



Plus ça change: Electoral law reform and the 2008 Romanian parliamentary elections

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ABSTRACT

Romania reformed the law governing its parliamentary elections between 2004 and 2008, shifting from a complex proportional representation system based on county-level party lists to a complex uninominal system in which each district for the Chamber of Deputies and the Senate elects one representative. The change in law emerged after more than a year of heated political controversies, including partisan and personal animosity between President Basescu and Prime Minister Tariceanu, a failed attempt at impeachment, a deadlocked special electoral commission, a failed popular referendum, an unfavorable constitutional court ruling, and a confusing final accord brokered under deadline. Qualitative comparison of the 2004 and 2008 laws reveals that the heralded reform merely added an additional layer of calculation to the previous electoral system. Quantitative analysis using counterfactual estimation reveals that the new law had absolutely zero effect on the partisan outcome. In the conclusion, we explore the implications of these findings for Romanian politics and the politics of electoral reform more generally.

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A basic maxim of social science contends that rules generally affect results. This is the reason why scholars study institutional rules and procedures; it is the reason why actors fight so intensely over their construction. Romania reformed the law governing its parliamentary elections between 2004 and 2008, shifting from a complex proportional representation system based on county-level party lists to a complex uninominal system in which each district for the Chamber of Deputies and for the Senate elects one representative. The change in law emerged after more than a year of heated political controversy, compounded by partisan and personal animosity between President Traian Basescu and Prime Minister Calin Popescu-Tariceanu, attempts by both to dominate the reform process, a failed attempt at impeachment, a deadlocked special electoral commission, a failed popular referendum, an unfavorable constitutional court ruling, and a confusing final accord brokered under deadline. This paper will briefly review the provisions of the 2004 and 2008 electoral laws in Romania and the political dynamic that surrounded the change. The main focus is a comparison of the actual outcome in 2008 with a counterfactual estimation, calculating what result would have occurred had the previous law simply been left in operation. Our finding, ironically, is that the results are identical. The widely celebrated reform made zero partisan difference. The explanation is, for all the controversy, that the new law essentially introduced just one additional layer of complication to an already complicated electoral system. In the conclusion, we speculate regarding the implications for Romanian politics and the politics of electoral reform more generally.

The comparative study of electoral systems has advanced dramatically in recent years (Rae, 1967; Katz, 1980; Merrill, 1988; Taagepera and Shugart, 1989; Lijphart, 1994; Cox, 1997; Farrell, 2001; Reynolds et al., 2005). The literature, for example, has cataloged and analyzed the characteristics of the diverse electoral formulas that translate votes into seats, as well as the impact of constituency size, ballot structure, and electoral thresholds. It has tested the consequences of electoral system features upon

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such independent variables as the degree of vote disproportionality, the number of effective political parties, the success of extreme parties, the extent to which parliament mirrors the sociological composition of society, the creation of effective and stable governments, and the ability to generate widespread popular support and legitimacy. It has examined the effect of various rules on the strategic behavior of voters and parties. Not surprisingly, the practical relevance of electoral engineering has not been lost upon new democracies, including those in post-communist Eastern Europe (Birch et al., 2002; Birch, 2003).

Romania adopted a multi-member, two-stage version of proportional representation, combining a Hare Quota with a d'Hondt divisor. As such, it was an electoral system designed to be party-centered rather than candidate-centered, and it further reinforced the standing of the main political parties by means of closed electoral lists, small district magnitudes, and a relatively high national electoral threshold. Yet there were also features of the electoral law apparently inconsistent with strong party rule. The bi-cameral legislature meant increased potential for impediment to the government's program, although the two chambers were elected by the same formula and differed only with respect to the number of parliamentarians from each county/constituency. Elected party seats were allocated back to the counties by a complex calculation for purposes of representation, although there was little foundation for county-level political autonomy. In 2008, another feature was introduced, devolving representation further downwards, from multi-member county constituencies to single-member districts. The electoral law revision was prompted by articulated political concern over the quality of parliament and growing alienation among voters. We will observe, however, how this allegedly uninominal reform was implemented without disturbance to party-centered elections in general and to specific partisan fortunes in particular.

