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State Capture risks in Romania

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Standing up to State Capture
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Societatea Academică
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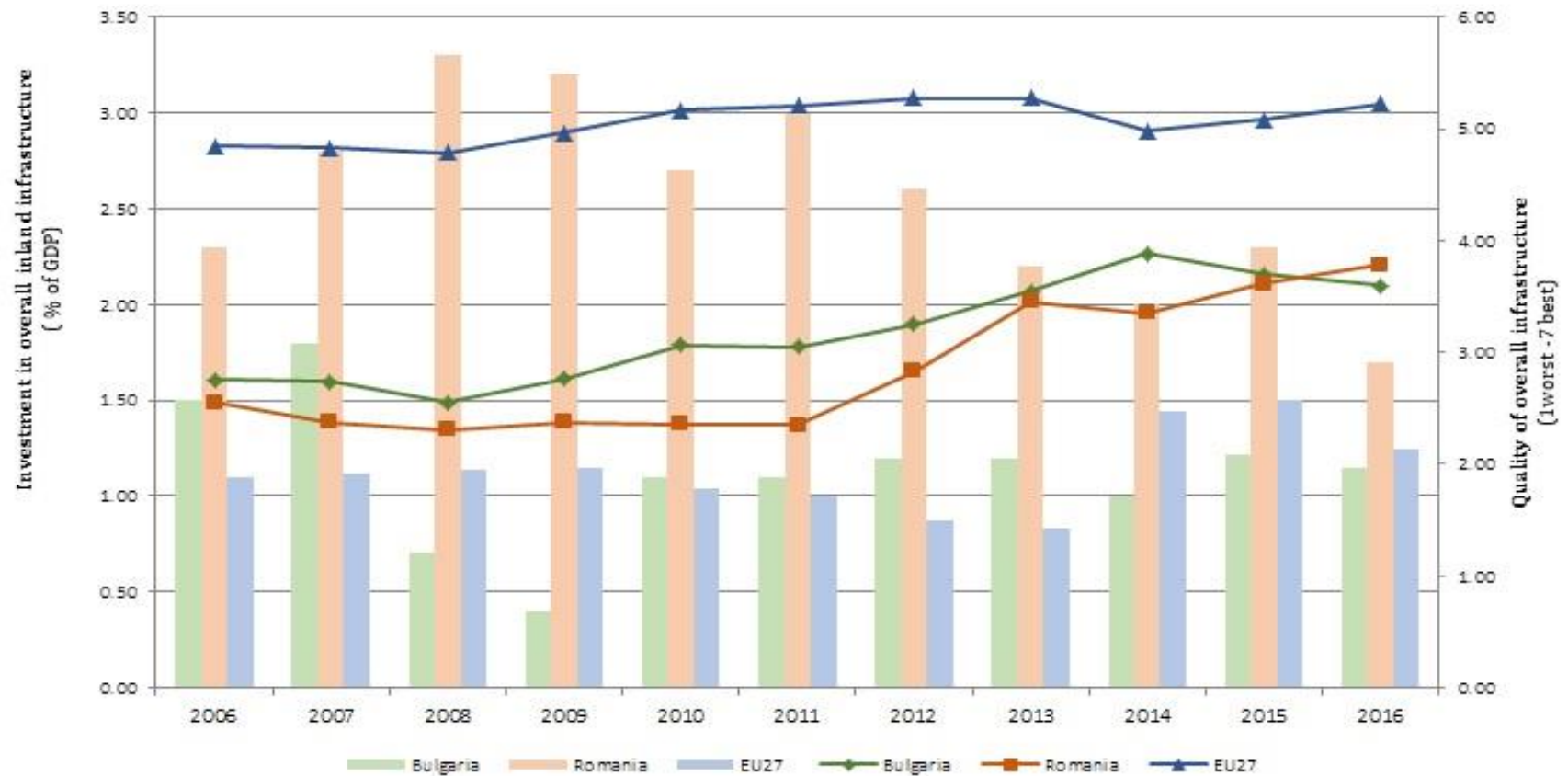
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- Despite overall econ growth for past 30 years, RO still among the poorest EU countries, with inequality on the rise → attributed to poor governance + pervasiveness of corruption
- Targeting corruption (mainly a punitive strategy) did not yield the expected good governance results
- RO: competitive but particularistic manner of allocating public resources → individual access to public services/goods not universal + poor overall quality & more costly (price & time)

