

Corinne Deloy

Analysis  
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# The future of Romania, the focus of the referendum on the impeachment of the President of the Republic Traian Basescu

On 6th July the Romanian Parliament comprising the Senate (143 members) and the Chamber of Deputies (Camera deputatilor) (346 MPs) approved the suspension of the President of the Republic, Traian Basescu, 256 in support, 114 against – on the request of the Social Liberal Union (USL), an alliance that is in office at present, bringing together the Social Democratic Party (PSD) led by Prime Minister Victor Ponta and the National Liberal Party (PNL) led by Crin Antonescu and the Conservative Party (PC) led by Daniel Constantin. According to article 95 of the Romanian Fundamental Law the head of State can be dismissed during his term in office “if he commits serious errors that infringe the Constitution”. Parliament’s vote now has to be confirmed by a referendum of the Romanian population. This has been called on 29th July next. If they vote against the impeachment of the President of the Republic he will remain in office until the end of his term in office at the end of 2014; if they approve it an early presidential election will take place within 90 days.

A 17 page document written by the USL accuses President Basescu having “seriously infringed the Constitution” by taking on prerogatives that are reserved to the Prime Minister, of having “infringed the separation of power and the independence of the judiciary,” and finally of having “undermined democracy” by imposing austerity measures that “have impoverished the population”. In 2009 and 2010, Romania, whose public deficit totalled nearly 10% of the GDP was obliged to take economic austerity measures in order to avoid bankruptcy (these included a 25% reduction in civil servants’ salaries, a 15% reduction in retirement pensions, an increase in VAT from 19% to 24% and the suppression of around 200,000 civil servants’ posts) in exchange for IMF and EU aid.

The Head of State denies these accusations saying that he had no other choice but to support austerity in order to save the country from collapse. “I can assure you that as the President of the Republic I acted responsibly when we were in the midst of a serious economic crisis,” he declared. He accuses the USL of wanting to “control all of the State authorities, and notably the judiciary”, warning of the dangers that his destitution might have on “Romania’s stability and reputation”.

“What you will be doing in two weeks time will simply disrupt the rule of law,” stressed Traian Basescu who accuses the majority in office of wanting to “control the legal system” via his impeachment. “The main aim of this exclusion is to place the judiciary and the State institutions under the control of the Social Liberal Union,” he maintained. “I have a clear conscience because I have honoured the duty I have towards my country and my people” declared President Basescu before the vote on his suspension by parliament.

Although Traian Basescu was the most popular politician in Romania for a long time, his popularity rating has collapsed however since he set severe austerity measures on the country and notably since his attempt to force through a reform of the healthcare system that confirmed the entry of the private sector in healthcare insurance.

Victor Ponta accuses the President of governing alone and of preventing the opposition from playing its role. The Prime Minister created the USL on 5th February 2011 with the aim of bringing Traian Basescu down and he says that the President’s impeachment will bring “the stalemate” that is preventing him from governing to an end.

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Many analysts and NGO's have criticised the rough manner of Victor Ponta's government. In less than a week the leaders of both chambers of parliament – Vasile Blaga and Roberta Anastase – have been dismissed, the ombudsman, the only person who is able to challenge the government's decisions, has been replaced and the powers of the Constitutional Court have been restricted (for example it no longer has any say over Parliament's decisions). Moreover many high ranking civil servants and directors of State agencies deemed close to Traian Basescu have been dismissed since the Prime Minister came to office. Finally the terms governing the validation of the referendum on the impeachment of the President of the Republic have been changed.

Indeed according to the 2010 electoral law the referendum that follows parliament's decision to impeach the head of State, has to be organised within 30 days. Turnout of at least half of those registered is required for the election to be deemed valid, which is difficult in a country where few go to vote.

