

“I fought the law, and the law won,” says a song made famous by the British punk rock band The Clash back in the 1970s. For a 2007 Romanian version of the song, the lines would need to be altered to “I fought the law, and I won.”

Successfully challenging the law is a privilege of the rich and powerful in Romania. Former ministers, government employees, media oligarchs and controversial businessmen fiercely fight the laws that threaten to put them behind bars.

In July 2007 the Romanian Constitutional Court (CCR—Curtea Constitutională a României), the sole authority of constitutional jurisdiction in Romania, ruled that former Romanian Prime Minister Adrian Nastase could not be treated as an ordinary citizen in a court case in which he was charged with several counts of corruption and bribery. While still being debated, the CCR’s decision could send the Nastase file back to the prosecutors’ desk. Nastase was viewed as the most corrupt Romanian politician by a nationwide opinion poll in 2006.

According to the CCR’s decision, former government officials can only be investigated for corruption with the approval of the Parliament or the President. The National Anticorruption Directorate (DNA—Directia Nationala), which investigates high-level corruption cases, has criticized the court’s decision. Daniel Morar, the head of DNA, said the ruling may create huge problems for the institutions battling high-level corruption. In his opinion, the prosecutors may be forced to start from scratch on cases they have worked for years.

On the other hand, Nastase wrote on his blog ([www.adriannastase.ro](http://www.adriannastase.ro)) that he sees the decision as a legal victory against the DNA’s politically motivated “witch hunt,” which brought him to court.

The legal provisions Nastase challenged said that after ministers complete their terms of office they can be tried as ordinary citizens. These provisions were part of a package of laws that helped bring Romania into the European Union on Jan. 1, 2007. Former Justice Minister Monica Macovei promoted the package, which was lauded by top officials in Brussels. Macovei, however, was forced to resign when a majority in the Senate, including the members of the Social Democrat Party (PSD—Partidul Social Democrat), Adrian Nastase’s party, voted for her dismissal.

The former prime minister is not the only one contesting the anti-corruption laws. Former Minister of Economy Dan Ioan Popescu challenged provisions in the anti-corruption law package in an attempt to justify the enormous wealth he accumulated while in office. His was unsuccessful in his attempt, but it also delayed the ongoing trial.

Approaching the CCR, as well as lower courts, with claims that laws are unconstitutional stalled many other high-profile cases for years.

The delays, backlashes and lack of results in the fight against high-level corruption brought criticism from Brussels after Romania joined the EU. In June 2007, the European Commission issued a report saying that Romania was making insufficient progress in combating corruption.

“Rigor in prosecution is not reflected by judicial decisions,” the report said. “Data provided on sentences show that penalties on average are not dissuasive, and there are a very high number of suspended penalties in cases of high-level corruption. The rationale for these suspensions, including awareness and attitudes among the judiciary toward dissuasive sentences in cases of high-level corruption, needs to be clarified. This undermines recent progress in investigation and affects negatively public perception of the political commitment to tackle corruption.”

This year the National Integrity Agency (ANI—Agentia Nationala pentru Integritate) was also established as part of the government’s commitment to fight corruption. ANI is designed to ensure a higher degree of integrity among politicians. However, according to a report issued by the coalition of nongovernmental organizations, the Initiative for a Clean Justice (IJC—Initiativa pentru o Justitie Curata), ANI was left “toothless” after MPs amended and diluted the law that regulates its functioning. The critical IJC report was released in the presence of Macovei. In a press conference, the former Justice minister highlighted the connection between the quality of some Romanian laws and corruption. She said that some governmental decisions and ordinances serve private interests and generate corruption.

The political fight against anti-corruption laws and anti-corruption activists prompted the formation of unusual alliances on the Romanian political scene. A majority of MPs, from both the opposition party and the party in power, aligned against Macovei and her Brussels-acclaimed legislative initiatives. The Conservative Party, of

which is Dan Ioan Popescu is a prominent member, proposed her dismissal motion.

Left and right, politicians keep on accusing the “politically motivated” actions of the DNA. It seems like a repeat of an iconic scene that took place years ago, when the PSD politicians, together with Adrian Nastase, loudly accompanied their colleague, Gabriel Bivolaru, a former MP, when he was summoned to the Prosecutions’ Office. The group claimed Bivolaru was innocent. However, Bivolaru was sentenced to prison and spent, before being released in February 2007, 1,036 days in jail for his part in a 50 million euro (US\$69 million) fraud — approximately one day of jail for each of the 50,000 euros (US\$69,000) he embezzled. The days in jail weren’t too painful, in fact he was allowed to have turbo folk bands play for him in prison. Later, the head of the jail was fired because he granted Bivolaru favorable treatment, but his recent release has left a bitter taste in the mouths of many Romanians.

For years I have investigated the Bivolaru group, which spreads across the borders of Romania, and I have uncovered its ties to politics and organized crime. Many of the group’s members are now charged with organized crime activities, but their cases are still pending. They accuse the prosecution and the judges of abuses, and are trying to delay trials as much as possible. At one point the group even bought a newspaper and used its coverage to put pressure on the prosecutors and judges dealing with their cases.

Such groups operate with impunity and even manage to conduct their business from prison cells when locked up for very short terms. For example, while under arrest, Marian Alexandru Iancu, one controversial Romanian businessman charged with money laundering, sold a big chunk of his assets, including an oil refinery, to a Russian-controlled company. At the time, the authorities had supposedly frozen his assets.

“The politicians are hotshots. They will never go to prison!” said one of my neighbors, Gabriel Popescu. Popescu is a plumber who works for the company that manages the Bucharest water services. He often comes downstairs to my door or approaches me in front of the gray block of flats we both live in to ask about the state of politics and corruption in Romania. Popescu is looking for reassuring, optimistic answers that I cannot provide. He is worried about increasing electricity and food prices. He sees the direct connections between high-level corruption and his empty pockets. He doesn’t see any important politician who was charged with corruption behind bars, and this

doesn't give him much hope. Popescu does not trust mainstream media because of their lack of independence.

Like millions of Romanians, Popescu has to struggle through everyday, petty corruption. This affects his pockets, too. He is an ordinary Romanian citizen and a fresh EU inhabitant who is left at the mercy of the lawmakers who fight anti-corruption laws.