- A case in point: building and using infrastructure
- RO consistently allocates considerably more resources than Bulgaria & EU average on expanding and improving its infrastructure, but abysmal results
- Companies, especially those that participate in tenders, cite patronage & nepotism (82%) & corruption (85%) as being significant impediments in doing business (2017 Business Attitudes towards Corruption)

Figure 1: Investments in inland infrastructure* versus the overall quality of infrastructure**



*Total inland infrastructure includes road, rail, inland waterways, maritime ports and airports.

**Data for Cyprus is missing. In addition, the frequency of OECD missing data for this period is higher.

Source: OECD (2018), Infrastructure investment (indicator). doi: 10.1787/b06ce3ad-en; WEF, GCI (2017-2018), Executive Opinion Survey, Quality of Overall Infrastructure (indicator).

- With regard to the overall level of competition, supply contracts attract most offers, followed by works and services contracts, both seeing a slight drop in competition over the last years

Table 1: Average number of offers submitted for contract notices per contract type

Year/Contract type	2009	2010	2011	2012	2013	2014	2015	2016
Works	4	4	3	4	4	4	3	3
Supply	7	6	8	7	7	8	7	8
Services	5	4	3	3	3	2	2	2

Source: National Agency for Public Procurement, 2017 Statistical Report on public procurement award procedures, available at <https://bit.ly/2MI8jxG>

Case study 1: Inland transportation

- Whole sector (including passengers): 4-6% of the GDP; healthy degree of competition
- Main components (railways and roads): RO consistently outspends on roads, but, together with BG, vastly underspends on railways → assessed quality of both rails and roads, worst in the EU → clear impact on economic activity & end user
- 93% companies cited poor infrastructure as a major impediment

Figure 4: Investments in rail and road infrastructure versus their quality*

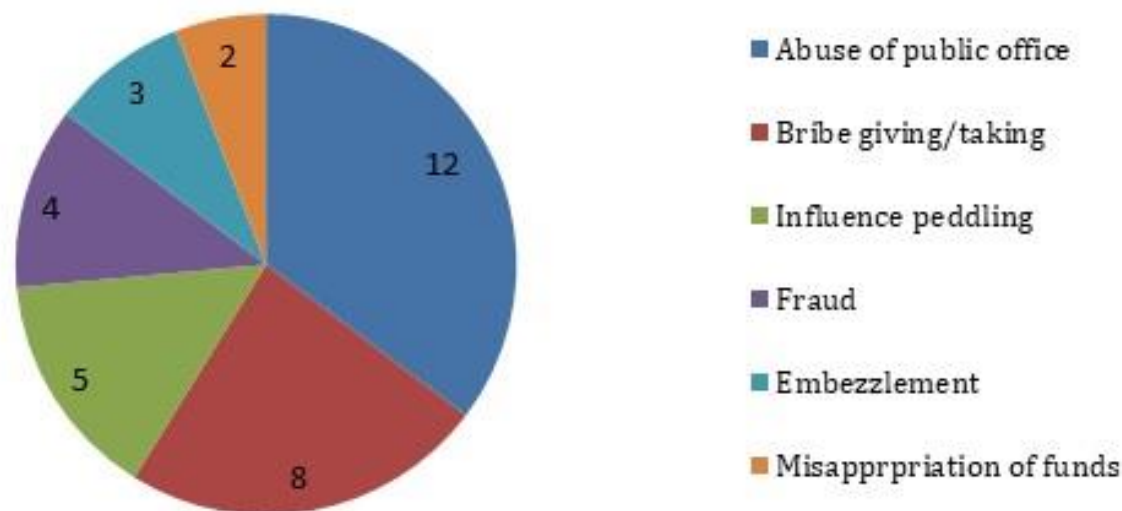


*Data for Cyprus and Malta is missing. In addition, the frequency of OECD missing data for this period is higher. Source: OECD (2018), Infrastructure investment (indicator). doi: 10.1787/b06ce3ad-en; WEF, GCI (2017-2018), Executive Opinion Survey, Quality of Railroad infrastructure and Roads (indicators).