Following Parliament's vote on 6th July last the Secretary for Home Affairs, Victor Dobre (PNL) announced that the referendum would be organised on the basis of a decision adopted the day before by the government which abolishes the minimum turnout rate in the referendum. This decision was criticised by the Constitutional Court. Although Prime Minister Victor Ponta did finally say that the government would respect the Constitutional Court's decision and that the referendum would be organised "*legally, correctly and impartially*", the conditions of the validation of the popular consultation are still unclear just two weeks before the vote.

Called upon to assess the accusations brought against Traian Basescu, the Constitutional Court retained only two of the 7 accusations made against the head of State: the president of the Republic "*has not undertaken his role as mediator efficiently between the powers of the State*" and he "*has tried to reduce the role and prerogatives of the Prime Minister*" stressed the nine judges who sit in the court.

According to the Romanian Constitution after the vote to dismiss the Head of State by Parliament the (interim) presidency is taken on by the leader of the Senate.

On 9th July the President of the Republic handed power over to the speaker of the upper chamber, Crin Antonescu, the leader of the National Liberal Party and co-chair of the USL (with Victor Ponta).

Traian Basescu, President of the Republic since his first election as head of State on 12th December 2004, was suspended a first time by Parliament on 17th April 2007. On 19th May 2007, three quarters of the electorate (74.48%) chose to vote against this decision in a referendum in which 44.5% of the Romanians took part. The validation of the popular vote was not conditioned however by the turnout. The head of State, who did not hesitate before the vote to travel to Spain to convince his fellow countrymen (around 2 million Romanians live abroad) to allow him to finish his term in office, emerged strengthened after the election.

### A serious political crisis

Romania is in the midst of a political and economic crisis. On 27th April last the government led by the head of the foreign intelligence service (SIE) and former Foreign Minister (2004-2007), Mihai Razvan Ungureanu, who had taken over from Emil Boc just two months previously (Liberal Democratic Party, PDL) was deposed after a motion of censure on the part of the opposition which criticised his privatisation programme amongst other things. President of the Republic, Traian Basescu, was then obliged to appoint opposition leader, Victor Ponta, as Prime Minister on 7th May. The new head of the social democratic government promised to continue the reforms required by the IMF and the EU but said that he would "*correct social injustice*". Cohabitation between the President of the Republic and the government soon proved to be difficult, if not impossible.

On 3rd July the government deposed the leaders of the Senate and the Chamber of Deputies on a charge that was challenged by a great number of legal experts and by the Liberal Democratic Party (PD-L), the rightwing opposition movement – it was also criticised by the European Commission and the US. Indeed, according to Ioan Stanomir, the specialist in Constitutional Law at the faculty of Political Science at the University of Bucharest the leaders of the chambers of the Roma-

nian parliament can only be dismissed if the parliamentary group of which they are members, in this case the Democratic Liberal Party, requests it.

The following day the Romanian government adopted an emergency decision that reduced the prerogatives of the Constitutional Court. The judges criticised the “unprecedented attacks” made against them and turned to the Venice Commission and to the European Conference of Constitutional Courts. A few weeks ago Justice Minister Titus Corlatean (PSD) questioned several of the Constitutional Court’s judges after they made decisions that went against Victor Ponta’s government. On 5th July the request to suspend President Basescu was submitted to parliament and approved by the majority of the members in both of chambers the following day.

### Procedures questioned

The reduction of the Constitutional Court’s powers, the attacks made against certain judges and the replacement of the ombudsman are amongst the measures most criticised by the European Union and a great number of NGO’s. The latter denounce the forced entry into office of Victor Ponta’s government and the speed with which the President of the Republic has been suspended.

On 11th July the Vice-President of the European Commission for Justice, Fundamental Rights and Citizenship, Viviane Reding qualified the political crisis in Romania as “a serious threat” which “might endanger the country’s progression towards total integration into the European Union”. She said that she did not rule out that the monitoring of the rule of law by the European Commission in Romania might last “for several years”, “with the effects that this might have on Member States developing the Schengen Area” (France and the Netherlands are against Romania and Bulgaria entering Schengen). The European Commission is due to deliver its usual report on the rule of law in Romania and Bulgaria on 18th July next. “We are still concerned about the speed and the effects of the decisions taken over the last few weeks and we have a great number of questions regarding the respect of the independence of the Constitutional Court,” declared the European Commission’s spokesperson, Pia Ahrenkilde Hansen.

