

Challenging the rule of law in Romania: the metamorphosis of political discourse towards populism

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Abstract

This article is an exploratory analysis of the political style of the Romanian Social Democratic Party (PSD), which despite being a mainstream centre-left party, has shifted from a latent to a crystalized populist rhetoric. Using qualitative content analysis of party speeches and press statements from 2015-2019, the article shows how the political style of the party becomes more populist when the domestic justice system begins to pressure leading PSD politicians. The data reveal an intersection between populist rhetoric and institutionalist discourse when PSD is trying to amend the rule of law institutions.

Keywords: populism, discursive institutionalism, rule of law, Romania, parties

Introduction

Among the various approaches to the study of populism, the notion of populism as a ‘political style’ has grown in recent years. Driven by authors like Moffitt (2016), the notion of ‘political style’ has examined how political leaders employ populist themes as part of their strategies of mobilisation and governance. In turn, this perspective leads very smoothly to a second, recently growing scholarly domain: discursive institutionalism (Schmidt, 2008). This theory explores how institutions change through discursive constructions that specific actors create and employ. With this theoretical framework and the proposed interpretative case study, this article seeks to contribute to the growing body of populism and its relation to judicial issues (c.f. Blokker, 2019; Mazzoleni & Voerman, 2020; Sadurski, 2020). To do so, this article analyses the interaction of these two phenomena in the case of Romania. Hence, this study asks how populist political discourse affects the structure of democratic institutions? To provide insights vis-à-vis when and how does populist discourse matters, this paper analysed the particular case of the largest and most successful mainstream party, i.e., the Social Democratic Party (PSD).

During a period in power from 2015 to 2019, PSD noticeably amplified its populist political style and used this discourse in a series of attempts to alter judicial institutions. This study presents a coded database of more than 600 public statements and speeches from PSD leaders (most notably its leader, Liviu Dragnea) collected from the 2015-2019 period. The data is collected from the official YouTube page of the PSD, transcribed, and then coded and analysed via a dictionary and qualitative content analysis. The results reveal the evolution and rise in populist tropes used by different PSD leaders. Concomitantly, the article will examine how this discourse was employed to undertake several moves, often via emergency government decrees (OUG), to circumscribe the judiciary and specific institutions of the rule of law. As a third analytical focus, the paper explores how spikes in populist political style were often precipitated by moves made by judicial institutions to investigate PSD leaders. Overall, the study highlights how a cycle of struggle between populist leaders and the rule of law institutions prompted the former to use discourse to affect the institutional structures of the latter. To explain this correspondence, this study looks at the path of populist discourse in 2015-2019 in Romania.

Next, the conceptual framework first presents the type of populism. Then, it outlines the concept of discursive institutionalism. Subsequently, it succinctly introduces in conceptual terms the kind of democratic institutions this study examines and presents explanations about why rule of law institutions specifically might be noteworthy to look at when they are confronted with populist discursive practices.

Populism – a political style

Despite scholars conceptualising populism through an ideational approach (Mudde & Rovira Kaltwasser, 2017) or a strategy (Weyland, 2001), one particular approach has gained ground,

which focuses on the communicative and performative elements of populism (Sengul, 2019, p. 91). Previously, scholars have noted that populism encompasses particular stylistic elements (Canovan, 1999) that were tailored to a communicative dimension (Jagers & Walgrave, 2007). Hence, Sengul (2019) argues that the study of populist communication is important for two reasons. First, Kriesi argues that ‘populist ideology manifests itself in the political communication strategies of populist leaders’ (2014, p. 364), while Waisbord values the arena of political communication as a struggle between ‘popular truth and elite interests’ (2018, pp. 27-29). By understanding how the communication mechanisms and discursive strategies of political agents take form and change, one can appreciate an essential dimension of the populist phenomenon.

This study contributes to this body of research and supports Moffitt’s thesis (2016, p. 16), who views political style as ‘the repertoires of embodied, symbolically mediated performance’. Previously, populism as a political style was discussed in the works of Ankersmit (2002), Hariman (1995) and Pels (2003). Their work influenced Moffitt (2014, p. 387) who reviewed the political style as ‘focusing on the performative elements of the phenomenon, thinking of populism as a political style that contextualises populism’s position in the contemporary ‘stylised’ political landscape and brings representation to the forefront of discussions about populism’. Moffitt’s approach, Sengul argues, (2019, p. 92) ‘offers a minimalist definition which has versatility, allowing for comparative analysis across the ideological spectrum’. Moffitt envisages the following key concepts: ‘the people’ versus ‘the elite’; the emphasis of ‘bad manners’ in the speech of populists and the performance of ‘crisis’ (2016, p. 45).

The operationalisation of populism includes, herein, four categories. The first three are ‘*the people*’ opposing ‘*a form of elite*’ often via ‘*bad manners*’, whereas the fourth stipulates the existence or engineering of a ‘*crisis*’. The existing literature which has examined ‘the people’ (Canovan, 1999; Espejo, 2017) and the ‘elite’ (Helbling et al., 2016) is vast. However, this study argues that ‘the people’ represent a democratic ideal element that populists count on in political debate (Moffitt, 2016). Müller (2016, p. 21) argues that the message of populists assumes that ‘only some of the people are the people’. This stylistic selection fashions a societal antagonism between two opposing camps. The populists separate society by speaking on behalf of the people on the premise that they ‘really know’ that they are the best to represent the people and their interests; and by challenging the expertise and ‘common sense’ of the bureaucrats and technocrats (Moffitt, 2016, p. 52). Equally, populists construct discourse around the values of the people, who act as a moral cushion when discursively separating ‘the elite’. Žižek (2006, p. 555) considers ‘the elite’ to be the opposite of the ‘people’ and contends that populism ‘displaces the antagonism and constructs the enemy’ which is ‘externalized and reified into a positive ontological entity whose annihilation would restore balance and justice’. Hence, the elite is used in discourse as that minority whose institutional power prevents ‘the people’ from attaining progress while abusing their democratic rights. Frequently, the elite is associated with a conspiratorial creed in populist discourse.

Silva et al. (2017) noticed a correlation between the belief in conspiracy theories and populist discourse, which perceives ‘the people’ as victims at the hands of ‘elites’. Similarly,

this study indicates that populist discourses construct conspiratorial beliefs and associate the elite's modus operandi to the current suffering of 'the people.' Elsewhere, Chiruta (2020) observed an association in the populist discourse between belief in conspiratorial views (e.g., deep state), memory issues, and elite. Populist discourse takes a more clearly defined form when the anti-elite is stylistically defined. This depends upon specific political circumstances, which separate a perceived 'enemy' from the party's struggle to reform society in the name of the people. Once the 'anti-elite' is defined as the opposite element, the agents add a 'crisis' to represent a prejudice created by 'the elite' in the eyes of 'the people'.

Thus, the populists create a crisis to bridge the gap between 'the people' and 'the elite'. Scholars have argued that without signalling a crisis, one cannot speak of populism (Laclau, 2005). Attempts to analyse the discourse of 'crisis' have been proposed successfully by Krzyżanowski (2019). Unlike previous contributions, this article wants to explain how past and emergent 'crises' of democratic institutions are rhetorically incorporated and operationalised as democratic crises; ones that populists want to change through a connexion of populist and institutionalist discourse. Moffitt (2016) has shown the value of the political style in the context of South America, specifically Peru, where populists amend institutions. Recently, Moffitt (2020) reminded about the usefulness to use the political style to analyse cases of populism from Australia and Venezuela. Bonikovsky and Gidron (2016) have shown the benefits of the political style when analysing American elections. Others analysed how Syriza tampered with the courts from Greece (Stavrakakis & Katsambekis, 2014). Similarly, this study wants to use the same analytical lenses for Eastern Europe's politically unstable and ideologically lacking milieu, to explain how populists use discourse to change democratic institutions. To avoid confusion, this study refers to democratic institutions strictly in the judicial sense, i.e., courts and investigative bodies.

Furthermore, 'bad manners' are revealed as the way political actors degrade political discourse, disregarding 'appropriate' modes of acting in the political realm (Moffitt, 2016, p. 52). It has been argued that 'bad manners' are particular to the case of reference. Moffitt (2016, p. 52) argues the elements that constitute 'bad manners' are the use of slang, swearing, and being overly demonstrative. Nai and Coma (2019) showed that colourful elements could be identified in the speech of a leader as populist markers. Populists likely espouse specific linguistic traits, depending on the socio-cultural context. Hence their use is meant to have 'great political and cultural resonance' (Moffitt, 2016, p. 52). These bad manners are accentuated when a populist agent is pressured by external factors.

Sengul (2019) asks how different categories of political style can add knowledge vis-à-vis the adoption of populism? First, Ekström et al. argue that this is done by 'providing a context-sensitive, analytical procedure for examining how populist discourse draws on linguistic tropes and discursive practices as resources within specific socio-cultural contexts' (2018, p. 3). Second, Ekström et al. maintained that the elements of political style offer 'crucial insights into how populist politicians mobilise stylistic resources to discursively produce and display their difference from mainstream 'technocratic' political discourses'. (2018, p. 3) Third, one can add that style may reveal the elements behind the causes that foster the adoption of populism. Herein, the style refers to different etiquettes and protocols by which a language,

determined by specific socio-cultural circumstances, is used by an agent to create a communicative act, a discourse.

In his study, Moffitt (2016) highlighted cases of populist politicians who used the political style to ascend to power. But what happens when agents who became populists in office use the political style to circumvent the state institutions that prevent them from power-grabbing. How and what will the agent communicate to that extent? How will the agent in office intersect populist discourse and discursive institutionalism to subvert the rule of law? Below, this paper assumes the concept of discursive institutionalism as an essential component to the repertoire of populists in power. It does so to explain that discursive institutionalism does not embody and represent just ideas. Adequately, discursive institutionalism stresses that one should look instead at what the interactive processes of discourse of the agents produce, to explain the political and social reality of a given society. Thus, discursive institutionalism can assume the dynamics of policymaking of populists in power if the procedures are supported and strengthened during rallies via populist discourses and conspirational theories. Through a series of three vignettes, this paper displays, towards the end of this paper, the ability of populist agents to interconnect populist rhetoric and discursive institutionalism to undo technocratic policymaking, subvert the judicial institutions via power through ideas, and support these processes in the public arena through a concoction of populist rhetoric and conspirational belief.

