal/social order – results in a superficial and unsustainable reform outcome (see Mendelski 2009). The findings of this study suggest adopting a more qualitative, bottom-up and complementary reform approach, based on a broad coalition of reform groups (civil society organisations, judicial associations, law professors, media, etc.) and including mutually reinforcing reform measures (e.g. linking capacity-related elements with impartiality-related ones). The standard package of institutional strengthening (judicial capacity-building) has little impact when it is not preceded by a broad consensus on structural reforms (e.g. merit-based selection of judges

and improvement of judicial accountability) (Blair and Hansen 1994). Furthermore, it is important to consider the incentives of both reform supporters *and* reform opponents and to link them to real, *de facto* improvements in court performance (Jensen and Heller 2003, p. 366). Fundamental change requires a vertical transformation of power structures based on a critical mass of new actors. The rule of law reform should be founded upon a broad, bottom-up social–educational movement that alters values and respects rules as well as creates them. This implies that the EU and other external donors should abandon their focus on the electoral success of sympathetic pro-Western political parties as a means of promoting effective reform. Rather, they should emphasise mass democratisation and participation, promoting early socialisation and national consensus-building. This surely would take more time, but it ultimately would lead to a more sustainable transformation of domestic structures.

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Notes

1. The terms rule of law and judicial quality will be used synonymously in this article.
2. On the distinction between *de jure* (laws on the books) and *de facto* (factual enforcement in practice), see Hayo and Voigt (2007).
3. The safeguard clause was introduced after the conclusion of accession negotiations in 2005 and prolonged EU leverage on Romania beyond the signing of the Accession Treaty (December 2004). The clause included the possibility of delaying Romania's accession by 1 year and required, among other reforms, the development of a strategy for the reform of the judiciary.
4. The CVM, which was introduced in December 2006, should ensure continuing judicial and anti-corruption reforms through enhanced monitoring after accession. It is a post-accession support tool without a specific period of application, which refers to the monitoring of four benchmarks. While three benchmarks address corruption issues, one benchmark refers to judicial reforms. (European Commission 2009a, p. 6)
5. See *Action Plan for the Implementation of the Strategy on the Reform of the Judiciary 2005–2007* and *Action Plan to Implement the National Anti-corruption Strategy for 2005–2007*.
6. It is reported that Romania has ratified 45 Conventions for Harmonisation of EU legislation (Schumer 2000).
7. The harmonisation with the EU *acquis* required a modification of the civil and penal codes and the obligation to conform to international obligations (respect of human rights).
8. Interview with Nicholas Cendrowicz, EU Commission official, Brussels, March 2006.
9. See *Action Plan to Implement the National Anti-corruption Strategy for 2005–2007*.
10. Official Journal No. 63, 22 July 2005.
11. Interview with Monica Macovei, Romanian Minister of Justice, 2004–2007, Brussels, June 2011.
12. Interview with an anonymous Romanian judge, November 2010.
13. Interview with Gabriela Baltag, President of the Neamt County Court, Piatra Neamt, November 2010. Interview with Corneliu Bărsan, Judge at the European Court of Human Rights, Council of Europe, Strasbourg, June 2011.
14. <http://www.globalintegrity.org>.
15. For an overview, see Schwarz (2009).

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