Electoral rules for the 2004 parliamentary election

Romanian electoral law for the 2004 parliamentary election (Law no. 373/2004) was similar to that in operation for the 2000 election (Popescu, 2003; regarding the creation and early development of the Romanian electoral system, see Birch et al., 2003, pp. 90–108). Seats were allocated proportionately within each of 42 'constituencies' (41 counties plus the City of Bucharest), based on the formula: one seat per every 70,000 inhabitants for the Chamber of Deputies; one seat per every 160,000 inhabitants for the Senate. At a minimum, each constituency would receive four Deputies and two Senators. In addition, special seats were allocated in the Chamber of Deputies to ethnic minority organizations not otherwise represented if nationwide they secured votes equal to 10% of the average number cast per Deputy. The consequence in 2004 was a Deputies chamber with 332 elected seats (18 of them designated for ethnic minorities), and a Senate with 137 seats. A political party had to obtain an electoral threshold of 5% of the national vote in order to be allocated one or more of those seats. Multi-party alliances required an additional 3% of total votes if constructed of two members, an additional 4% if constituted of three members, an additional 5% if constituted of four or more members.

Each voter cast a single ballot for Chamber of Deputies and another for Senate, selecting one among the parties proposing 'closed lists' of candidates for election. Aggregation proceeded in two distinct stages. First, at the constituency level, only for those parties or alliances qualified because they achieved the national electoral threshold, the sum of their valid votes was divided by the number of seats to be elected in that constituency [V_c/S_c]. Parties were allocated seats based on the number of times they garnered votes equal to this calculated electoral coefficient, formally known as a Hare Quota, with candidates elected by their ranked order on the party list. For example, imagine a hypothetical constituency (County-1) with four Deputies to elect and 8,000 votes cast among five qualified political parties: A = 4200; B = 2000; C = 1500; D = 200; E = 100. (Parties F, G, H, etc. are dropped from the list as they failed to achieve the national threshold.) As the County-1 electoral coefficient in this case equals 2,000 (8,000 votes/4 seats), Party A would elect the top two persons on its constituency list and Party B would elect the top person. One of the four seats yet remains unfilled.

	Party A	Party B	Party C	Party D	Party E	Sum
County votes	4200	2000	1500	200	100	8000
Electoral coefficient (votes/seats) = 2000						
Seats	2	1	0	0	0	
Unused votes	200	0	1500	200	100	2000

Yet there remains one position unfilled and there are 2000 votes still 'unused': 200 from Party A, plus all of those from Parties C, D, and E. Moreover, Party C might wish to claim proportional injustice given its high vote total.

It is a common characteristic under Hare Quota allocations that the parties, after having 'purchased' seats at the electoral coefficient 'price', still have votes remaining although not all the available seats can be bought. Moreover, seat assignment from narrow geographic localities tends to produce distortions against proportionality, which can be corrected by compensatory adjustment-seats at the national level, based on a pooling of votes that otherwise would have been 'wasted'. In the Romanian case, the solution was a secondary national allocation using the d'Hondt method of divisors. For each qualified party or alliance, the unused votes from the constituencies (with separate calculations for the Chamber of Deputies and for the Senate) were summed and then divided sequentially by integers. Each successive mandate was awarded to the party with the highest available quotient. A party moved down to the next divisor every time it was awarded a mandate, until all the available mandates had been allocated. For example, imagine a hypothetical situation with ten nationally available legislative mandates and five

qualified parties with aggregated unused votes summing: A = 100,000; B = 80,000; C = 60,000; D = 45,000, E = 20,000. The rank order for the ten mandates using sequential division would be:

	Party A	Party B	Party C	Party D	Party E
Mandate 1	100,000	80,000	60,000	45,000	20,000
Mandate 2	50,000	80,000	60,000	45,000	20,000
Mandate 3	50,000	40,000	60,000	45,000	20,000
Mandate 4	50,000	40,000	30,000	45,000	20,000
Mandate 5	33,333	40,000	30,000	45,000	20,000
Mandate 6	33,333	40,000	30,000	22,500	20,000
Mandate 7	33,333	26,667	30,000	22,500	20,000
Mandate 8	25,000	26,667	30,000	22,500	20,000
Mandate 9	25,000	26,667	20,000	22,500	20,000
Mandate 10	25,000	20,000	20,000	22,500	20,000
Total	4	3	2	1	0

The national 'electoral quotient' in this case is 25,000 votes, and the qualified parties get additional mandates based on their unused votes divided by this quotient [$S_p = V_p/Q_n$], rounded down to the last whole number. As a result, Party A receives four seats, Party B three seats, and so on.