Discursive institutionalism

This article adopts the work of Vivien Schmidt (2008) on discursive institutionalism (DI) and combines it with the political style of populism. The theoretical proposition of this study merges the political style's repertoire of symbolically mediated performances with DI's interactive processes of communication and contestation implemented in the political arena by populist leaders and their parties. This approach may generate new insights vis-à-vis how or why rule of law institutions might be specifically noteworthy to look at when they are confronted with the populist discursive practices of particular agents in power. The significance of power in DI's framework is essential when looking at what populists do when they assume office. Here, this paper finds Schmidt's (2008, pp. 306-309) conceptualisation of DI as power through ideas indispensable when understanding the *modus operandi* of populists. Primarily, power through ideas, combined with a populist repertoire, might persuade audiences of the cognitive validity and normative ideas that the populists espouse through the use of discourse. Second, Schmidt's (2008, p. 307) power through ideas outlines the configurations vis-à-vis how populist agents attempt to enforce and dominate the meaning of ideas in a given society. Taken together, the power through ideas – in a politically unstable milieu – can transfer the monopoly on public discourse from elites (Schmidt, 2008, p. 315) (e.g., technocratic and institutional) to, in this study case, populist agents.

Schmidt argues that discourse ‘is not just ideas or ‘text’ (what is said) but also context (where, when, how, and why it was said). The term refers not only to substance (what is said, or where and how) but also to agency (who said what to whom)’ (2008, p. 305). The central framework of Schmidt’s approach is embodied by institutions. Schmidt defines institutions as ‘simultaneous structures and constructs internal to agents whose ‘background ideational abilities’ and ‘foreground discursive abilities’ make for a more dynamic, agent-centred approach to institutional change’ (2008, p. 305). In conventional political discourse, institutions are epitomised as rational, objective and neutral settings whose purpose is to help streamline societal issues. By contrast, the discourse of populist agents strives to remove the objective nature of institutions by denoting them as individual decision-makers in their relationship with the audience. These viewpoints of populists convey to the people that institutions present a bias, thus needing reconfiguration. These repertoires include a logical basis and reasoning that identifies the problem while informing society of the solutions required for it. As Schmidt (2008, p. 314) puts it:

[D]iscursive abilities represent the logic of communication, which enables agents to think, speak, and act outside their institutions even as they are inside them, to deliberate about institutional rules even as they use them, and to persuade one another to change those institutions or to maintain them. And it is because of this communicative logic that DI [dis- cursive institutionalism] is better able to explain institutional change.

Schmidt claims that communicative discourse, which aims to persuade audiences of change, is uttered by ‘political leaders and government spokespeople [which] communicate the policy ideas and programs developed in the coordinative discourse’ (Schmidt, 2008, p. 310). These agents are usually the ones who want institutions to change. Others have adopted DI’s claim that ‘discursive institutionalism has a bias for change [thus being] well-attuned to analyse emerging processes of change’ (Dawson & Hanley, 2019, p. 6). For changes to happen, a crisis is required that justifies the measures proposed by the agent to their audience in order to patch-up institutional flaws. Political agents endeavour not to ‘repair and strengthen the institutions, but above all, to change the cadres’ (Krygier, 2019, p. 564). Usually, altering institutions requires two types of strategy. The first speaks of political agents ‘formulat[ing] and reformulate[ing] strategies practically’ (Dawson & Hanley, 2019, p. 5), while the second mentions ‘ideological entrepreneurs’(Schmidt, 2016, pp. 330-331). These two approaches ‘not only make sense cognitively but also resonate in terms of norms and values that give them legitimacy’ (Dawson & Hanley, 2019, p. 5).

Legitimacy is sought by agents before the process of changing institutions. A meaningful communication grants the agent much-needed legitimacy. The communication ‘serves not just to represent ideas but also to exchange them through the interactive processes of a) coordination among policy actors in policy and program construction and b) communication between political actors and the public in the presentation, deliberation, and legitimation of those ideas, against a background of overarching philosophies’ (Schmidt, 2008, pp. 321-322). The envisioned reform seeks to measure the level of ‘institutionalised sources of

attachment, resentment attitudes to public institutions, but they also seek to revive, develop, shape, distort, and exploit' (Krygier, 2019, p. 562). The language of populists is employing cognitive and normative ideas. The first reveals 'how policies offer solutions to the problems at hand, how programs define the problems to be solved and identify the methods by which to solve them' (Schmidt, 2008, p. 307).

Meanwhile, normative ideas 'attach values to political action and serve to legitimate the policies in a program through reference to their appropriateness' (Schmidt, 2008, p. 307). A similar configuration occurred in Romania between 2017-2019, when the largest party, after gaining a parliamentary majority, used discourse to change rule of law institutions that consolidated the anti-corruption reforms. Below, this study sketches the types of rule of law institutions that the political style and DI configuration of populists attempted to change in Romania.

The rule of law institutions and the Romanian politics in 2015-2019

This study argues that populists perceive rule of law institutions and the 'political elite' (who protect those institutions) as obstacles. These bodies restrict the power-grabbing of populists, who often first look to alter the judiciary to operate unchecked. Scholars ascribe this set of practices as an attempt 'to revive the true rule of law, build it anew' (Krygier, 2019, p. 566). This study wants to contribute to the growing literature on populism in relation to law and judicial issues (c.f. Blokker, 2019; Blokker & Mazzoleni, 2020; Sadurski, 2020). The analysis of this case study relates to the judiciary dimensions.

Scholars that analysed case studies from Western Europe explain the strategies different populist leaders and parties employ when both the former and the latter tend to pit their communities of voters against the rule of law (Mazzoleni & Voerman, 2020). Often, specific populist agents and parties attack the rule of law in the name of popular and national sovereignty, as opposed to the liberal-constitutional values (Plattner, 2010). Frequently, the efforts of specific populist agents and parties to limit the autonomy of judiciary are determined by opportunist views and constitutional perspectives (Mazzoleni & Voerman, 2020). One case in particular is the period of the Social Democratic Party (PSD) from Romania in 2015-2019. During this time, specific populist agents emerged and limited the autonomy of the judiciary. Unlike other studies that focused on cases of right-wing parties (Kosař et al., 2019), the present case study is focusing on a mainstream and centre-left party from Romania that pivoted towards right-wing populist discourses in the attempt to subvert the rule of law. The present case study analyses the trajectory of the largest and most powerful political party, i.e., PSD to populist discourse and populist constitutional-making.

Romania is a specific case whereby populists clashed with judicial institutions, especially after its entry into the European Union. For all those who took control of major industries and amassed fortunes illegally after the fall of Communism (see Gallagher, 2005),

the EU's principle of the rule of law represented a threat, especially if enforced by specific institutions to combat corruption. According to Krygier (2019, p. 572), the rule of law, although being an abstract concept, can be understood as a system of values that comprises the institutional integrity of significant institutions that temper power-holding via constitutional courts and civil society organisations. The rule of law can best be acknowledged when populists attack one or all its values.

Before and after its accession into the EU, Romania's democratic institutions were weakened by a web of clientelist networks, which controlled their functioning and widened the level of corruption (Mendelski, 2012, pp. 23-24). Hence, a number of independent judicial institutions like the National Anti-Corruption Directorate (DNA) together with the High Court of Cassation and Justice (HCCJ) and the institution of a Cooperation and Verification Mechanism (CVM), a mechanism designed to observe and maintain reform developments, were seen fitting by the EU to reform the judiciary and prevent corruption (Hoxhaj, 2019, p. 114). Despite the European Commission strategies to dent corruption, public NGOs in Romania consider that the judiciary is lacking integrity and independence (Vaduva, 2016, pp. 4-24). The EU's commitment to strengthen these institutions in Romania made parties attempt to amend the values of the rule of law for their benefit. In later years, part of the political strategy was to weaken the two independent institutions that make up the case of this study, i.e., how does populist political discourse affect their structure. This study assesses the means by which discourse affects the institutions of the rule of law, e.g., DNA and HCCJ.

The DNA was created, at the behest of EU, during the tenure of former president Traian Băsescu to dent corruption and increase the rule of law (Mendelski, 2012). In 2013, Băsescu placed Laura Codruța Kövesi in charge of the DNA, whose tenure is considered as a success (MacDowall, 2016). In one report, the European Commission admitted that the DNA and the HCCJ 'established an impressive track record in terms of solving high and medium level corruption cases' (2017). In time, the DNA produced many high-profile convictions, which gained praise in the region (Carp, 2014; Mungiu-Pippidi, 2018). However, the sizeable budget, growing personnel associated with the numbers of prosecutions and the DNA's modus operandi are seen by some legal scholars as focusing on results at an accelerated rate (see Hoxhaj, 2019, p. 140; Mendelski, 2020). This acceleration backfired in 2017-2019, as Romania's largest party, i.e., Social Democratic Party (PSD) won the 2016 election by a landslide, inevitably 'push(ing) to relax the fight against corruption and to remove the head of DNA' (Hoxhaj, 2019, p. 140). The PSD felt threatened the most, as many members were indicted for corruption by the DNA and convicted by the HCCJ. Mungiu-Pippidi argues that PSD is more corrupt than other parties because they were in power more since the fall of Communism (2018, p. 108). Despite the fact the CVM superintended the independence of the judiciary, this did not stop PSD from attacking the judiciary.

In respect to Central and Eastern Europe, scholars agree that the 'rule of law reversals have occurred in novel forms, most surprisingly and deeply in Hungary and Poland'. (Krygier, 2019, p. 546). Following the regional pathology spearheaded by Hungary's FIDESZ and Poland's PiS against the rule of law (Ágh, 2018), PSD overhauled the judiciary (Falasca et al., 2016). Praised initially as a much need victory of the left's pragmatism, in the wake of right-

wing parties' success in Europe (Paun, 2016), PSD's victory promptly destroyed the public's expectations. Though failing in 2012 (c.f. Tismaneanu, 2013), PSD's newest attacks against the judiciary proved successful, as these somewhat imitated the procedures of FIDESZ and PiS. Like its CEE counterparts, PSD undermined the country's constitutionalism through its parliamentary majority (c.f. Kelemen & Pech, 2019; Téth, 2017), packed the Supreme Court and lower courts with loyalists, and challenged the forms and rhetoric of law (Krygier, 2019).

Nonetheless, unlike PiS and FIDESZ, the case study of PSD is unique, as the latter is a centre-left party, unlike its right-wing counterparts. Thereby, PSD is not ideologically motivated towards adopting populism; instead, its purpose is pragmatic, i.e., to ensure members evade prosecution. PSD's chairman, Liviu Dragnea, and other leaders were such individuals – hence the rush to subvert the judiciary. PSD's deep-rooted conflict with President Iohannis and abuse of Emergency Ordinances (OUG) to circumvent the presidential powers also played a role. The unique usage of these normative acts, alongside a populist discourse, brought amnesty and pardons for corruption charges, banned President Iohannis from naming judges and the heads of the HCCJ, and established a Special Section to investigate magistrates. All of these ordinances bypassed parliamentary debates and oversight committees. Together with a populist vocabulary, these normative acts were designed to safeguard Dragnea and PSD cronies troubled by DNA's indictments or HCCJ's convictions. But how did a centre-left party come to wield enough pressure upon the judiciary?