Railway sector

- Main issues: lack of adequate maintenance (tracks and rolling stock), shrinking length, slow transport speeds (maximum 160 km/h)
- DNA (2010-2017): 8 cases; 33 final sentences; 25 individuals convicted, 8 in multiple cases, 13 public officials/servants (11 decision making power), 12 from the private sector; damages incurred by the state, particularly the state owned CFR: over 28 mil EUR; targeted the national budget
- Pattern: public officials abuse their position & allocate contracts preferentially and/or influence their implementation in exchange for kickbacks (% of contract's value, money, luxury furniture, exotic vacations, free or cheap construction or renovation works on their or their families' private property)

Figure 9: Frequency of criminal charges related to corruption in the railway sector (2010-2017)



Source: Romanian Academic Society, Map of county corruption 2010-2014 (the version used was updated up to December 2017, forthcoming), machine readable database, available at <http://romaniacurata.ro/harta-coruptiei>

Mihai Necolaiciuc, former CFR director general CFR (2000-2003)

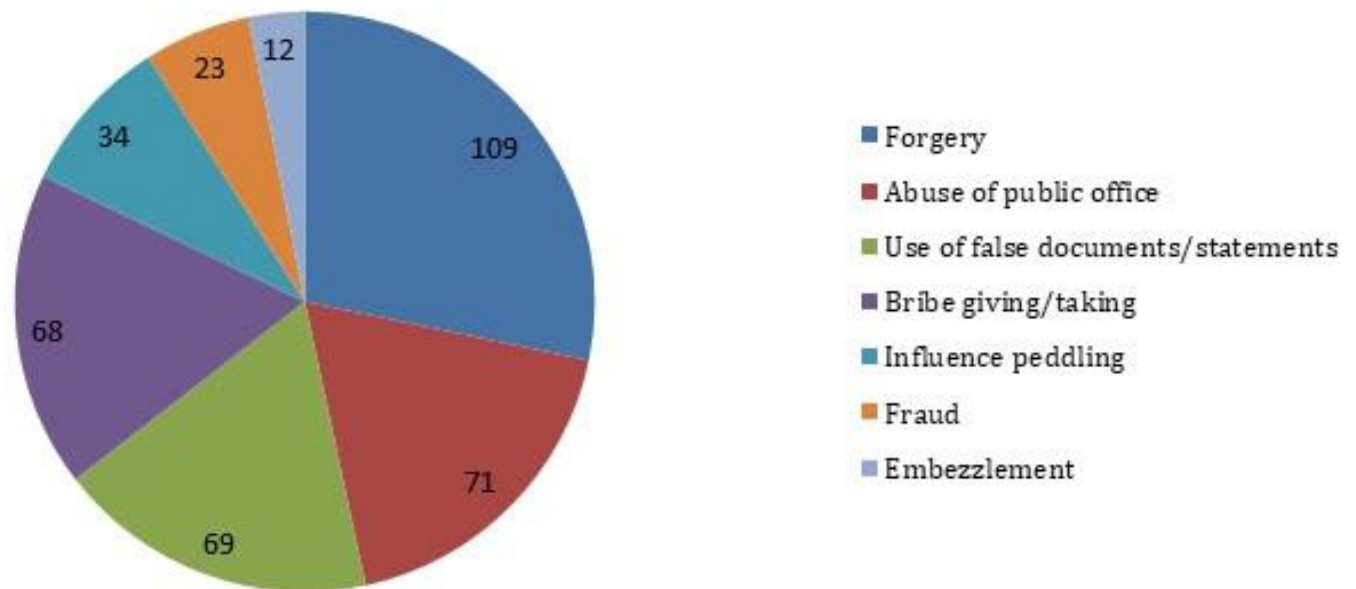
- Established illegal contractual relations with various ghost companies with no licence (Romanian Railway Authority)/personnel/tech capabilities for goods & services which were never delivered or which were of low quality or useless for the railway SOE at overvalued prices & in great quantities (spare parts, roses, dictionaries, renovations for holiday houses, trips abroad, salaries or protection services); 23,000 wagons & 1,059 locomotives were sold at scrap metal market prices to favoured companies
- Payments authorized illegally & non-transparent, emergency procedures, thus bypassing the regulator; used internal procurement procedure without the necessary procurement documentation & did not inform CFR's shareholders or administrators
- Involved 12 convictions (7 public servants, 5 businessmen)
- Damages: 23.3 mil EUR

