CAFÉ EUROPE

Finishing the Romanian revolution

Monica Macovei and the fight against corruption

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Monica Macovei. Photo: unknown

Monica Macovei was the Romanian Minister of Justice from December 2004 to April 2007. She quickly earned a reputation as one of Eastern Europe's most efficient fighters against corruption. Barely one year after Macovei took office, The Economist referred to her as an "impressive non-party justice minister." What helped was a credible EU perspective. "The accession process is a unique opportunity to carry out in 10 to 20 years transformations that would otherwise take a hundred years," she told ESI.

Macovei was born in Bucharest in 1959. After obtaining a law degree from Bucharest University in 1982, she started working as a public prosecutor. In 1989, following the

ouster of Nicolae Ceausescu, she "realized the need to study and to change something in my education," as she now puts it. From 1992 to 1993 Macovei completed a master's degree in comparative constitutional law at the Central European University in Budapest. After participating in a number of additional training seminars and courses on human rights, she started to work as an expert with the Council of Europe (CoE) and volunteered with the Romanian Helsinki Committee (where she eventually became president). In 1997 she left her job as public prosecutor, joined the Bucharest bar, and continued her human rights activities, including her work with the CoE. In 1999 she worked for the Organization for Security and Co-operation in Europe (OSCE) in Kosovo with the ombudsman's office. From 2002 to 2004 she lived in Sarajevo, where she was a CoE resident expert on judicial reform.

In late 2004, parliamentary and presidential elections changed the Romanian political landscape. The post-communist Social Democrats were ousted from government; their candidate for president, Adrian Nastase, was defeated by Traian Basescu of the conservative Justice and Truth Alliance. Around the same time Monica Macovei, still working in Sarajevo for the Council of Europe, was on holiday in Romania.

> *"I was on my way to ski and I received a telephone call from president Basescu, whom I had never met before. He asked me to take up the position of minister of justice. First, I couldn't speak. Then I asked for some time to think.*
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> *But I didn't have much time, because the next day the new coalition that won the elections in 2004 was going to announce the government. So I turned back to Bucharest. I had a meeting with him that evening and what convinced me was the fact that he said we needed judiciary reform in Romania. He said 'I would very much like to have as minister of justice a person who is not in any political party and does not have to serve the interests of politicians of the party.' So this is why I did it."*

When Monica Macovei took office in December 2004, Romania's government was still busy meeting conditions for EU accession. The last negotiation chapters, including the one on justice and home affairs, had just been closed. However, a number of issues remained on which Romania had to show "immediate and decisive action" if it wanted to join as planned on 1 January 2007. Known as the EU's "red flags", these included judicial reform, the fight against corruption and anti-money laundering, all of them part of Macovei's portfolio.

The new minister's agenda was thus very demanding. Macovei developed a three-year plan to address the challenges of corruption and reform of the judiciary.

One important set of changes affected the basic functioning of the judicial system. Macovei introduced random distribution of cases, encouraged magistrates, prosecutors and judges to act independently, and established a website where judges had to publish all their decisions. She changed laws, such as the one on money laundering. She also disbanded the justice ministry's own secret service (called the General Directorate for Protection and Anti-Corruption, or DGPA). The DGPA's entire archive, including information obtained by wiretapping judges, was to be handed over to a commission of historians specialized in Securitate files (however, the process was stopped after she left).

What made Macovei famous, both in Romania and abroad, was her determination to tackle high-level corruption. In 2002, a national anti-corruption prosecutor's office (PNA) had been set up, but the results were very weak. As the European Commission pointed out in its 2004 regular report, "the number of convictions stemming from PNA investigations remains rather modest."

In 2005 Macovei transformed the PNA into the National Anticorruption Directorate (DNA). She selected applicants – most of whom still work at the directorate – through a public competition procedure. The work of the newly recruited officials, who did not hesitate to go after government ministers, members of parliament and prefects, did not please everyone.

> *"I remember the first senior politician investigated was vice prime minister [Gheorghe] Copos, one of my government colleagues. Investigations were launched while he was in power – this had never happened before. I remember the prime minister told me in a government session: 'We are in power. I thought you would go after the opposition'."*

Another move that was popular with Romanians but controversial among the political class was a new set of strict procedures, introduced by Macovei in 2005, to monitor public officials' assets. In May 2007 a special National Agency for Integrity (ANI) was established.