For three decades, PSD has been 'the party of power' in Romania (Bernhard & Kubik, 2014, p. 26). A direct descendent of the Communist party (Ciobanu, 2015), PSD consolidated its status as Romania's largest and disruptive political force (Gallagher, 2015). Its vast party machine, which never lost a parliamentary election, handled by a web of clientelist networks, local barons and other cronies, fortified its longevity and overall political success.

However, in 2014-2015, PSD's political hegemony suffered two setbacks, which subsequently led to the accession of a strongman that redefined the party in 2015-2019. First, the election in 2014 of Klaus Iohannis from the National Liberal Party (PNL) as the president of Romania (Gherghina, 2015), beating the then PSD leader Victor Ponta, ushered the rise of Dragnea. Second, the Colectiv Nightclub fire from 2015, an incident that killed 64 people, prompted massive street protests (Crețan & O'Brien, 2019) and the emergence of civil society parties like the Save Romania Union (USR). These events led to the collapse of the Ponta premiership and the instalment of a technocratic government run by Dacian Cioloș, a former European Commissioner (Brett, 2015). Consequently, these episodes reshuffled PSD's organisation, paving the way for the election of Dragnea. The appointment of Dragnea as PSD's chairman, despite having a criminal record, was puzzling.

In no time, Dragnea revised the party's code of conduct and doctrine to appeal as a modern social-democratic party. Drawing on a pro-European and pro-NATO platform, emphasising economic reforms and social justice, PSD won the 2016 parliamentary elections in a landslide (45%). Oppositely, PNL, the second-largest party, endorsed by President Iohannis, yielded unsatisfactory results (20%), while USR took 8% and People's Movement Party (PMP) 5%, respectively. Subsequently, Dragnea formed a coalition with the Alliance of Liberals and Democrats (ALDE) (5.56%), the party of Călin Popescu Țăriceanu, another

indicted politician and UDMR (6.18%), the Hungarian party – a conventional member of all governments (Nedelcu & DeBardeleben, 2016).

The ensuing political struggle between Dragnea and President Iohannis generated by the former's legal issues, pursued by the judiciary, facilitated the appeal of populism onto the political scene. Dragnea's criminal record, which in 2016 included a conviction for electoral fraud and an indictment for abuse of public office, entrenched the party, in the spirit of Hungary and Poland, as a populist constitutional-maker (Suteu, 2019).

The first step after PSD took control was to 'modify the Penal and Procedure Codes under a pretext of fixing the problem of overcrowding of prisons in Romania' (European Commission Report, 2016). These modifications allowed 'former politicians not serve their full sentences [...] and prevent any investigations made against the current government on the basis of corruption' (Hoxhaj, 2019, p. 140). Shortly after, the biggest protests in Romania's history ensued (Adi & Lilleker, 2017). Facing opposition from the judiciary and the protests, PSD's rhetoric gradually embraced populism and pursued what scholars called the 'pathology of the region, i.e., illiberalism' (Suteu, 2019). Entrenched, PSD began a struggle to discredit the judiciary.

Inside parliament, PSD worked to fill the Constitutional Court and other bodies like the Superior Council of Magistracy with associates, relied on the Ombudsman's prerogatives to further alter the judiciary under the pretext of upholding human rights for felons and proposed several Emergency Ordinances (OUG) to reconfigure the judiciary. OUG are normative acts adopted by Romanian governments when facing urgent requirements. This study discusses three critical OUGs. First, OUG 13/2017 decriminalised corruption offenses. OUG 90/2018 introduced a Special Section to investigate prosecutors, which eventually led to the removal of Kövesi from the DNA in 2018. OUG 7/2019 amended: a) the Status of Judges and Prosecutors; b) the organisation of the judiciary; c) the Superior Council of Magistrates. The fallout from these actions almost triggered the full weight of Article 7, a European Union procedure that suspends certain rights, like voting, for a member state (Eder, 2019). Outside parliament, the PSD's discourse adopted a bizarre concoction that accommodated two of Romania's post-Communist unresolved problems: a) the inheritance of former Securitate structures (The Romanian Secret police) (Chiruta, 2020); b) reforms of the judiciary demanded by the EU rule of law values.

The success story of Romania's anti-corruption bodies such as the DNA, which secured hundreds of convictions, nonetheless backfired into 'a culture of anti-corruption political populism [...] leading to open conflict between members of political parties and the judiciary' (Hoxhaj, 2019, p. 144). The leading example that pursued a conflict with the judiciary, delayed its reforms and attempted to offer amnesty for those indicted for corruption was PSD.

Methodology

Qualitative content analysis of 625 press statements and speeches

This study examines the populist political style's changes on democratic institutions in Romania. Specifically, it uses the case study of an entire party's populist discourse in 2015-2019, when PSD challenged the forms and rhetoric of law. This study is a disciplined, interpretative case study, as it takes existing conceptual frameworks (e.g., the political style of populism and DI) and applies them in the case of PSD, which under the leadership of Liviu Dragnea, attempted to change the judicial institutions through discourse. The reasons for selecting this case study rest on some unique features. First, the PSD's discursive populism levels were special for a combination of both, (a) their absolute levels during elections, (b) their sharp increases during indictments and convictions of Liviu Dragnea and other PSD prominent members. Second, this is a study of an entire party's populist discourse, not just (as is often the case) that of a single populist leader. This is the study of an entire party that changed its leadership during political crises caused by infights with the judiciary. The limitations of this interpretative cases study rest on the short timeframe adopted for this study (e.g., 2015-2019) and its lack of comparisons with almost similar cases studies from Hungary (e.g., FIDESZ) and Poland (e.g., PiS). The generalization of this case study draws on specific implications and contributions of rich insights vis-à-vis the mechanism that turn centre-left parties towards right-wing populist discourse. Also, it deals with an understudied aspect in the literature of populism and discursive institutionalism, and it applies it to the case of a radicalized mainstream party, i.e., PSD. Thus, this paper asks how populist discourse changes the structure of democratic institutions, i.e., the judiciary?

Sample gathering

This paper uses a wide-ranging corpus of discursive material (625 press statements and speeches). Data was collected from the official YouTube channel of PSD. All videos uploaded by the admin were selected for analysis (October 2015 and December 2019), except political ads and videos under 120 seconds, due to their discursive inconsistency to layer an interactive process of communication (DI). The dependent variable (rule of law institutions) was identified based on how the Emergency Ordinances were used or when other retributive steps were taken by PSD (e.g., former Ministry of Justice, Tudorel Toader notified the Constitutional Court when President Iohannis did not dismiss the head of DNA). YouTube was chosen because it shows the performance of politicians in front of audiences, PSD's rhetorical fluctuations over time, especially when adopting populist themes in line with the different charges brought by the judiciary, and rhetorical variations during leadership change, such as when Viorica Dăncilă replaced Dragnea, following his conviction (Paun, 2019).

Apart from PSD's high-ranking members, this methodology also considered 'the leaders as the focus when it comes to the study of populism' (Moffitt, 2016, p. 60). The data covers four election campaigns. The transcription started with PSD's Congress (2015), when Dragnea became the leader, to show the changes in populist rhetoric in challenging democratic institutions. The data were collected between October 2019 and February 2020. The

transcription was conducted with Google's voice typing tool, which enabled the researcher to transcribe 200,913 words in Romanian. The level of precision for each transcription was then re-examined manually to include or add necessary punctuation and to adjust the words that were misspelled or misunderstood during the recordings.

Establishing categories for coding

The coding of the discourses was conducted manually according to the categories 'the people', 'crisis', 'the elite' and 'bad manners' in four columns. To ease the difficulty of coding manually, a dictionary-based analysis was employed that was specific to populist terms (c.f. Bonikowski & Gidron, 2016). The latter were determined after reading the transcripts of four major PSD conferences in 2016-2019. The dictionary contained the patterns of words that underline populist linguistic traits.

- A) **'The people'**, included *'us/we pronouns', 'the people are sovereign', 'the people gave us power', 'the love of the people', 'not respecting the will of the people', 'the vote given to us represents the power the people have given to PSD', 'the people have expressed their will, 'the party that is coming from the people',*
- B) **the 'crisis'** included: *'cuts to salaries and pensions in 2010', '2012 freezing of salaries and pensions'¹, 'democratic crisis', 'human rights abuses', 'overcrowded prisons' and 'persecuted people'.*
- C) **'The elite'** included *'they/their pronouns', 'their president', 'their government', 'technocrats', 'securiști' (e.g., plural for people who worked for the former Securitate), 'Securitate', 'foreign companies', 'Soros', 'the EU', 'bureaucrats'.*
- D) **'Bad manners'**, The PSD incorporated Soros myths and symbolism (c.f. Kalmar et al., 2018) to designate paid protesters as *'Sorosști', #hashtagști, or #hashtagRezist (for those who organised online the protests against the OUGs)* (c.f. Adi & Lilleker, 2017); technocrats and members of the opposition as *'Sorosști', 'lazy and stupid', 'gang of marauders', 'mafia', 'traitors of the country'* and prosecutors as *'Securiști' and 'torturers'*. Bad manners also included other linguistic traits that designate the president Iohannis as a *'tyrant; unpatriotic; dictator; evil; extremist; the enemy; Nazi concentration camp chief'.*

The purpose of this logic is to determine the populist themes that shape the contexts of the populist-institutionalist worldviews used by PSD's leadership to challenge democratic institutions. The rationale behind this logic considered that the high-ranking officials' discourses uttered and performed in front of PSD members during different time-periods are grounded on the developments of indictments and convictions of its leader. Therefore, these

¹ Following the Greek crisis in 2009, Romania's debt reached an alarming 10 billion euros in 2010. After negotiations with the International Monetary Fund, the then liberal government of Emil Boc secured a 19 billion dollar loan, which was backed by austere policies including cuts of 25% to salaries and 15% to pensions in 2010 and policies that froze the pensions and salaries of public servants in 2012.

discourses are likely replicated and further developed in other speeches and press statements for its electorate and broader audiences.

Affixing code values to discourses

Methodologically, this paper separated the coding process into four columns, according to the four categories of the political style, red for ‘the people,’ yellow for ‘crisis,’ blue for ‘anti-elite,’ and grey for ‘bad manners.’ The unit of analysis are sentences. After the transcription, the study coded only the sentences comprising the linguistic traits of populism. For instance, speeches which focused on substance, unlike statements which focused on policy, included a greater abundance of sentences that could be coded. The stylistic format of the speeches granted leeway to develop one’s narrative around the four categories of the political style and attack the judiciary. Based on the model of Bonikowski and Gidron (2016), the study incorporates simple numeric codes to indicate the presence and absence of populist content. Before coding, the study considered the hypothesis of Muis and Immerzeel (2017), who argue that all political discourses include a certain degree of populism. To represent PSD’s slide to populism when attacking the judiciary, this study assesses the numeric codes given by each speech and statement. It does so to represent the value distribution of the pieces of discourse (N=625) and the transition to populist discourse for each category across time.