José Manuel Barroso, President of the European Commission interviewed Victor Ponta on 12th July last. He communicated his “extreme concern regarding the respect of the rule of law, the independence of the judiciary and the role of the Constitutional Court.”.

On 7th July last the Secretary General of the Council of Europe, Thorbjorn Jagland said that he “was very worried about the turn of events in Romania, notably the infringements made against several key democratic institutions.” Finally the US Ambassador in Romania Mark Gitenstein warned, “We experienced unfortunate precedents in the US in changing the composition of the Supreme Court under the Presidency of Roosevelt. It was a dark day, the same will apply if the same happens in Romania again today”.

“The Social Liberal Union is taking power by infringing the laws and subordinating institutions and yet it mimics legality;” declared Otilia Nitu, an analyst from the reflection group ExpertForum. “The day the majority took power from the ombudsman and the leadership of both chambers of parliament it infringed three articles in the Constitution and two of the Constitutional Court’s decisions,” he added. “It is not the impeachment procedure that is being questioned, because it is included in the Constitution but the attack made against the democratic institutions;” said Cristian Ghinea from the Centre for European Policies.

“The events in Romania are more than just an ordinary battle. They involve the State institutions that should be independent”, said Sorin Ionita; an analyst from ExpertForum. In his opinion the conviction of Adrian Nastase (PSD), Prime Minister from 2000 to 2004 and mentor of the present head of government Victor Ponta, to two years in prison for the embezzlement of more than a million euros in public funds on 20th June last by the High Court – a first in the country involving such a high ranking personality – was a terrible blow for all politicians in the majority [1]. They were all so scared that they are now prepared to take control of the judiciary in order to protect an informal form of immunity.

The referendum on 29th July next goes beyond the question of impeaching President Basescu. It is about

1. Adrian Nastase was Victor Ponta’s thesis advisor. The latter was accused of plagiarising 85 of his international law thesis by the National Council for the Certification of University Qualifications, Diplomas and Certificates (CNATDCU). The Prime Minister who maintained that he would resign from office if he was accused now qualifies these accusations as a “stitch-up » and recently dissolved the National Council.

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the country's future. The Romanians have been weighed down by the economic crisis and have been rather more concerned about their buying power, maintaining their jobs and state of the public services than political squabbling. According to the most recent poll published on 8th July 2/3 of them (64.3%) are about to approve the impeachment of the president whilst 27.4% are against it. But the electorate might also turn away from the battle

that opposes the President and the Prime Minister, with both men seemingly more interested in holding power – and in the end they may not turn out to vote on 29th July.

"I invite all Romanians, whatever their opinion, to turn out and vote," declared Traian Basescu. "I hope that you will say no to the infringements committed, that you will say no to this coup made against the rule of Law in Romania," he concluded.

**Reminder of the presidential referendum results of 19th May 2007 in Romania**

Turnout: 44.45%

Question submitted to referendum	% of yes votes won (the no. of votes is in brackets)	% of no votes won (the no. of votes is in brackets)
Do you support the impeachment of the President of the Republic Traian Basescu?	24.75 (2 013 099)	74.48 (6 059 315)

Source : Agence France Presse

## Romanian President Traian Basescu avoids impeachment once again

Results

Five years after 17th April 2007, when the first referendum on his impeachment as head of State took place, Traian Basescu, President of the Republic of Romania again emerged victorious in the battle that opposed him, this time round, against Prime Minister Victor Ponta (Social Democratic Party, PSD). A majority of Romanians who were called to vote for or against the impeachment of the Head of State indeed stayed away from the ballot boxes on 29th July. Only 46.13% of them turned out to vote whilst turn out of at least half of those registered was necessary for the consultation to be deemed valid. The government made an attempt to abolish this threshold that has been part of the electoral law since 2010, before being reprimanded by the European Commission and other Western leaderships. Victor Ponta did do everything he could however to achieve the minimum turnout threshold by leaving the polling stations open for four hours more than is the custom (7am to 11pm) and by opening fifty other stations in hotels and restaurants on the shores of the Black Sea where some Romanians spend their holidays.