It is unusual among electoral systems to have a Hare Quota attached to a second stage d'Hondt divisor, largely because the d'Hondt formula is among the least proportional in effect, tending to favor major parties when compared to alternate divisor methods. Yet most peculiar for the Romanian system was the method of allocating mandates back to the constituencies for the purposes of identifying which among the party candidates were supplementarily elected (Vander Weyden, 2006). It was based on the ratio of unused votes for each party within a constituency relative to the total of unused votes for that party nationally. The ratio was then multiplied by the total number of mandates due to each party nationally [$(uV_{pc}/uV_{pn})S_{pn}$]. The object presumably was to discover where each party obtained its highest percentage of unused votes, and then to attach priority in the regional assignment of those votes. Thus, in putting together the two examples above, for our hypothetical County-1 the weighted ratios for a deputy, placed in descending order, would be:

Party C: $1500/60,000 \times 2 = 0.050$

Party A: $200/100,000 \times 4 = 0.008$

Party D: $200/45,000 \times 1 = 0.004$

Party B: $0/80,000 \times 3 = 0$

Party E: $100/20,000 \times 0 = 0$

As there is only one mandate remaining to be allocated to County-1, its 'distribution rate' is 0.050. Had there been two available mandates, the constituency distribution rate would have been 0.008.

The next step was to rank these weighted ratio scores in descending order for all the eligible parties in all the constituencies within the entire nation. Allocations proceeded down the list – awarding a seat if the weighted ratio was equal to or greater than the distribution rate – until each party received its mandated number of seats and each constituency was fully represented. If the number of mandates due to a political party or available to a constituency became exhausted, the operation from then on proceeded without them. For instance, if the 10-seat, 5-party national seat allocation described above had resulted from an electoral system comprised of 7 separate constituencies, the allocation list would consist of 35 party-constituency 'entries' (Parties A–E, for Counties 1–7, from which the hypothetical county used for detailed examination is merely County-1).

- Assume that Party A/County-5 is the first entry on the list, with a weighted ratio of 0.83; the party is due four mandates; the county has one unallocated seat remaining; its 'distribution rate' is 0.83; the weighted ratio/distribution rate = 1. Thus A is awarded the one seat for County-5 (leaving three more seats due to Party A, but exhausting the seat allocation for County-5).
- Assume that Party B/County-2 is next on the list, with a weighted ratio of 0.52; the party is due three mandates; the county has two unallocated seats remaining; its 'distribution rate' is 0.30; the weighted ratio/distribution rate = 1.7. Party B is thus awarded a seat (leaving two seats still due to Party B, and one seat still to be allocated in County-2).
- Assume that Party D/County-5 is the third entry on the list and is due one mandate. Regardless of its weighted ratio/distribution rate, this entry must be skipped since the one available seat for County-5 has already been allocated.
- Yet the fourth entry on the list is Party D/County-6 with a weighted ratio of 0.42; the party is due a mandate; the county has a seat unallocated; the weighted ratio/distribution rate = 1. Thus Party D receives its one mandated seat in County-6; County-6 allocates its one available seat to Party D.

The operation would proceed in this fashion down the list of entries, until all constituencies had exhausted their available mandates and all parties had received the number of seats due. If necessary, allocations could be made in cases where the weighted ratio/distribution rate for a given entry was less than 1.0.

For County-1 in our illustration, Party C most likely would obtain the one available unallocated seat for the first person on its constituency candidate list, thereby satisfying proportional fairness at both the national and local levels. However, under the 2004 parliamentary election rules, national proportionality dominated over local proportionality. If Party C had already been allocated its two supplemental mandates from elsewhere where its weighted ratio was higher, the seat in our hypothetical county most likely would go to the third person on Party A's candidate list. And if Party A had already been allocated its four supplemental mandates, the seat could go to the first person on Party D's list despite D receiving so few votes in the county, or even to the second person on Party B's list despite the party having no unused votes in the county – if needed to apportion nationally determined mandates. Ultimately, remaining seats unassigned at the conclusion of the mathematical allocation process would be given to the Central Electoral Bureau to assign based on concurrence of the parties or by lot if no agreement was reached.