So, for cases when the presence of populist content was visible, the study is coded according to its category and numerically from 1-4, depending on the various references within the discourse. Concurrently, there were few cases when all four categories were encountered, and multiple references of populist content coded. Absence was coded as zero. There are two manners to calculate the distribution of populist values and the transition of each category. The distribution of populist values is calculated horizontally (left to right), depending on the colour affixed to the boxes from the four columns. Whenever one or all categories of the populist political style were encountered in a discourse, the box designating the category was coloured. This measurement has the function to calculate how many categories of the populist political style are encountered in discourses and how frequent these are employed in the rhetoric. Depending on the length, considering Dragnea’s and Tăriceanu’s indictments and convictions, and PSD’s Emergency Ordinances, the pieces of discourse had zero, one or up to four categories of populism coloured in the four columns.

Consider the speech of PSD’s junior coalition partner, Tăriceanu (ALDE) who utilized during the rally against the parallel state (June 2018) a double anti-elite construction, enforced by one reference of bad manners. Thus, “the Securitate of Communism has not died but transformed itself and wants back in power [...] Traian Băsescu (ex-president) created the new Securitate (e.g., the DNA) and Klaus Iohannis (e.g., incumbent) maintains it. And their executing tools are Kovesi (ex-head of DNA) and Coldea (ex-head of Romanian Intelligence Service (SRI)).” Herein, the dual structure of anti-elite is reflected by the chronological order layered by Tăriceanu’s discourse. The former president Băsescu created the DNA and strengthened the judiciary, while the incumbent Iohannis preserved the structure of the DNA and defended the independence of the judiciary. Subsequently, the logic is reinforced by

references that stipulate how this new Securitate is imposed. Herein, Tăriceanu utilized bad manners via “executing tools.” Thus, this speech was coded as follows. For the distribution of values, the boxes affixed to the categories “anti-elite” and “bad manners” were coloured with blue and grey, respectively. Additionally, the squares affixed for this speech were coded with the number of references per category (2 – anti-elite and 1 – bad manners) and later used during the calculation for the transition of each category of populism. In a comparative example, consider the speech of Dragnea from Galati during the 2016 local elections: “We (e.g., PSD) love the people [...] we are represented by two thirds of Romanians, by millions of Romanians. The opposition is not. They are like a mob group.” Herein, Dragnea positioned stylistically the people against the opposition, who is pejoratively characterized as moblike. Again, this speech has two categories coloured: yellow for the sovereignty of ‘the people’ and grey for ‘bad manners’. Given the nature of public statements, the frequency of populist content was restricted. For instance, the day after Dragnea organized the rally against the parallel state, PSD held a press conference in which Dragnea espoused only pressed by reporters that “the Parallel State needs to be crushed.” For this press statement, the “anti-elite” category was marked with blue, and the affixed code given was 1.

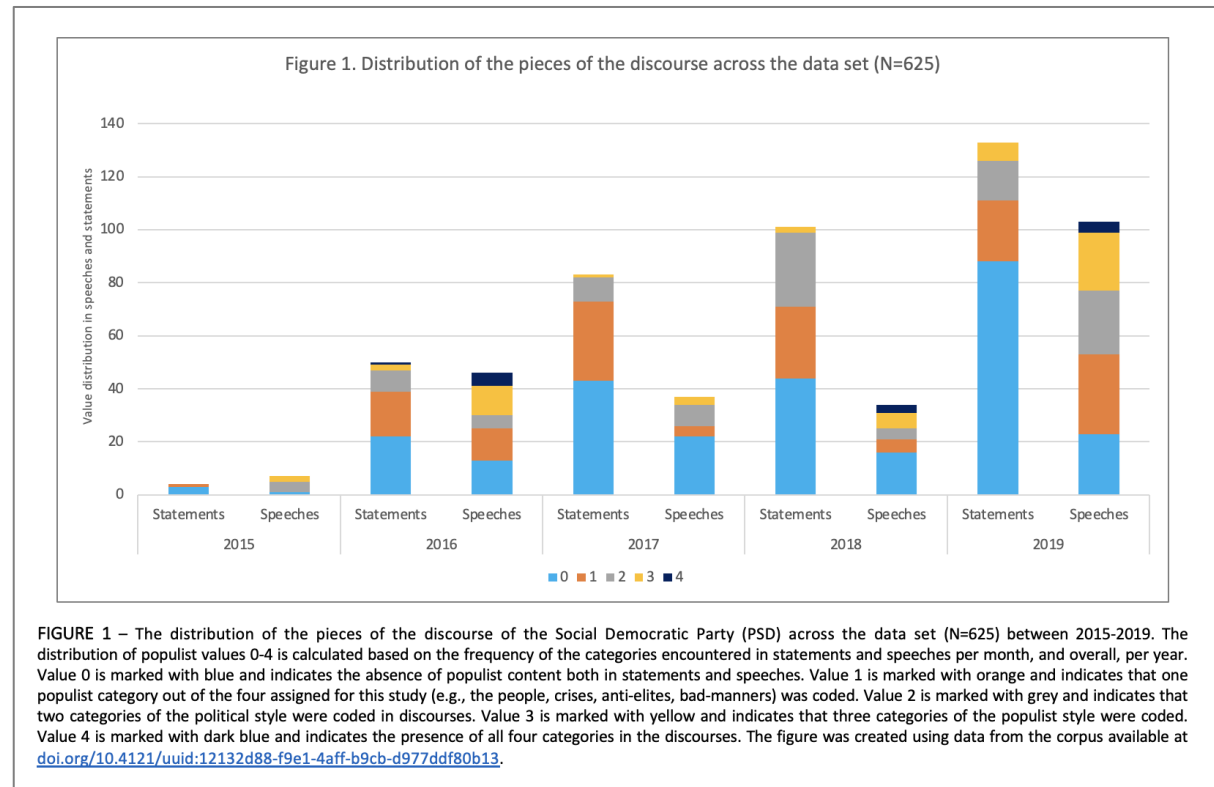
The transition of PSD towards populist discourse is measured differently from the distribution of populist values. The transition is determined by vertically (top-to-bottom) counting the codes of each individual category of the political style. The different frequency numbers obtained after the speeches and statements of each month in 2015-2019 were coded are attributed to its designated values ranging from 0 to 4. The resulting codes ascribed to values 4 and 3 account for the high rates at which PSD used populist tropes to change the judiciary. Contrarily, values 0 and 1 represent the lower rate, whereas value 2 exemplifies a somewhat average degree of populist content.

Findings

The development of PSD’s populist discourse during Dragnea’s era and the catalysts that propelled its crystallization

In total, the research analysed 625 individual pieces of discourse, comprised of 243 speeches and 382 press statements. The analysis revealed a preponderance of two or more categories contained within speeches rather than in statements, despite the latter encompassing more data (see **FIGURE 1**). Differences between the two categories reveal the importance that PSD attributed to its discourse when intersecting populism and DI. Also, the analysis revealed a higher frequency for the distribution of values 0, 1, and 2 and a lower frequency for values 3 and 4. Two conclusions may emerge presently. First, PSD’s rhetoric prove the Muis and Immerzeel hypothesis (2017) that all political discourses include a certain degree of populism, as PSD’s discourse maintained a somewhat average degree of populism, with occasional spikes when being pressured by the judiciary. Second, the PSD perceived populism as an opportunity

that already yielded results in CEE in its fight against the rule of law institutions. Consequently, the PSD wielded populism for purely pragmatic self-interests, rather than ideological purposes. Next, the paper gives insights about the frequency distribution of populist content from speeches and statements. Further, this paper indicates indictments and convictions to be the main factors that stimulate the discourse behind processes that challenge rule of law institutions.



Frequency distribution of populism in PSD's discourses

Speeches contain the most populist rhetoric, thereby focusing on the substance. PSD's press statements cover policies, thereby focusing on the DI's interactive processes of communication, deliberation and contestation. The lower incidence of populist rhetoric in statements corresponds to the hypothesis of Muis and Immerzeel (2017), which proposes that all discourses have a degree of populist content. The incidence of populist rhetoric in speeches has a double meaning. First, speeches were mainly used during party conventions and rallies. Therein, the performance of the speech reduces the social distance between the electorate and the agent, enabling the former to comprehend the meaning given by the latter. Second, the occurrences of this style denote the focus given by the agent to an unmediated communication by watchdogs, who otherwise flag the agent's shifts towards populism. Also, speeches offer more time for the agent to convey their message and build the image of the antagonist. Equally, speeches allow additional stylistic leniency to divert from conventional speech-making, to an unorthodox style whereby the agent includes bad manners to represent institutions and

opponents subjectively. The results of the value frequency distribution from **Figure 1**, for speeches, underscore a more even display in populist discourse in electoral years (2016-2019).

This finding could stress the role played by election campaigns as a corresponding factor that shifted the PSD's discourse to populism. Speeches account for the most varied distribution of all values, particularly during 2016 and 2019, both electoral years. Statements account mostly for the 0, 1 and 2 values in 2016-2019. Two exceptions are highlighted in 2018 and 2019 when statements reveal value 3. Nonetheless, the overriding distribution series is 0, which might suggest the focus of PSD on policy proposals to communicate, deliberate, and contest the rhetoric of law. Between 2017 and 2018 there is a steady rise, generated mainly by OUGs procedures. Value 1 is the second most frequent value, which indicates an even distribution of 25-30 points. Value 2 gained traction after 2018 and in 2019 in both speeches and statements, when Dragnea reacted to the indictments against him. Value 3 is revealed with regularity in speeches made during electoral years, predominantly in 2016 (11 points) and 2019 (22 points). Finally, value 4 is seldom found. However, its frequency is notable in the electoral years and during the Parallel State rally from June 2018. Overall, the frequency distribution of all values suggest that populism and DI intersect and partly overlap when PSD moves from musing over the biases of the rhetoric of the judiciary to the point of contestation of the rule of law institutions through populist discourse.

