

MONTHLY POLITICAL REVIEW AND TRENDS

May 2018

The big story:

► The whole political class is still in backwash after CCR's decision (Romania Constitutional Court) stating that Klaus Iohannis must dismiss DNA chief prosecutor in order to resolve an institutional conflict with the government (by a 6 votes to, 3 against). This decision put in wider context, limits the presidential powers over prosecutors, while empowering the Minister of Justice. The whole process started in February when Justice Minister Tudorel Toader had called for Kovesi's dismissal saying she had exceeded her authority. Harsh reactions swiftly appeared, opposition members biasing CCR's decision, however the President didn't take any action or any public positioning towards Kovesi (DNA Chief Prosecutor) or DNA, underlining that he waits for CCR's official document containing the Court's explanation. As regards future prosecutor's nomination procedure, CSM (Magistrates Superior Council) issues a consultative opinion, the Minister of Justice proposes and the President nominates.

What happens next: it all depends on a psychological conundrum: Iohannis's needs to take a decision on Kovesi's institutional future.

Political analysis

More on future scenarios:

► if he doesn't dismiss Kovesi, he can risk the "atomic option": impeachment. According to article 95 from the Constitution, the President can be suspended by the Parliament through a common session (Chamber of Deputies together with the Senate) with the 50+1 majority. The Constitutional Court has to be consulted beforehand. In this context, the President can address the Parliament on the impeachment matter. The impeachment proposition can/has to be initiated by at least a third of MPs (from both Chambers). If this proposition is approved (and voted), the Government has 30 days to organize a Presidential Demission Referendum. The Government has to decide (via an ordinance on Referendum law) on procedural matter: 50+1 from all who went to vote on due date (however, the Referendum Law was send by Iohannis to CCR and further amendments can be adopted in Parliament after the Court's official point of view). Furthermore, the Government has to decide the referendum bulletin question. But there is a glitch: the President hasn't got a specific timeframe to take a decision (regarding DNA Chief Prosecutor) after CCR's official document is presented to him. In this case, if he prolongs to much any decision, he will lose many anti-PSD voters who wait for a presidential shift in terms of action. Normally, if he does not snap and acts like an institutional President, the most likely comment is "I disagree with the Constitutional Court decision but I will uphold it for the sake of the constitutional order".

Political analysis

This ping pong game was underlined also during PSD's national gathering in Victoria Square where the party showed discipline and good organizational skills by rallying up more than 200k people; the "protest (being) against the Parallel State and constant abuses in Justice" mantra. Several media outlets, as well as the opposition, criticized what happened in Victoria Square by underlining two situations: the lack of a common message among demonstration participants (in other words, many attendees had different points of view on what PSD protests against - some of them accusing Iohannis and former president Basescu of "interfering in State's wellbeing", other having more down-to-earth issues such as pensions or salaries) as well as a feeble engagement between party leaders on stage (during speeches moment) and the people throughout the square.

What's worth mentioning is that Dragnea, one day after the meeting, announced that PSD is determined "to go all the way" in the Iohannis-Kovesi discord, including the constitutional court decision. Dragnea's key statements, as a follow up to the rally: "The meeting was about to release/unload everyone's piled up emotions, it was about protesting against this detestable system governed by Iohannis, who is a direct system beneficiary. This as a small meeting, the next one is going to be huge". PSD leader publicly signaled the party's willingness to suspend/impeach the President if Iohannis hesitates too much to sign Kovesi's revoking document: "we cannot stand still, we have to use all constitutional and legal tools if Mr. President breaks the Constitution, regardless the costs". Dragnea underlined that UDMR (the Hungarian parliamentary minority) is "one reliable party in terms of legislative initiatives, not like the other opposition parties". This is an important message in the presidential impeachment context because the Hungarians could tilt the balance for an effortless result. This can also signal a future invitation for the Hungarians to government. What can happen? The President announced the possibility to commence a debate regarding CCR's official document, possibly pushing for a consultative referendum. Voices inside PSD are discussing more and more the possibility to suspend the president if he postpones CCR's decision. What are the possible scenarios?

Political analysis

1.

If the President is suspended for less than 30 days: Tăriceanu will become the interim president and PSD/ALDE can rubber stamp important pieces of legislation which are on Iohannis' desk for the moment. Afterwards, the Parliament can restore the current president back.

2.

If the President is suspended for more than 30 days: according to articles 95 and 96 of the Romanian Constitution, the President can be suspended by the Parliament through a vote in a common session (Chamber of Deputies together with the Senate) with a 50+1 majority. The Constitutional Court has to be consulted beforehand. In this context, the President can address the Parliament on the impeachment matter. The impeachment proposal has to be initiated by at least a third of the MPs (from both Chambers). If the proposal is passed, the Government has 30 days to organize a referendum on the president's dismissal. In this context, with a referendum likely to fail, Iohannis is able to make a big political comeback, mostly due to PSD/ALDE's inability to present a "presidential" face at the moment - Gabriela Firea is not on high horses in terms of electoral trust due to last week's moment with Simona Halep related criticism.

3.

Iohannis is dismissing Kovesi after all or, even better for the President and the parliamentary majority, Kovesi eventually resigns. However, in the scenario of dismissing Kovesi, the President will lose electoral capital too, as many voices would accuse him of "political flabbiness" in this conflict. This can affect him decisively in a future presidential run.

Political analysis

In addition, the president announced that he is determined to run for another mandate on next year's elections: "I've took this decision because I saw several opinion polls showing Romanians face a level of discontent over 80% over the political class. In conclusion, I reckon this is a good moment for me to make this announcement. However, I don't think that the PSD is going to be happy as regards my decision". Iohannis began his veiled presidential campaign by constantly attacking the governing coalition and its representatives while ticking boxes of external affairs success stories (mainly with European leaders).

To sum up, in a future presidential suspension scenario, Iohannis could force a referendum and reclaim his political momentum; or he could victimize himself (in case no referendum is to be organized) and still win on short term in terms of public trust.

Future trends:

- ▶ More protests will continue constantly accusing the governing coalition;
- ▶ PSD is going to become more biased towards Iohannis/Kovesi situation;
- ▶ PNL and USR will become slightly connected through a single anti PSD/ALDE voice;
- ▶ Victor Ponta and Dacian Ciolos (as the upcoming political underdogs) will become more and more media present.