The 2004 election rules established a process that heavily emphasized vote proportionality, with parliamentarians elected based on their position on the closed party lists for each constituency. It utilized multiple tiers of calculation, starting with constituency-level quotas, supplemented with a national-level allocation using vote remainders, and returning again to the constituency level for the determination of representation winners. It was a system thus grounded upon party identification and loyalty – both for candidates and for voters – rather than individual qualifications and district-centered responsibility. This was the characteristic most criticized by reformers. The system was also enormously difficult to understand and complicated to operate. The 2008 reform, we will discover, made the electoral process even more convoluted and obscure.

The politics of reform

The result of the 2004 parliamentary election was a weak center-right coalition, based on an alliance between the National Liberal (PNL) and Democratic (PD) parties, with affiliation from the Democratic Alliance of Hungarians (UDMR) and the Humanist/Conservative Party (PC) in order to secure majority status. Proposals for electoral reform quickly came from the opposition Social Democrats (PSD) intending to weaken legitimacy of the new government, and from the Conservatives intending to reduce chances for a snap election that would have driven them from the coalition. Yet the main impetus for uninominal voting arose from civil society, most notably the Pro Democratia Association, claiming that it would help to purge and sanitize the Romanian political class. Allegedly, many legislators systematically neglected both democratic responsiveness and policy responsibility. Entrenched in their seats and protected from elector scrutiny by their safe position on party lists, they were expert mainly in the politics of factional cronyism, largely ignoring the duties of civic leadership. Some saw their position as an opportunity to make and shield illegitimate gains using the cover of parliamentary immunity. A system based on single-member districts, it was claimed, would enhance transparency and responsibility, foster electoral competition, and compel improvements in the quality of representative government. The recommendation from Pro Democratia was a mixed-member system for Romania, combining in Parliament (a) seats elected nominally using the number of votes that individual candidates receive in specified districts, and (b) seats elected proportionally using the share of votes that parties receive in the aggregate. The justification was to promote jointly both direct accountability (lacking in pure PR arrangements) and seat/vote equity (lacking in pure single-member arrangements) (Shugart and Wattenberg, 2001).

Discussion might have remained primarily academic had not the party alliance of PNL and PD disintegrated badly, prompted by a nasty personal feud between Prime Minister Tariceanu and President Basescu (Stan and Zaharia, 2008). The consequence was political confusion and intrigue. Basescu, with obligation under Romania's semi-presidential system of government to safeguard the integrity of the state, increasingly was a vocal advocate for uninominal voting, finding in the campaign a welcome vehicle by which to denigrate Parliament and his rival executive whose authority was derived from Parliament. The issue contributed to the decisive split between Alliance partners, the Democratic and the Liberal Parties, leaving Tariceanu with a minority cabinet after April 2007. Parliament then impeached and suspended the President, until he was restored to office one month later by an overwhelming vote in the required national referendum. These events only further encouraged Basescu's attacks on the Romanian political class. The President revived his call for a national referendum regarding the manner of legislative election, launching his counteroffensive under the banner of needed institutional reinvigoration and pitting his high personal popularity against the low esteem for Parliament. Prime Minister Tariceanu could not afford to allow the matter to be dominated by the President. Opinion polls showed the electorate strongly in favor of electoral reform, on the assumption that it would help end petty politics and inspire governmental reinvigoration. With virtually all major political parties now joining the bandwagon and endorsing uninominal voting, at least in principle, a special parliamentary Electoral Law Commission was designated to negotiate the details. Mutual accusations and political stalemate persisted throughout the summer and early Fall.

Expressing mounting frustration, President Basescu announced a popular referendum on the uninominal vote for November 25, 2007, to accompany the election of representatives to the European Union. It was carefully worded to include only the President's preferred option, a majority-rule arrangement based on single-member electoral districts akin to the French model, with a second round of voting for those districts that did not produce a majority winner in the first round. At the same time, Prime Minister Tariceanu announced that his government had assumed full responsibility for a new electoral law, entailing its adoption unless the government was subjected to a no-confidence vote. The law would embody only the Prime Minister's preferred option, a mixed-member system akin to the German model, with a fixed number of district plurality winners supplemented by constituency and national proportional winners selected from central party lists. In fact, both ventures failed. Fearing presidential ascendancy and worried that a runoff system would favor the Democratic Party, the other parliamentary parties determined that the uninominal referendum, although occurring on the same day, would be administered quite separately from the EU ballot. Although 81% voted 'yes', turnout was barely more than one-quarter of