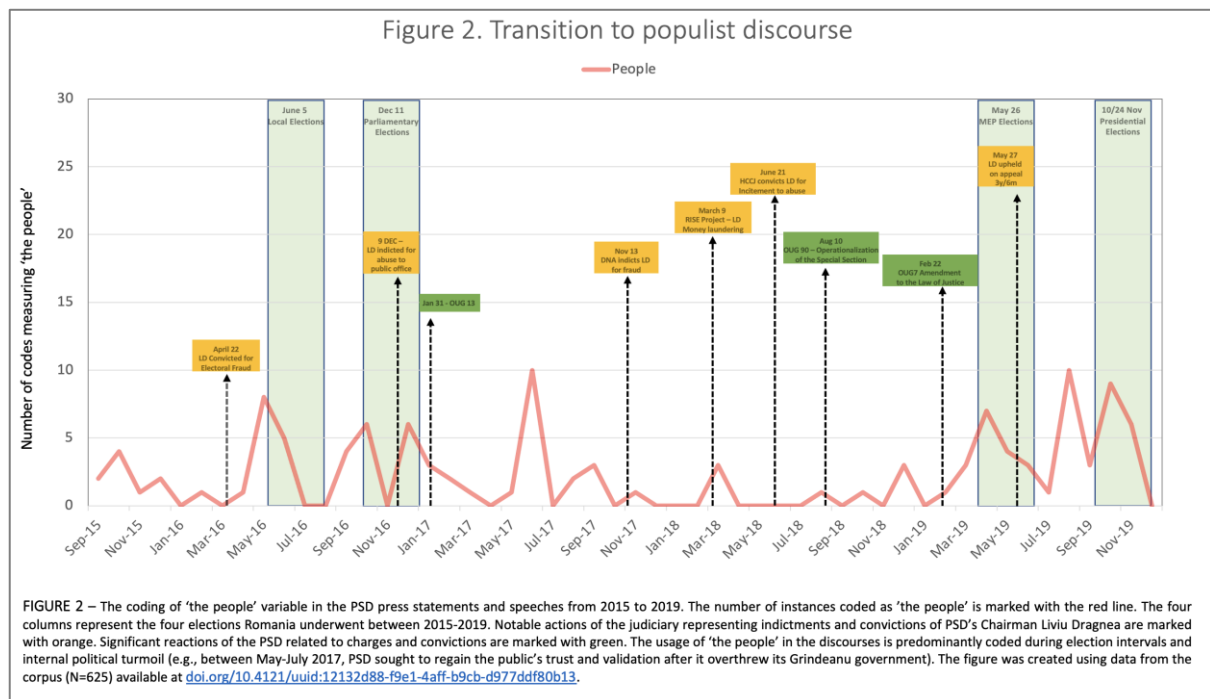
Transition to populist discourse

In the following, figures 2-5 include all the incidents across the four categories of populism as a political style that are then broken down by category in the trajectory graphs that follow. In this light, the reader can notice, for instance, how the transition of the PSD to populism was defined by Dragnea's indictments and convictions. The further indicted Dragnea became, the more the PSD demonised the judiciary as the former Securitate (Ceașescu's former Secret Police) and the greater the PSD contested the rule of law through the power of ideas, the more the PSD changed the institutions through normative ideas. Surprisingly, the populist momentum was retained and developed during the tenure of Viorica Dăncilă, albeit with some changes. Dăncilă abandoned the contestation of the judicial institutions, following Dragnea's incarceration in 2019 and due to pressure from civil society.

Rendering the 'elite' vs. 'the people' in PSD's discourse

In 2016-2019, PSD primarily focused on rendering the 'elites' as those who keep rule of law institutions unreformed, like populist literature suggests, to the people's detriment (Ekström et al., 2018). Analysis of the data revealed 'crisis' to be the second most used category. Both the 2016 and 2019 employment of crises identify, as in the literature of populism, the failure of post administrations (c.f. Moffitt, 2016, p. 126). In 2018, the populist discourse spiked after the HCCJ convicted Dragnea for incitement to abuse. As this conviction was pending appeal, the discourse of the PSD elevated the use of 'bad manners'. The latter was

used consistently during Dăncilă's campaign against President Iohannis. Although 'people' are a passive element of the PSD discourse, this category is employed twofold. First, when the PSD is facing internal political turmoil, the party appeals to 'the people' to re-validate its empirical representativity. Second, 'people' is used as a moral buffer to oppose the 'institutional' elites who work against the party's reforms.

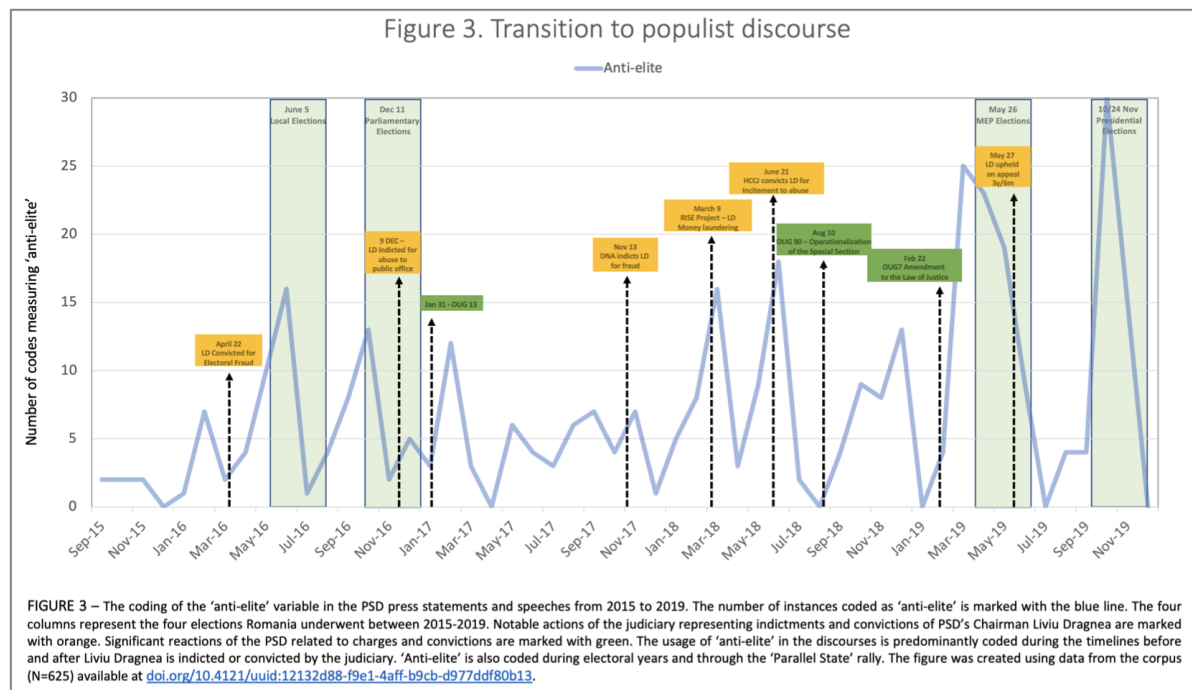


The analysis reveals that 'the people' (see **Figure 2**) is only showcased during election campaigns or when the PSD is facing internal disorder between the cabinet and Dragnea to push forward OUG13/20017. In the frequency analysis, 'the people' during election periods constitute the second most determined category of all four values. 'The people' are rendered within discourse not to embody a precise idea, but rather to act as a measurement value when assessing the morality of the elite. The dynamics of 'the people' transitioned yearly, from being the manifesto's centrepiece to signifying an empirical argument that granted legitimacy to address democratic crises. Dragnea reconfigured the party's doctrine and code of conduct, putting 'the people' at the centre of its actions. In his inauguration speech, Dragnea discursively connected the values of 'the people' to the PSD:

'It is time to say clearly who we are. It is time to say why we are in politics. And we must start with the people because our vocation is to make politics for the people, those who work hard every day.'
(Dragnea, 2015)

Across 2016, 'the people' were discursively connected against the 'anti-elite'. In 2017, the appeal to 'the people' was performed as two PSD governments were deposed, i.e., Sorin Grindeanu (January-June) and Mihai Tudose (July-October) which did not want to proceed with the changes to the judiciary mandated by Dragnea. Between the two, the PSD performed

a discourse that was appealing to the people as it was seen to revalidate the representativity of the party (see **Figure 2** May/July 2017). Again, in 2019, after Dragnea was convicted and the PSD lost the European parliamentary election, the party shifted its discourse towards ‘the people’ during the July-September months for revalidation.



The discursive dichotomy of ‘the people’ vs. ‘the elite’ was used during the local elections (May 2016) and parliamentary elections (December 2016) (See **Figure 3**). When the PSD is in power, its discourse links ‘the elite’ with the past and impending ‘crises.’ For example, during the European election, the PSD coalesced ‘the elite’, as being embodied by the opposition parties. During March and May of 2019, the analysis recorded the biggest pool of populist references during Dragnea’s time (25 instances), primarily explained by the impending final verdict in Dragnea’s trial. During the European elections campaign, Dragnea referred to the political elites as ‘traitors of the country’ (2019d). Additionally, Dragnea utilised a Eurosceptic discourse; ‘we wanted to join the EU for a better life, for more freedom, not to go back to fear and terror’ (Gurzu, 2019). Overall, the frequency of the anti-elite category is the most encountered in the distribution of the discourse, encompassing two-thirds of all codes.

Nonetheless, the greatest prevalence of ‘anti-elite’ was after each indictment and conviction of Dragnea. Between November 2017 and August 2018, Dragnea is indicted for fraud and convicted for abuse (see **Figure 3**). Each prosecution is followed by spikes in ‘anti-elite’ rhetoric, equating the prosecutors as the ‘Securitate’, while contesting the decisions of the rule of law institutions. This is also the case for the RISE Project investigation into money laundering. The populist discourses are backed shortly thereafter by PSD’s power through ideas (Schmidt, 2008), i.e., normative acts. The OUGs are adopted when populist discourse contracts but revived between the OUG 90/2018 and OUG 7/2019. The former reacted to Dragnea’s indictment for fraud, thereby removing Kövesi, the DNA’s chief prosecutor, and instituting a

Special Section to investigate prosecutors. OUG 7/2019 reacted to Dragnea's conviction for abuse, thereby amending the status of judges and changing the organisation of the judiciary. This finding could validate the thesis of this study, i.e., after each prosecution, the intersecting sequence between populist discourse and DI changed the judiciary in Romania.

The attacks on the judiciary throughout OUG 7/2019 forced the European Commission to threaten Romania on 13 May with article 7, a procedure that suspends certain rights. Consequently, the discourse against 'the elite' grew in intensity and only dwindled after the lost election (see **Figure 3**). On 26 May, Dragnea was imprisoned and PM Viorica Dăncilă was selected as the new leader and presidential candidate for the elections.

Although expecting a decrease, the research discovered that Dăncilă's populist appeal surpassed Dragnea's frequency while campaigning for the November 2019 election. The analysis of frequency distribution discovered that during Dăncilă's tenure the discourse had its most even distribution of all four populist categories in speeches (see **Figure 1**). After appealing to 'the people' for revalidation in July-September, Dăncilă's rhetoric mixed 'the elite' and narratives of 'crisis' with nationalism, by stressing the rhetorical element of 'Romanian heart' to distinguish President Iohannis's German ethnicity.