> *"We introduced forms to declare assets – houses, accounts, cars, high value goods – with the value, the year you got it, and from whom, with details. [The forms] also included information on one's income, things one sold during the previous year, shares in companies, and family members' income. I know this sounds strange in Germany or France, where such declarations are confidential and just filed with the respective institution. In Romania this does not work. If in Romania we file it confidentially in an institution, it's like it does not exist. So I made this public, not only for members of parliament, but also for all judges, prosecutors, customs officers, police, all the staff in all ministries and governmental agencies – about 500,000 people in total."*

All these efforts earned Romania considerable credit with the EU. In April 2006, Olli Rehn, the EU commissioner for enlargement, told the European Parliament's Foreign Affairs Committee:

> *"Romania has made progress in the fight against corruption. Sound and solid structures have been set up for this purpose, and investigations into high-level corruption cases have been launched. This is immensely important. It gives a signal to the society that for the first time in the history of the country, nobody is above the law."*

Together with Bulgaria, Romania became an EU member on 1 January 2007. Only a few months later, in early April, Prime Minister Popescu-Tariceanu announced the formation of a new government. After a row with the Democratic Party (which had insisted that Monica Macovei stay on as an independent justice minister), Popescu-Tariceanu decided to form a minority government with the support of the Social Democrats. The Democratic Party was out of power, and Macovei was suddenly out of a job.

International media characterized the cabinet change and Macovei's dismissal as an end to the reform era of the previous two years. In April 2007 the New York Times wrote:

> *"Monica Macovei, the Romanian justice minister who has lost her job in a cabinet shuffle, made fighting corruption her mission and appointed a crew of tough and independent prosecutors to help carry it out. They did so with spirit, investigating and indicting lawmakers, government ministers and even a former prime minister, as Romania tried to prove to a sceptical European Commission that it had the political will to clean up its judicial system. They made friends in Brussels, but enemies at home."*

Three and a half years later, Romania's struggle to establish an independent judiciary is still ongoing. The Anti-Corruption directorate set up by Macovei continues its work. Some of the laws she sponsored remain in place, but others were changed or suspended, such as the law on funding political parties and campaigns and the law on insolvency. A constitutional court ruling criticising the privacy provisions in the declaration of assets procedure for elected officials and civil servants was used as a pretext to weaken the procedures through a new law passed in summer 2010.

Resistance against anti-corruption measures within the Romanian political class remains high. In 2008, the Romanian Parliament rejected a request by anti-corruption prosecutors to lift the parliamentary immunity of former Prime Minister Adrian Nastase. The same happened in December 2010 with a search request related to the investigation of former minister Monica Iacob Ridzi. The Superior Council of Magistracy (CSM) continues to be criticised by the European Commssion's reports for its lack of determination in dealing with judiciary reform.

Asked to identify her legacy as minister, Macovei told ESI:

> *"My biggest formal achievement is that I succeeded in eliminating all the 'red flags.' The last [of these] was eliminated at the end of 2006. However, I think people are interested in what happened in reality.*
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> *All these reforms started; for the first time we had politicians being investigated, whoever they were. That is the biggest achievement: to see that it is possible … Unfortunately, after the accession we see many court cases against politicians which are pending for two to four years before the supreme court or other courts without a decision on the merits. At the same time, cases of corruption in the judiciary are being exposed. The Superior Council of Magistracy failed to clean the judiciary and opposed most of the reforms. However, prosecutors are investigating [politicians], including people from the party that supported me, which is now in power."*

Out of office, Macovei was hired as an expert by the UK Foreign Office and served as anti-corruption advisor to the Prime Minister of Macedonia, Nikola Gruevski.

> *"There is no politician in this region who would tell the people that he is against his country's accession to the EU. They will all say, 'I am going to work to get you in the EU' for a lot of reasons. Even in cases where they would try to serve their own interest rather than the*

interests of the people, they can be pushed to do the right thing by people and by the EU institutions …

The accession process is a unique opportunity in the history of these countries to carry out in 10 to 20 years transformations that would otherwise take a hundred years. There is the technical expertise from the EC and the old member states, plus political and financial support. And there is this permanent pressure, which is crucial. Without pressure from Brussels you can't do difficult things like judicial reform.

This is a unique opportunity, I strongly believe in it. I carry a lot of dissatisfaction and frustration, but this does not change the fact that Romania has undergone a huge transformation."

Macovei's experience raises a number of interesting questions: What was key to her success in Romania and how transferrable are respective lessons? Does it just take a committed reformer, determined to do the obvious, overcoming the political obstacles through the dynamics of the accession process? Or is it more complicated? Would Romania's judiciary be in much better shape was Macovei allowed to continue her work for another few years? Is there any way to make successful justice reform an intrinsic and systematic part of the accession process like environmental policy or rural development?

In 2009 Monica Macovei joined the Democratic Liberal Party (the successor of the Democratic Party) and won a seat in the European Parliament, where she continues her fight against corruption at the European level.

"My objective is to have a mechanism at the EU level to measure and combat corruption in the member states … I am [a member of] the committee of civil liberties and that of budgetary control. We look at the use of European funds. But I am also interested in enlargement, in the western Balkans and Moldova. I don't want to … bring these countries in the EU for whatever political reasons. I give them my support because I want these changes to happen in these countries for the people, not for some politicians, good or bad." ■