Case study 2: Construction

- Important sector: peak in 2008 (11% GDP), dropped and stagnates at 6% for the past four years
- ANTICORRP study on particularism in allocating construction (services and works) contracts in RO (2007-2013):
 - SB & political connections explained 44% of contracts awarded per company
 - 1 in 7 EU funded and 1 in 4 nationally funded contracts awarded via SB
 - Agency capture: almost 70% occurred at local and county level
 - Highest risks in terms SB & AC: city/town halls, county councils, SOEs
 - 215 procurement board presidents' statements of interests & assets: 3,7% members/presidents of shareholders' general assembly or had 1st degree relative employed in Roads and Bridges Companies (local SOE construction companies); these won 13% of contracts → caveat: might have a socio-economic explanation since local employment depends on their existence

- DNA (2010-2017):
 - 91 cases; 252 individual final sentences, out of which 6 companies, 9 individuals (7 public officials, 2 private sector) in more than once case; majority of convictees public officials (66%) with decision making power;
 - majority of cases involved public procurement targeting national budget (73 sentences involving EU funds); damages incurred by the state/EU budget: over 9,2 million Euros
- Pattern: public officials abuse their position & as members of the government/parliament, heads of city/town halls/county councils, evaluation committees etc, they either create a network of co-conspirators or force them to falsify documents in order to either obtain financing illegally or to allocate public contracts on a preferential basis to various companies in exchange for kickbacks which took various forms
- Especially mayors and county council presidents asked for a percentage from 10%-50% of the contract's value to be funnelled back to them in exchange for awarding contracts, but also for making payments on time, approving paperwork, stopping inspections, overlooking procurement rules (increasing values/execution time, conflicts of interest, subcontracting, completion/existence of supplies/works/services)

Figure 11: Frequency of criminal charges related to corruption in the construction sector (2010-2017)



Source: Romanian Academic Society, *Map of county corruption 2010-2014 (the version used was updated up to December 2017, forthcoming)*, machine readable database, available at <http://romaniacurata.ro/harta-coruptiei>

Former PM Adrian Nastase

- 4 years in jail, 2 cases for influence peddling, bribe taking and blackmail
- Nastase, via a close network of family members, party members & friends from the private sector, among which the inspector general of the State Inspectorate for Construction (ISC), forced not only the institutions they worked for, but also several construction companies to pay high participation taxes (1,4 mil EUR) for an event which had nothing to do with their activity
- The taxes should have been transferred to the ISC, but were redirected through money laundering to 4 companies for the 2004 electoral campaign
- Nastase received bribes (money, assistance and construction works for several of his homes) from the inspector so that she could be named and maintained as ISC inspector general. She aided the Nastase family to import, pressuring a company to pay from its own resources, various goods without having to pay for a transportation or import tax. She pressured 3 companies in doing construction work on Nastase's properties without a contract, thus imposing damages on the latter
- Involved 9 convictions (5 public servants, 2 businessmen)
- Damages: 1,9 mil EUR

Conclusion

- These privileged interactions affect public services rendered since public officials used their position and/or influence to advance payments or reimburse their clients for goods/services that were not fully delivered, inexistent or of lower quality
- The results range from a decrease in the quality of public services to severe delays in delivering the product/service, especially in the roads and motorway subsector



Thank you!

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