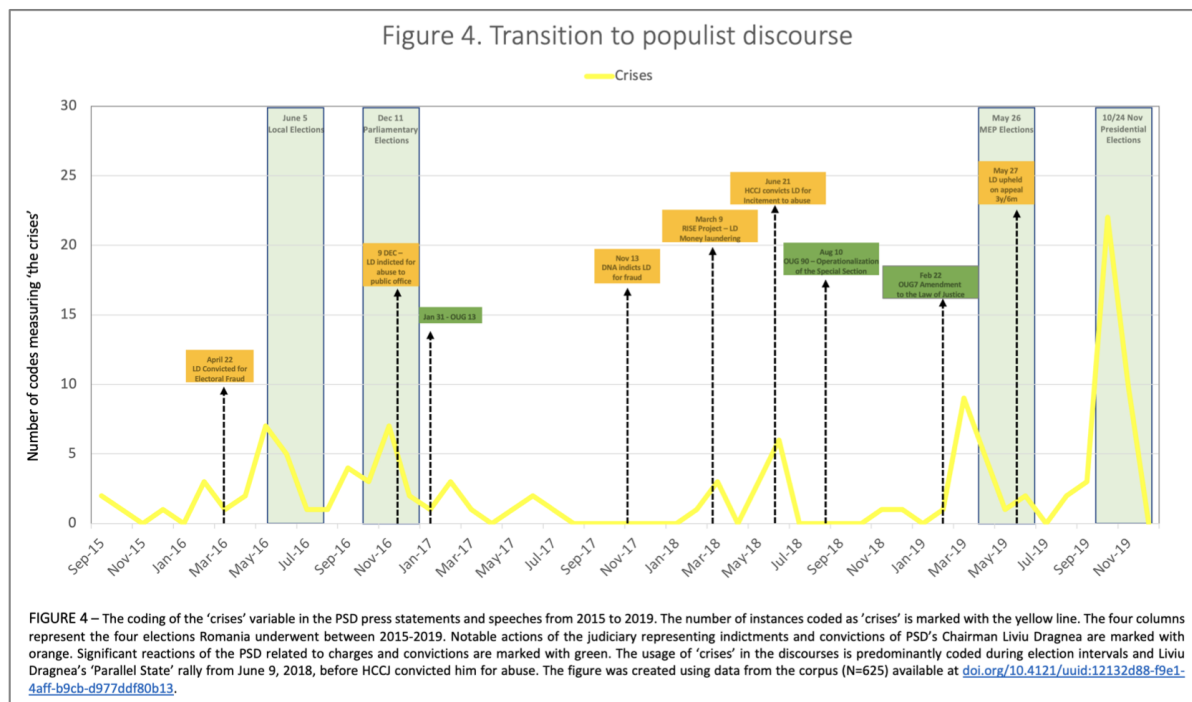
'I am convinced that within our hearts lies a Romanian heart who will work for Romanians and Romania' (Dăncilă, 2019a) ; and 'It is our fight to have a president with a Romanian heart who will think and feel as a Romanian.' (Dăncilă, 2019b).

National populists, existing literature suggests, 'prioritise the culture and interests of the nation and promise to give voice to a people' (Eatwell & Goodwin, 2018, p. 8). The PSD focused on stressing the ideological distance between 'the people' and President Iohannis, while struggling to reclaim national values.

The recurrence and utility of the 'crises' in PSD's discourse

In terms of the 'crises,' under Dragnea, this category was utilized differently. First, it framed the Cioloș's technocrat government during the local and parliamentary elections as an extension of the liberal party (PNL), which cut and froze the salaries and pensions during 2010 and 2012, respectively. As an illustration, during his Medgidia speech, Dragnea framed the liberals "[...] I am reminding the audience about how the soulless PNL cut the salaries in 2012. I remind the people how many people lost their jobs." (2016d) The 2012 crisis is a recurrent theme in the PSD's rhetoric. The same is employed during Dăncilă's tenure more astutely. Second, in some discourses, PSD framed the crisis from the agriculture in 2016 to correlate technocratic austerity. Between March 2016-November 2017, the analysis revealed a relatively high number of discourses that framed the '2012' crisis and, to a lower degree, that from the agricultural sector. Other crises revealed by the coding analysis were the means of PSD to signal both human rights and democratic crises in the wake of Dragnea's conviction for abuse (see **Figure 4**). The coding frequency of 'crisis' was registered high between May-July 2018, and approximately at the same level as during the elections from 2016. This high rate is

explained by the rhetoric employed before and during the rally against ‘the parallel state’ on June 9, 2018.



The rhetoric during this rally combined the categories ‘anti-elite’ and ‘crisis’ to signify a democratic crisis perpetrated by the judiciary. For instance, Dragnea framed the democratic crisis as follows:

‘We have all been, or are, or I could be at some point touched by the long hand of this parallel state; of these Securitate guards (e.g., DNA). There are 6 million people who were intercepted, tracked, monitored, recorded, and supervised by the parallel state. It’s worse than we could have ever imagined. Look at the one on your left, look at the one on your right. At least one of them was heard or intercepted. That may have been likely to be you among the six million Romanians whose rights and freedoms have been violated. 6 million - over two thirds of the active population of this country. It is too much, it is unacceptable, it is intolerable!’ (2018b).

Combined with the ‘anti-elite’, ‘crises’ may have prepared the ground for later adoption of the OUGs which intended to mitigate the overpopulation from prisons and amend the sentences for those convicted for abuse in office. For instance, this democratic crisis is best employed by Dragnea’s coalition partner Călin Popescu Tăriceanu from ALDE who argues during the same rally that “The Romanian state is threatened by the parallel state which has infiltrated in the judiciary and mass media. [...] Thousands of people fell victims to the new system of Securitate (e.g., DNA)” (2018b). Again, before the European elections from May 2018, Dragnea, while still the chairman of PSD, employed the ‘2012 crisis’ and ‘the judiciary crisis’ in the rhetoric. As an example, during PSD’s conference from Ialomița, Dragnea (2019c) argues that “they (e.g., PNL and technocrats) cut the salaries and pensions, and brought austerity and economic

decrease. Until 2017 (i.e., the tenure of technocrats ended, and PSD started) in Romania functioned Omerta. They do not want to speak about the poverty of Romanians, about how elections are rigged in the dormitories of the new Securitate. PSD has the courage to speak.”

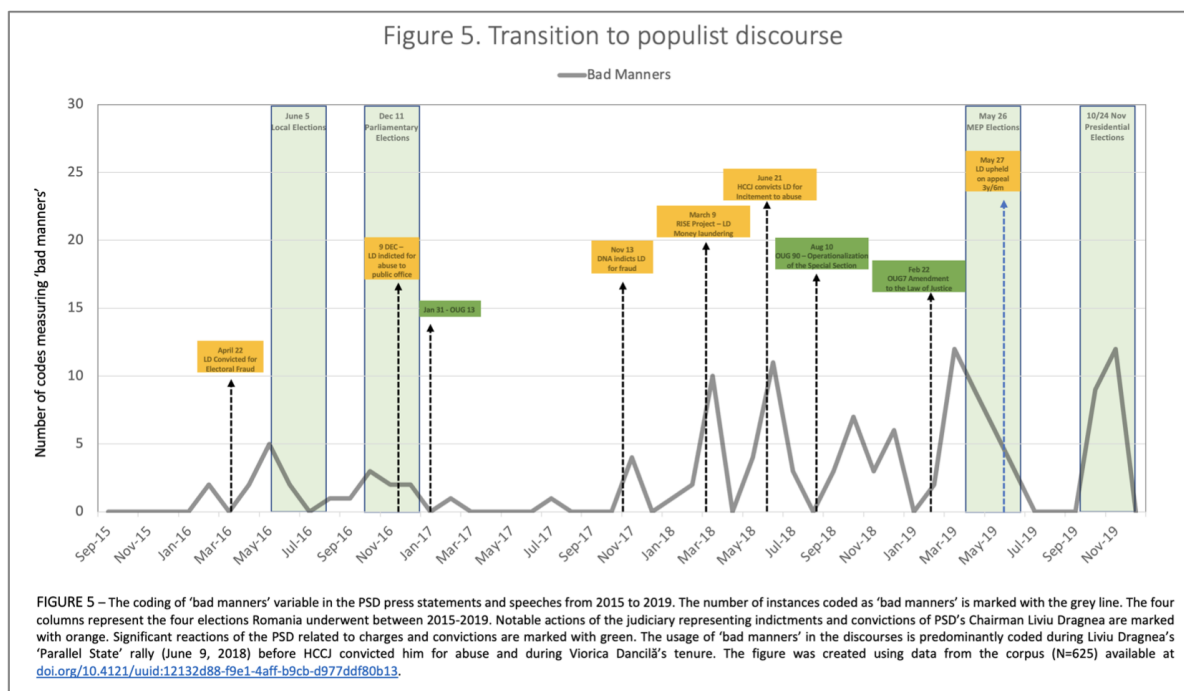
Conversely, after Dragnea was sentenced to jail, Dăncilă’s repertoire readopted the ‘economic crisis’ that echoed ‘2010 and 2012’ and amplified them beyond Dragnea’s level to outline the consequences of a new President Iohannis tenure. Between October and November 2019, the analysis coded the highest frequency of sentences that employed crisis (i.e., 22 instances). During this period, Dăncilă utilized the same structure, i.e., emphasis on the crisis and demonization of Klaus Iohannis. For instance, during a speech in Tamasi, Bacău county, Dăncilă contended that “we have seen how they (e.g., PNL) cut the salaries and pensions. They do not do anything good. Everything they do is for austerity [...] and this could happen again with Iohannis” (2019e). Other times, while associating ‘the elite’ with crises, Dăncilă validated her credentials by proposing ways to avoid such a crisis. The complete removal of ‘the people’s evil enemy is revealed as the only way out of the crisis created by ‘the elite’ (Moffitt, 2016, p. 161). As an illustration, during a speech from Dofteana, Bacău county, Dăncilă argues the following:

‘To secure the future of this country, we all need to participate during the elections. We need to vote for our families. I know that here, (e.g., Dofteana) you are good Romanians. So, good people, in November, the fight is against Klaus Iohannis, his people and the Romanians who want their country back. [...] We need a President to represent us with dignity abroad, who will work for Romanians and Romania, and not for one who is taking his orders from Brussels’ (2019d).

‘Bad manners’ and the art of coarsening the public discourse

Indications of the PSD’s ‘coarsening [of] the essence of the political discourse with bad manners’ (Moffitt, 2016, p. 53) became evident during the anti-Parallel State rally, when the frequency was high. ‘Anti-elites’, ‘crises’ and ‘bad manners’ were utilised after Dragnea was convicted for abuse and may have formed the base of the discourse that changed the DNA and the status of the prosecutors (see **Figure 5**). For example, during the rally against the parallel state the former head of the DNA Laura Codruța Kövesi was called by Tăriceanu as an “executing tool”, whereas Dragnea called the prosecutors “Securiști” and the DNA “a vile brotherhood [...] that wants to take down democracy” (2018b).