eligible voters, invalidating the result. Equally, President Basescu rejected Tariceanu's legislative initiative, arguing that it was not fully uninominal and that the retention of party lists indicated a refusal by the incumbent political class to accept any institutional reform sufficient to challenge its privileges. He contested the parliamentary law before the nation's Constitutional Court, which in mid-December decided in his favor – ruling that, because those on the supplemental party lists need not have stood in the uninominal election, the law violated the constitutional provision that all members of Parliament had to be chosen directly by universal, equal, and secret vote.

The urgency to enact some variant of electoral reform before the scheduled 2008 parliamentary elections finally impelled major political actors toward pragmatism and compromise. The President and his allies recognized that they could not enforce a runoff arrangement and largely withdrew from the process. The Prime Minister and his allies recognized the need to acquiesce to constitutional strictures. The Romanian public had by then tired of repeated political squabbling yet minimal accomplishment. Accord within the Parliament gradually was achieved in a series of meetings mediated by Pro Democratia, in which the mechanism of supplemental party lists was replaced by an arithmetical algorithm for allocating votes where no majority result occurred. Partisan interests complicated the negotiations over implementation details, such as establishing minimum electoral thresholds for parties and alliances, and deciding how and where to draw district boundaries within each constituency. There was one further, futile constitutional challenge from the nationalist Greater Romania Party (PRM), which anticipated losing the most from single-member districts. On November 30, 2008, new parliamentary elections proceeded under reformed representation rules, despite visible popular apathy and substantial ignorance about how the so-called uninominal system actually operated.

Reformed electoral rules for the 2008 parliamentary election

The main change in Romanian parliamentary election law for 2008 (Law no. 35/2008) was voting for persons rather than lists. Voters no longer cast their ballot for a party, such that those toward the top of each party's list had the highest chance of receiving seats. Instead, the nation was divided into representation districts (oddly called 'electoral colleges'), each of which elected one person. Candidates, in turn, could run only in one district. A candidate did not have to live in the district in which he ran for office, but he was required to choose his district of candidacy 40 days before the balloting began. The vast majority of candidates were nominated by the political parties, giving enormous power to the national party organizations. Independent candidates could qualify by submitting signatures equal to 4% of the voters in the district.

As before, seats were allocated by constituency: 41 counties, plus the City of Bucharest, plus (for the first time) a special constituency for Romanians living abroad. As before, for the Chamber of Deputies, one seat was allocated for every 70,000 inhabitants; for the Senate, one seat was allocated for every 160,000 inhabitants. At a minimum, a constituency would be represented by four Deputies and two Senators. Now, however, each seat was necessarily attached to a bounded district, with the stipulation that all the seats for a given constituency must fit within the constituency borders. For purposes of equity, the difference between the largest and the smallest district within a constituency was not supposed to exceed 30% of inhabitants (although this was sometimes violated in practice¹). For 2008, the Chamber of Deputies elected 334 members (316 elected from districts, plus 18 again allocated to otherwise unrepresented national minorities); the Senate elected 137 members, all by district. Finally, as before, there was a 5% national electoral threshold for parties to obtain representation, with larger thresholds for alliances. Alternately, a party could win representation in the Chamber of Deputies with six majority victories in single-member districts; in the Senate with three majority victories in single-member districts.

The critical problem with uninominal representation in multi-party electoral systems was to determine a winner where no candidate received 50% + 1 of the votes cast. One could utilize a first-past-the-post arrangement, although the plurality winner in a multi-candidate situation might receive far less than half of the vote. One could utilize a two-stage system, with either a second round of elections in cases where no candidate received a majority or an instant runoff based on second-choice vote preferences. Instead, Romania in 2008 continued its reliance upon mathematical formula.