"The Romanians have rejected the coup d'Etat launched by the 256 MPs and led by Prime Minister Victor Ponta and interim President Crin Antonescu. The Romanians have decided on their future by invalidating this referendum," declared the President of the Republic Traian Basescu after the announcement of the results. "The real question is: do we want to stay in the EU or fall into the hands of a clique of politicians and businessmen who want to control the country and

its judiciary system?" asked the head of State during the campaign. "The issue at stake in this election is not my seat of President of the Republic but European Romania. It is my hope that the Romanians will set aside economic issues and defend European Romania," he repeated.

Traian Basescu was suspended on 6th July last by Parliament. The Social Liberal Union (USL), the coalition in office, which brings together the Social Democratic

Party (PSD) led by Victor Ponta, the National Liberal Party (PNL) led by Crin Antonescu and the Conservative Party (PC) led by Daniel Constantin, who accused President Basescu of having *"impeded the separation of power and the independence of the judiciary,"* and of having *"diminished democracy"* by imposing austerity measures that have *"impoverished the population"*. *"Whatever the final turnout is no politician can deny the will of millions of voters without cutting himself off from reality,"* declared Prime Minister Ponta. Traian Basescu's return to the Cotroceni Palace (the residence of the Romanian Head of State) and his cohabitation with the Prime Minister does raise a great number of questions however.

*"The crisis will get worse and it will be a catastrophe for Romania because Traian Basescu will not stop there. He will try to renew the measures that he has already introduced – income tax, wage cuts and reductions in retirement pensions,"* declared the Prime Minister as he tried to play on the President's low popularity rate and frighten the electorate.

Many analysts believe however that with the referendum on the Head of State's impeachment, the government intended to increase its power over the country in a bid to avoid a series of trials that have been called as part of an anti-corruption campaign, as for example, that of Adrian Nastase (PSD) Prime Minister between 2000 and 2004 and mentor of the present head of government, who was sentenced to prison for the embezzlement of more than one million € in public money on 20th June last by the High Court – a first in the

country involving a high ranking personality.

And so the referendum on 29th July has in no way ended the Romanian political crisis. President Basescu will return to the Presidency of the Republic but the tension between him and the Prime Minister is so great that it begs the question of whether the two men are able to cohabit and act for the good of the country. The Romanians will again be called to vote on 28th November for the parliamentary elections.

Bucharest will also have to provide answers to the 11 requests made mid-July by the President of the European Commission, José Manuel Barroso. Brussels criticised the infringements made to the rule of law undertaken by Victor Ponta's government and asked the latter to repeal the two emergency decisions it had made (regarding the modification of the referendum laws and on the reduction of the powers of the Constitutional Court, which can no longer challenge the Parliament's decisions), to appoint an independent ombudsman (the latter, who is the only one able to challenge the decisions made by the government in Romania, was replaced), to strengthen the country's judiciary, to step up the fight to counter corruption and to restore the powers of the Constitutional Court.

Victor Ponta has promised to respond rapidly to the European Commission. *"We shall look at the laws and their implementation, not just the letters (written by Victor Ponta on 16th July last and addressed to Mr Barroso)"* warned the Commission's Vice President responsible for Justice, Fundamental Rights and Citizenship, Vivian Reding.

#### The Constitutional Referendum Results of 29th July 2012 in Romania

Turnout: 46.13%

Question submitted to referendum	% of yes votes won	% of no votes won
Do you support the impeachment of the President of the Republic Traian Basescu ?	87,55	11,12

Source : <http://www.becreferendum2012.ro/DOCUMENTE%20BEC/Rezultate%20partiale/ora%2010.00.pdf>

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