‘Bad manners’ was also used more astutely during the European elections to portray the opposition as ‘traitors,’ ‘fascists,’ and ‘enemies of Romania;’ and prosecutors as ‘torturers’ and ‘Securiști’. As an illustration, the analysis coded a high frequency of sentences that included ‘traitors,’ ‘fascists,’ ‘enemies of Romania,’ ‘torturers,’ and ‘Securiști’ before the European elections and his subsequent trial. For instance, during his campaign speech from Caraș-Severin, Dragnea argues that “Securiștii (e.g., prosecutors) created new parties (e.g., USR and Plus+) to hold on the power [...] this is the parallel state, a state police of terror” (2019b). Later at Călărași, Dragnea argues that “the anti-corruption fight is led by some prosecutors who are accomplices of the torturers” (2019e).



Unlike Dragnea, Dăncilă espoused ‘bad manners’ when referring to President Iohannis. She used epithets like ‘tyrant’, ‘dictator’ and ‘extremist’ to separate Iohannis through linguistic symbols from ‘the people’. Equally, Dăncilă’s discourse focused on strengthening the nature of her political mission ‘we need to stop this dictator president who has brought Romania to its knees’ (2019f). Dăncilă used the fear of past crises and attached these to President Iohannis. Dăncilă’s speeches constantly reiterated Iohannis as ‘unpatriotic and lazy who will have a government in his image, which will bring back austerity’ (2019c). Dăncilă stressed a national mission alongside ‘the people’ to save Romania from the ‘evil Iohannis’:

‘I will fight to save Romania from the most toxic president Romania has ever had – a president who fought against his government, who turned against its people, who refused human rights. We have a duty to save Romania from the evil Klaus Iohannis’ (2019a).

The ‘elite’ and ‘crisis’ discourses were the most used by the PSD in 2015-2019. Overall, the particular ramping up of populist discourse, shown between March and August 2018, intersected with DI’s contestation and power through ideas may have prepared the ground or foreshadowed changes in democratic institutions. The figures 2-5 include all of the incidents across the four categories of populism as a style that were broken down by individual category in the above-mentioned figures. Next, this study discusses the role of elections campaigns and prosecutions as catalysts of populism.

Indictments, convictions, elections are catalysts of populism

Data analysis found that indictments and convictions constitute the most critical factors that contribute to a more definite form of the populist style. To explain the full frequency of populist political style within the PSD during this period, we also need to examine the party's interactions with moves made by the rule of law institutions.

During his chairmanship, Dragnea was indicted and convicted six times. Each time Dragnea was indicted or convicted, the populist narrative spiked for a time, followed by a stage when the PSD interconnected DI as a retort to the prosecutions. Whenever the populist narrative grew, the categories revolving around 'the elite' increased, mainly because PSD's discourse framed political and technocratic institutions as being behind the prosecutions. Such a populist spike was caused, for example, when HCCJ issued Dragnea with a two-year suspended sentence for electoral fraud on 22 April 2016. Thereafter, Dragnea focused on winning the parliamentary elections grounded on populist discourses that depicted technocrats as the puppets of Iohannis and the PNL.

In November 2017, the DNA indicted Dragnea for fraud based on information compiled by the European Anti-Fraud Office. Each prosecution fostered populist rhetoric, especially in 2018 when Dragnea was accused of money laundering in Brazil as a result of investigative journalism (see **Figure 5**). Similarly, on 21 June 2018, Dragnea was convicted by the HCCJ for incitement to abuse. Prior to Dragnea's conviction, the PSD and its allies organised rallies that fostered populist narratives to intimidate the prosecution and muster public support, which the research investigates in the third vignette. The discourse interconnecting the categories of the elite included statements such as 'generals attack democracy through political parties and NGO which are financed illegally' and the utilisation of 'bad manners' to frame the system and agents who were seen to be acting against the PSD chairman – 'not only high ranking people are the victims or can be victims of the parallel state, but all of us [...] this is a plan of terror which says that everyone can be indicted' (Dragnea, 2018b). Interestingly, the analysis revealed that during consecutive indictments and the release of OUGs, the PSD's discourse excluded the category of 'the people', opting instead to frame 'the elite' with the use of 'bad manners'.

Each populist spike intersected with DI is usually caused by Dragnea's consecutive prosecutions. Coincidentally, Dragnea's indictments are publicised before elections. Consequently, PSD contests each conviction of Dragnea with an OUG. According to the analysis, the discourse utilised by the PSD framed the 'elite', as 'that minority' who impeded the reforming actions 'we cannot live with the dictatorship of the minority' or 'Kövesi is more important than the Constitution' (Firea, 2018). Election campaigns were another factor that fostered populist style. Given the hyperbolic nature of the populist political style, it is no surprise to see that the levels go up right before an election, since elections lend themselves precisely to these kinds of emotional, rhetorical appeals

After showing a sequential evolution of the PSD's populist style and DI, the study presents three vignettes that go into greater detail regarding the nature of populist political style; and how it subsequently became linked to change in the rule of law institutions through OUGs. The vignettes are individual sub-case studies. These will allow for more empirical details originating from the coded analysis to be revealed.

The technocrat cabinet

On 10 November 2015, over 100,000 people protested in Romania. Triggered by the Colectiv nightclub fire, which resulted in 64 fatalities, the protests led to the resignation of the Ponta cabinet. President Iohannis nominated Dacian Cioloș, an EU Commissioner, to run a technocratic cabinet. Early on, the technocrats were perceived by the PSD as circumventing the power of parliament.

The main priority of the new cabinet was judicial reform. Kosař et al. (2019) argue that by endowing a technocratic cabinet to repair the issues of technocratic institutions, i.e., the judiciary leads ‘to populist overreaction, which swung the pendulum back to the other extreme by re-politicising of the public sphere [...] curtailing and packing the unelected institutions, particularly the judiciary’ (p. 430). Raluca Prună, the justice minister, was tasked with reforming the judiciary after the CVM report stressed that more reform was required. On 11 March OUG 6/2016 reformed the laws of interception, whereby the Romanian Intelligence Service (SRI) was permitted to conduct investigatory acts. Also, it promulgated that prosecutors and the DNA were the only to execute technical supervisory mandates regarding corruption, using directly and independently the infrastructure of the SRI.

Consequently, OUG 6/2016 played a pivotal role in PSD’s pragmatic tilt to populism. In April, Prună vexed the PSD by extending the mandate of Kovesi at the helm of the DNA and by proposing Augustin Lazăr for the General Prosecutor’s office. These two individuals were the main targets of the PSD in their bid to amend the judiciary. However, as Romania was recovering from the Colectiv nightclub fire, where demonstrations signalled that ‘Corruption Kills!’, using judicial reform as an electoral slogan was not an option. Instead, the PSD revived its interests after the local elections in May 2016.

PSD’s populism was honed after the HCCJ sentenced Dragnea on 22 April 2016. Two days later, in a statement, Dragnea considered his trial illegal. PSD’s rhetoric condemned the PNL and the technocratic cabinet of engineering political prosecutions. The day after, Dragnea blamed the technocrats for adopting OUG 6/2016, which affected the judiciary, mentioning that ‘these are not backed by political convention’ (2016a).

After his conviction, Dragnea returned to campaigning by adopting a recurrent discourse that underlined the ‘incompetence and stupidity’ of the technocrats. While peppering his speeches with bad manners, Dragnea separated ‘the people’ and ‘the technocrat-elite’ by underscoring their social distance and national values – ‘they do not love their country and Romanians, [...] PSD loves Romania and cares about its people’ (2016a). Moffit argues that the language of populists is opposed to technocratic language (2016, p. 52). Technocratic language is singled out, by Dragnea, during a speech on 19 September 2016:

‘We do not understand this reasoning because Mr Cioloş did not speak in Romanian. He used the language of technocrats, a language that sounds foreign, and a language that is not anchored in reality’ (2016e).

Throughout the local elections, Dragnea highlighted the crisis in the agricultural sector, underlining the asymmetric values of the technocrats and accusing them of ‘incompetence and stupidity’, (2016b, 2016c) as opposed to Iohannis’s description, ‘competence and acumen.’ Throughout the campaign, the PSD stressed the lack of political representativity between the technocracy and ‘the people’, by contrasting this with the shared values of ‘the people’ and the PSD. The focus of the discourse shifted towards issues of rule of law before the election. In his Medgidia speech, Dragnea outlined that ‘the fight against corruption is good, but it cannot feed people’ (2016d). In September, Dragnea stressed the need to repeal OUG 6 because he argued it violated the human rights of the inmates imprisoned following the prosecutions of DNA and HCCJ.

Before the parliamentary election, the PSD fabricated another ‘national crisis’, which suggested that the technocrats have a ‘plan to sell the country to foreigners’, allowing them to purchase dividends (Toma, 2016). Simultaneously, the PSD’s discursive strategies adopted the tenets of the Soros myth from Hungary’s FIDESZ (c.f. Kalmar et al., 2018). This narrative stressed a ‘foreign power-grab of national values’ facilitated by technocratic policies. Dacian Cioloş was framed by PSD and its friendly media in conspiracy theories as the son of George Soros and as someone with links to the former Securitate. Later in 2018, Dragnea stated, without evidence, that Soros had tried to assassinate him (Clej, 2018). Following the party’s victory during the parliamentary elections of 2016, the PSD subsequently sought to undo the projects of the technocratic cabinet via OUGs and connect its actions and some members (e.g., Dacian Cioloş) with the mechanisms of a parallel state / deep state.

The Emergency Ordinances (OUG)

On 31 January 2017, at midnight, the PSD adopted the Emergency Ordinance OUG 13/2017. Hours later, the streets roared with legions of protesters. In the days ahead, Romania witnessed its biggest protests since the fall of Communism.

The normative act OUG 13/2017 decriminalised previously chargeable corruption offenses while complicating the prosecution of certain corruption violations, including graft and abuse of office, offenses, for which, unsurprisingly, Dragnea was convicted. Hitherto, the PSD discarded electoral populism and adopted an interactive process of communication and contestation of the judiciary (DI). The frequency of their statements highlighted the urgency of addressing the human rights crisis in prisons. Throughout the time the PSD enacted OUG 13, Dragnea restated its validity as received from the people: ‘we have received the trust of the people for four years, so let us govern’ (2017a). On 1 January, the then justice minister Florin Iordache justified the emergency by stating the existence of an ongoing human rights crisis in overpopulated prisons, generated by the prosecution rates of the DNA. Iordache stated that ‘the

government will need to rectify this' (2017) and later in 2018, after OUG 90, he said that 'it is necessary to abolish the abuses of those in certain institutions' (2018).