First, identical to the previous system, for each constituency (separately for the Chamber of Deputies and the Senate) the electoral coefficient was determined by Hare Quota. Qualified parties were allocated seats equal to the number of times their total vote was a whole-number multiple of the constituency electoral coefficient. Imagine, for example, a hypothetical county (County-99) comprised of five single-member districts for Deputy (numbered 1, 2, 3, 4, 5) and five parties (A, B, C, D, E) which offer candidates for election in each of the seats. With 125,000 total votes cast over five districts, the county electoral coefficient was 25,000. From the sum of party votes, Party A (with 56,750) earned two of the five seats and Party B (with 42,750) earned one of the seats. As depicted in Table 1, the candidate of Party A was the majority winner in District 1; there were no other majority winners in the county. Two seats remained unallocated at this first-level of calculation.

Second, identical to the previous system, unused votes are summed at the national level and mandates are apportioned among the qualified parties using the d'Hondt method of divisors. As before, those mandates are assigned to constituencies using a ranked list, until each party receives its determined number of seats and each constituency receives its full allotment of parliamentarians. Let us arbitrarily assume from the ranked weighted ratios of the national allocation formula, in our hypothetical County-99 that Parties C and D are calculated as earning seats. Putting both the constituency and the national allocation processes together, our hypothetical county would therefore be awarding two seats to Party A, and one each to Party B, Party C, and Party D.

¹ We thank Lavinia Stan for this observation.

Table 1

2008 Uninominal parliamentary allocation – county-level illustration.

Party	District 1	District 2	District 3	District 4	District 5	Total
A	20,250 (83%)	11,750 (47%)	11,250 (47%)	6,000 (23%)	7,500 (30%)	56,750
B	3,000 (12%)	12,000 (48%)	11,500 (48%)	10,250 (39%)	6,000 (24%)	42,750
C	500 (2%)	500 (2%)	500 (2%)	9500 (36%)	500 (2%)	11,500
D	500 (2%)	500 (2%)	500 (2%)	500 (2%)	7000 (28%)	9,000
E	250 (1%)	250 (1%)	250 (1%)	250 (1%)	4,000 (16%)	5,000
Total	24,500	25,000	24,000	26,500	25,000	125,000

Total votes = 125,000.

Five districts, with one seat to be elected in each district.

Electoral coefficient for the county = 25,000.

Constituency distribution

Party A – 2 seats plus 6,750 unused votes. Elected: Candidates 1-A and 3-A.

Party B – 1 seat plus 17,750 unused votes. Elected: Candidate 2-B.

Party C – 0 seats plus 11,500 unused votes.

Party D – 0 seats plus 9,000 unused votes.

Party E – 0 seats plus 5,000 unused votes.

National distribution (1)

Party C – 1 seat. Elected: Candidate 4-C.

Party D – 1 seat. Elected: Candidate 5-D.

National distribution (2)

Party A – 1 seat. Elected: Candidate 5-A.

Party D – 1 seat. Elected: Candidate 4-D.

However, under the 2008 election law, those seats must be assigned not merely to the constituencies but to specific representation districts within those constituencies, thus introducing yet another degree of complexity into the calculations. In our hypothetical County-99, for example, it is necessary to determine which among the party candidates will represent each of five identified districts drawn within its boundaries. To achieve this, all candidates for all qualified parties who ran for election within the county are ranked by the absolute number of votes received. (Importantly, they are not ranked by vote percentage, which would have reasonably compensated for differences in the number of eligible voters across the various districts within a constituency. Such a provision was seen as unconstitutional in Romania, violating the guarantee of equality for all ballots cast.²) Any individual majority winner within a given district is automatically given that seat. Afterwards, distribution proceeds down the ranked list of candidates until all mandates within the constituency are awarded and all districts represented.

