

Paper/Speech Details
for the 27th NISPAcee Annual Conference

Panel: The Rule of Law & Public Administration

Author(s) **Dacian Dragos**

Babes-Bolyai University
Cluj Napoca Romania

Vornicu Roxana,

Title **Deepening the European Rule of Law Crisis: Romanian Public Administration and Judiciary's Resilience under Pressure: Romania in the Footsteps of Hungary and Poland**

Abstract Recent reforms of the judicial and administrative law systems in Romania have generated great debate and concern at both national and international level. These debates rose in a moment of tensed political climate and controversy around Romania's efforts to fight corruption.[1] The tensions began in January 2017 when the Government adopted an Emergency Ordinance that decriminalised certain corruption offences, such as abuse of office and the proposal for a pardon law.[2] The measure triggered widespread street protests and was abandoned by the Government as a result thereof.[3] However, most of these measures are now included in a Law on the modification of the Criminal Code and Criminal procedure which has recently been passed by the Romanian Parliament.[4] At the same time, in March, the legislative process for the adoption of the Administrative Code began. Romania has never had an administrative code so far. A general law on administrative judicial review (Law no. 554/2004 on administrative judicial review) was (and still is until the Code enters into force) the administrative ius commune in Romania whilst various fragmentary acts regulate specific fields of law like public property, civil servants or town planning and the functioning of public administration.[9] The Draft Administrative Code is an outstandingly complex and important piece of legislation (687 articles) reforming institutions like administrative liability, the functioning of central and local administrative bodies, the administration of public property and liability of public bodies for illegal acts. The Code has only been voted by the Senate and some of its provisions are currently under debate before the Constitutional Court with criticisms including the politicization of some of the public servants working in public administrations and limitation of liability of public servants for illegal administrative acts. It is reasonable to assert that recent Romanian events are not isolated or national specific problems[10] but they are rather part of a wider 'EU rule of law crisis'[11] just as it was previously argued that the Polish

government's assault on judicial independence is part of a worldwide trend.^[12] What is essential is that many of the measures taken to reform the Polish judiciary can be paralleled to the Romanian ones (eg. early retirement of a high number of senior judges and threats on the guarantees for the independence of prosecutors and judges^[1]) so the situations in Romania and Poland should be analysed in conjunction and compared. This paper aims to portray the Romanian crisis within a wider Eastern European and European context and ultimately analyse whether solutions should be taken at an individual level (through mechanisms like the Cooperation and Verification Mechanism, the article 7 TEU framework or the infringement procedure) or at a wider level by reforming the mechanisms for value enforcement in the EU and identifying alternative paths to help rebuild trust in the EU rule of law^[2] (or all of the above). To achieve that, we will begin by making a detailed analysis of the Romanian administrative and judicial systems reform and look at the provisions that will potentially affect the rule of law. The first section will entail the judicial reform analysis and its comparison with the Polish reform whilst the second will investigate the problematic and debated provisions of the Romanian Administrative Code Project and analyze whether the constitutional rule of law value has been translated therein or not. The reform in the criminal law field will also be presented for contextualization of the judicial and administrative ones.