Eventually, massive protests and pressure from civil society led to the repeal of OUG 13/2017 days later. The future defence of OUGs framed the resistance as an illegitimate fight against legitimate authority, substantiated by empirical representativity. This and the fallout from the protests pushed PSD to design the tenets of the 'Parallel State' that allegedly mobilized the youths to protest and abetted the institutions to deny PSD's reforming actions (see more in the next section - The 'Parallel State'). Essentially, PSD's DI was designed to bypass 'regulatory institutions' (Dawson & Hanley, 2019, p. 3). It legitimised the PSD's institutional actions by presenting a logic that persuaded the people of their 'legitimacy to change institutions' (Schmidt, 2008, p. 314). The DNA's high budget and the frequency of convictions (Mendelski, 2020), was branded to have been a bias against PSD. The coincidental arrival of each indictment of Dragnea days before the election campaign encouraged the PSD to contest the DNA, by enacting OUGs to shield its leader. The inadequacies of a system highlight an institutional crisis, which political agents are keen on exploiting. Subsequent convictions strengthened the necessity for the PSD's leadership to bypass regulatory bodies, especially after the DNA indicted Dragnea for fraud. Scholars have pondered that the avoidance of regulatory institutions is creating authoritarian hybrid regimes (Ágh, 2016). Others deem such measures as processes of democratic backsliding (Dawson & Hanley, 2019, p. 3) through executive aggrandisement (Bermeo, 2016).

Throughout 2017, Dragnea would suffer many obstructions, including from PSD-run cabinets, which succumbed to EU pressure and refused to assume OUGs (Paun, 2017). Previously, Dragnea's recurrent defence of the projects was based on policies, which channelled a deterrence of democratic crises by refashioning the judiciary. On 10 May, Dragnea spindled the crisis from prisons to abuses committed by prosecutors:

'We try to solve the problems the judiciary has, which we have spoken about for months. We need to solve the abuses of prosecutors and the conditions of detentions' (2017b).

Dragnea's discourse sought to accentuate the party's past points of contestation. He underlined the need to address the judiciary's malfunction by reconfiguring its structure.

'I do not want to become complicit with the forces who do not want to reform democracy and who do not respect the votes of millions of Romanians' (2017b).

The language of the PSD's policy is meant to suggest that reform is for both curbing the crisis of democracy and for the people's benefit. Subsequently, the semantics of the PSD's DI included the parameters of their proposed policy; one that limited the judiciary's *modus operandi*. After Dragnea was convicted in 2018 for incitement to abuse, his time was limited until 27 May 2019, a day after the European elections. In no-time, the policies of the PSD

added the DNA to the logic of the democratic crisis. Hence the PSD agreed to a ‘setup [of] democracy by cutting down abuses of the DNA’ (Dragnea, 2019e).

Over the course of five months, the PSD adopted OUG 90/2018 and OUG 7/2019 (see **Figure 5**). For the former, Dragnea stressed the image of those responsible for the crisis ‘there are red lines drawn by those who violate human rights and the constitution for the sake of prosecution’ (2019a). The parameters of institutionalist defence included a more ample justification of its necessity; ‘OUGs were needed because the judiciary breached fundamental laws such as human rights and the Penal Code’ (Dragnea, 2019e). In this sense, the PSD did what legal scholars argue as ‘the moment when populists erode the rule of law casting the benefits of the bill to the people while using the same one to hamstring democracy’s institutions’ (Krygier, 2019, p. 566). PSD’s policies were designed to validate societal perception vis-à-vis their contestation of the judiciary. Their philosophy is designed to make ordinary people see public institutions not as abstract structures but as discursive configurations that breach human rights. One manner adopted by PSD was to develop and preserve the narratives that spoke about a ‘Parallel State’. The latter jeopardized people’s human and democratic rights. For instance, OUG 7/2019, which amended the judicial system the most was abetted beforehand by a rhetoric that portrayed both the prosecutors and judges as the underlings of a ‘Parallel State’. Despite condemnations from civil society and international organisations, OUG 7/2019 was adopted.

After OUG 7/2019, the EU Commission threatened Romania with Article 7. These events take shape against the backdrop of the MEP elections, in which the OUGs were justified by the existence of a ‘Parallel State’. PSD attacked the opposition and showcased Euroscepticism when defending the OUGs in front of its electorate. Romania’s adherence to Schengen is tightly linked to reform of the judiciary, which, in turn, is validated by the CVM report. Herein, Dragnea started spreading misinformation to its electorate by arguing that Romanians ‘are being lied not to adhere to Schengen. There is no connection between our admission to the Schengen Area and the rule of law’ (2019g). Following the European election, the PSD obtained their lowest electoral results, (only 22%) in twenty-nine years, indicating that their policies against the judiciary backfired at the polls. The HCCJ settled on appeal the next day on the verdict for incitement to abuse. Subsequently, PM Viorica Dăncilă became PSD’s new leader. Dăncilă later said in a meeting behind closed doors that ‘the rule of law killed us at the vote’. Eventually, Dăncilă discarded the ‘Parallel State’ rhetoric during public speeches and refused to reply to questions from journalists about its existence. Even so, the harm was achieved. Some PSD friendly news channels like Romania TV and Antena 3 often replicated the aforementioned idea in their prime time shows and the public was acquainted to the imported notion of a ‘Parallel State.’ But how did PSD decided to introduce this after all? Next, I explain that this imported idea was adopted to strengthen and justify the reforming process envisioned by the PSD to safeguard Dragnea and others from doing time in prisons.

The 'Parallel State'

On 17 November 2017, the PSD unveiled a resolution titled *Parallel State and Illegitimate*. This was essentially the PSD's version of the Turkish (see Söyler, 2015) and United States's 'deep state' (Michaels, 2017; Stewart, 2020). The resolution claimed that the 'parallel state' is a hidden force owned by a group of people from public and private institutions, foreign and domestic, NGOs, civic groups, secret services and journalists who control, from the shadows, via illegal mechanisms, the Romanian state (Ursu, 2020, p. 7). By adopting this resolution four days after Dragnea was indicted, this move represented a direct link between indictments and populist discourse.

In Romania, the 'deep state' suffered a linguistic facelift, becoming the 'parallel state'. The nature of how this conceptualisation was adopted in Romania remains undetermined by scholars. The PSD in 2017-2019 did not maintain a logical consistency of who and what the 'parallel state' was or is. Ambiguously, the party discursively represented it as both the whole judiciary and as something that controls it.

Nonetheless, in less than two years, Dragnea would appear, in the words of Kubik and Bernhard (2014), as a mnemonic entrepreneur, who brought back the legacy and memory of the Securitate and overlapped them with the values of the DNA (Chiruta, 2020, pp. 242-247). In 2018, the philosophy of the parallel state nuanced. It equated the judiciary with the 'Securiști' in many speeches. After the conceptualisation of the 'parallel state', the PSD's discourse focused on the action of this supposed 'state'. Thus, on 29 March 2018, Dragnea declared that 'the parallel state will not stop the process of reconfiguring the judiciary' (2018a). On 6 June 2018, the PSD organised a rally in Victory Square in Bucharest, the site of the Romanian revolution. As other studies suggest, PSD's intention was to recreate the symbolism of 1989 Revolution (Chiruta, 2020).

In 2019, as the verdict for the abuse trial approached, the populist and conspiratorial discourse increased in intensity: 'we talk about the parallel state, about this structure, this system that is resembling a system of political police and terror in Romania' (Dragnea, 2019b). Before the European elections, Dragnea's discourse focused on associating the memory and language used to describe the Securitate with the parallel state: 'the parallel state is a state of terror' (2019b). As Dragnea's conviction approached, the PSD's discourse radicalised and projected the reforms envisioned as a liberating force from a system that affected democracy in Romania. While campaigning in Iasi, on 20 April, Dragnea argued that the 'PSD wants to free the judiciary from the claws of the Securitate' (2019f).

Overall, PSD's discourses crystalized its populism by absorbing conspiratorial beliefs similar to those from Turkey and the United States about a 'deep state' and refashioned them to suit Romania's social and political milieu. Focusing on anti-elitism, PSD equated the the judicial system with the former Securitate.

Conclusions

This study of the Social Democratic Party from Romania developed a discursive analysis based on Moffitt's conceptualisation of populism as a political style. This study has shown that political style is of utility when assessing discourses in a politically unstable and ideologically lacking setting like that of Romania. Though not without its limitations, this research has incorporated a text analysis and measuring model of the PSD's performance. The aim was to identify the main factors which led the centre-left party to move from latent populism to a definite form of populism. Primarily, this research indicated that discursive institutionalism is an essential discursive component in the communication logic of populists who strive to change the rule of law institutions. This study reveals that political agents when pressured by the judiciary adopt a discursive sequence. This relies on populist repertoires to demonize institutions, elites and DI's power through ideas to contest and change the rule of law institutions.

The findings suggest that PSD presented a somewhat average degree of populism in 2015-2019 particularly in statements, which focus on policy. Exceptions are the election campaigns when the distribution of the four categories 'the people,' 'crises,' 'anti-elite,' 'bad manners,' are more consistent in speeches because these focus on the substance of populism. Likewise, the findings suggest that the transition of PSD to populism was fostered by cycles of confrontation with the judiciary. In addition, the findings relate that the most used categories of the populist political style across the pieces of discourse are 'anti-elite,' 'crises,' and 'bad manners'. These were incorporated more often in the sequence populism – DI when changing the judicial institutions. 'The people' are a stylistic element espoused by the PSD used during elections and internal party disorders.

Based on the parameters of the vignettes, this research has demonstrated that the technocratic response to institutional issues facilitate a populist response. Second, the power of normative acts enabled populists to change the judiciary. Third, this research indicated that conspiratorial beliefs (e.g., Parallel state and Securitate) are narratives chosen for the socio-cultural traits of Romania. Their aim is to discursively replace the abstract and rational values of the rule of law institutions.

As a result of this paper's findings, two potential follow-ups are advanced. First, I suggest a study that compares the strategies used by main parties from Hungary (FIDESZ), Poland (PiS), and Romania (PSD) to limit the autonomy of the judiciary in 2015-2020. Such an academic endeavour might discover the similarities and differences adopted by the parties to curb the independence of the judicial system. Likewise, such a research may have important implications for other studies. It can test the assumptions that opportunist views and constitutional perspectives are indeed the incentives of populists in office behind their motivation to change the judicial system. A second potential follow-up might analyse the rhetorical similarities and differences between the attempt of PSD from 2012 and 2017-2019 to change the judiciary. Such a study can discover what role did the nationalist rhetoric played in 2012 and how this was swapped with right-wing populist rhetoric and conspiratorial beliefs in 2017-2019.

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