

Romania in the spiral of political conflict

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Romania is undergoing its largest political crisis in years. The verdict of the Constitutional Court about the effectiveness of the impeachment of President Traian Basescu will be issued as late as the 31th August. At the beginning of July he was suspended from performing the duties of the head of state by the Romanian parliament and 87.5% of the people who participated in the referendum voted for his impeachment (29th July). The turnout did not however pass the required 50% threshold, which means that Basescu will return to office should the Constitutional Court confirm the results of the referendum.

However, after the referendum, the Social-Liberal coalition of the Prime Minister Ponta in the Constitutional Court started to question the method of measuring the turnout. The Court in its verdicts of 2nd August rejected the appeal of the representatives of the Ponta camp regarding the method of counting voters but at the same time ordered the government to explain related irregularities and to update election lists. Only then will the Constitutional Court reach its final decision about the referendum. The political tension was exacerbated by the lack of clarity regarding the contents of the Court's verdicts and the fact that the prosecutor's office started an investigation on mishandling of personal records databases in the Interior Ministry. In parallel, the Prime Minister conducted a thorough reconstruction of the government by replacing *inter alia* the interior, administration and foreign ministers, and temporarily took over the position of justice minister. Currently suspended from his duties, President Basescu has accused the government of an attempt to manipulate the voting process and the continuation of a "coup d'état", whereas the Ponta camp has accused the president of putting pressure on the Constitutional Court and claims that the president has lost the legitimacy to hold office.

This grave political crisis will continue at least until the parliamentary election scheduled in autumn, irrespective of the Constitutional Court's verdict on the effectiveness of President Basescu's impeachment. This will have a detrimental effect on Romania's international position. Romanian government, determined to remove Basescu from power, finds itself on the verge of breaking the standards of the rule of law.

What is at stake in the referendum?

The referendum on the impeachment of Basescu was meant to complete the impeachment procedure against a president whom the government camp have accused of breaching the constitution and abusing power. Legislative and personal changes introduced in order to make the use of this procedure possible have caused many controversies and the EU has

expressed its concern. Nevertheless, impeachment of the hostile president is the most important political objective of the Social Liberal Union (USL) which groups together three parties with quite distant political programmes – the post-Communist PSD and the centre-right PNL and PC. If President Basescu remains in office (his term ends towards the end of 2014) this could seriously complicate the establishment of the government following the parliamentary election in the autumn as the president's key competence is to appoint the prime minister. Although USL is currently supported by 60% of society, the president could block the appointment of a USL candidate as Prime Minister and seek to declare another parliamentary election. Even in a situation where the government is formed by USL, Prime Minister would have to share power with the president in the area of foreign and security policy. Furthermore, the president has important competences in domestic policy, including influencing appointments for positions in the judicial system (a part of the judges in the Constitutional Court, the general prosecutor, the main anti-corruption agencies).

Confusion about the voting lists and the Constitutional Court's verdicts

The Central Electoral Bureau in Romania concluded that turnout in the election reached 46.2%, which would mean that the impeachment of the head of state was ineffective. Representatives of the government coalition, including Prime Minister Ponta, however suggested that the turnout in the referendum had been reduced as in fact the number of Romanians eligible to vote is smaller. In their appeal to the Constitutional Court, representatives of the ruling USL made, *inter alia*, reference to the census of 2011. The government's arguments which call into question the method of calculating the turnout were however rejected by the Constitutional Court on 2nd August. On 6th August the government published the justification of the Constitutional Court's verdict without the key excerpt which determined that citizens outside the borders of the country were eligible to vote. It was only after reports in the media and the reaction of the Constitutional Court that the government made the complete contents of the justification public.

The accuracy of election lists is also a matter of confusion. The interior minister, when asked by the Court to explain whether the election lists had been updated, proved that the data in permanent election lists were contradictory with personal record databases and added that he could not guarantee their compliance with the current number of eligible voters. As a result, the Constitutional Court ordered that the election lists be updated by the end of August and postponed decision over the results of referendum. In response to this the government announced that it would run an express "mini census" to check the number of citizens. Only after clarification from the Constitutional Court, whose decision had initially been unclear, did the government withdraw from the idea of holding an additional census.

Basescu deemed the measures taken by the Ponta government to be the continuation of a coup d'état and compared them to the election rigging which was used by the Communists in 1946. He accused the government of being willing to take over control of the judicial system and all independent institutions representing power. In the media there appeared a series of reports from informal meetings of USL politicians where they announced either the closing down of many institutions or that their managements would be replaced (among the institutions they referred to were: the Constitutional Court, archives of the Securitate secret police, anti-corruption agencies). As for the government, it has been continuing attacks

against the president by reproaching him for not stepping down despite society expressing its will (confirmed in the referendum). The acting president Crin Antonescu has accused Basescu of putting pressure on the Constitutional Court. The president of the Venice Commission, the advisory body of the Council of Europe, announced that he was deeply concerned by the fact that over the course of the last month the Constitutional Court has been making complaints to the Venice Commission that it has been subjected to strong political pressure.

Outlook

Due to the confusion surrounding the voting lists it is difficult to predict the final verdict of the Constitutional Court of Romania on whether the referendum is binding. Three verdicts are possible: the president will return to office, the impeachment of the president will be confirmed, or the referendum will be repeated.

A verdict allowing Basescu to return to power will prolong the political war at the summits of power and may cause stalemate in decision making. Given the current situation, any co-operation between Basescu, Prime Minister Ponta and the acting president, Crin Antonescu, may be ruled out. A verdict confirming the impeachment would cause considerable legal controversies. This would lead to a consolidation of power by Ponta's camp. At the same time it would present a serious threat to the principle of the separation of powers in the country and would trigger a further deterioration of Romania's relations with the EU and the US. A third possible scenario, which would see the referendum repeated, appears the most likely. However, this would mean a prolongation of the state of political battle between the government camp and the suspended president at least until the parliamentary election in the autumn. In this situation, the referendum being held together with the election would give it the best chance of effectively impeaching the head of state. Combining the two votes, however, does not seem possible in the light of the verdicts issued to date by the Constitutional Court. Regardless of the verdict it will be difficult for Romania to change the common perception about the ineffectiveness of its administration following the scandal over the referendum. This will in turn shatter any hopes of Romania joining the Schengen Area in the foreseeable future.