As seen in Table 1 for County-99, Candidate 1-A is a district-level majority-rule winner (83%) and obtains the seat in District 1. Turning then to the list of candidates ordered by total votes received, Candidate 2-B ranks first (12,000 votes) and, since his party has been awarded a seat, is the allocation winner in District 2. Candidate 2-A ranks second (11,750 votes) but cannot be elected because the seat for District 2 has already been assigned. Candidate 3-B ranks third in total vote (11,500 votes) but cannot be elected because his party has already exhausted all of its mandates. Both are situations that could not have happened under the 2004 law, in which the election of specific candidates was linked directly to their position on party lists. Candidate 3-A ranks fourth (11,250 votes) and, since his party has been awarded a second seat, is the allocation winner in District 3. Only Parties C and D have mandates left to allocate, and two districts remain open. By vote-rank order, candidate C-4 is elected in District 4 (9,500 votes), and Candidate D-5 in District 5 (7,000 votes). Note that plurality leaders need not be favored in the seat allocation system, and that election winners can be candidates who finished well down in the balloting within their district. In fact, imagine instead that the national allocation based on weighted unused votes had determined that the two final mandates in County-99 should go to Parties A (rather than C) and D. By vote-rank order, Party-A would obtain its third county seat in District 5, electing candidate A-5 (7,500 votes) and leaving Party-D to District 4. Candidate D-4 would thus become the elected uninominal representative in a district where he received very few votes (only 500) and garnered the support of a tiny minority of the electorate. It is certainly an odd outcome for an electoral process promising to establish district-based political responsibility.

The 2008 Romanian parliamentary election rules differed from those previously in effect, not only by establishing inter-party competition across candidates from the various parties running for each designated single-member district seat, but also by establishing intra-party competition among candidates from the same party as they seek the highest personal vote total for advantage in secondary distributions at both the county and the national level. In effect, the change was from a closed party list to a more open system for electing constituency representatives although ironically intra-party competition was never direct as the various party candidates were running in entirely different districts. The end product also appears quite different. Each district is now represented by a single individual, identified personally to the voters for communication and accountability.

² We thank Katja Michalak for this observation.

Nevertheless, there is also great similarity to the past. The determination of party mandates, through both the constituency and national allocation formula, remains identical. There is heavy reliance upon proportionality in the seat calculations, transcending the preference of voters within their respective districts. The system is still complicated and obscure, mystifying the linkage between citizen vote and the selection of their representatives. The principal structural change comes from the addition of a third, district-based stage to the seat assignment process, which despite the talk of reform is merely stapled onto the former electoral arrangement that has not been altered. Essentially, under the new law, candidates are not elected by a specified uninominal district, although they now run within and seek to represent that district. We now must shift from qualitative to quantitative comparison. The object is to discover the electoral effect of the new law, if any.

The 2008 electoral results

The November 30, 2008 parliamentary elections replicated the three-party division that has characterized Romanian politics in recent years, ever since the disintegration of the Democratic-Liberal alliance and the establishment of a minority government. The campaign was uninspired, showing little policy substance or ideological fervor. Turnout was low, estimated to be only 39.2% of the eligible electorate. In a sense, the Democratic Party (now renamed Democratic-Liberal in recognition of some splinter Liberals who affiliated) was the relative election winner, more than doubling its seats compared to the 2004 result (Stan, 2005; Downs and Miller, 2006). The Greater Romania Party was the largest loser in 2008, failing to achieve the national electoral threshold and therefore receiving no seats. All the candidates elected in 2008 had been nominated by the political parties; no independent succeeded. Yet the most significant outcome was that none of the parties approached majority standing in either Chamber. Regardless of the precise number of seats obtained, the Democrats, Social Democrats, and Liberals effectively won equal power, for none could organize the government on its own but any combination of two-against-one would be sufficient to do so. As a corollary, the Hungarian Alliance won no effective power, as it was not essential to the construction of any minimum-winning majority coalition (Table 2).

There was also an anomaly in the 2008 election result. Arad County was awarded one Deputy more than the number of drawn electoral districts, receiving eight rather than seven. According to post-election calculations, five results were determined from county-level allocations (3 to PD-L, 1 to PSD, 1 to PNL), and two from national-level allocations (1 to PD-L and 1 to UDMR). Yet there were five majority winners for the PD-L in Arad, and each was entitled to a seat. The solution in the election law was to assign the 'extra' majority winner and the last national-allocation winner to the same district. The 7th District of Arad thus was awarded two elected representatives in the Chamber of Deputies, which was then comprised of 334 seats instead of 333 as originally intended. Although this situation existed only for Arad in 2008, it potentially could have occurred

Table 2
Election results comparison, 2004–2008.

A. Chamber of Deputies				
Party	2004 Election		2008 Election	
	Percentage	Seats	Percentage	Seats
National Union	36.61%		33.09%	
Social Democratic		113		110
Humanist/Conservative		19		4
Truth and Justice Alliance	31.33%			
National Liberal		64	18.57%	65
Democratic/Dem-Liberal		48	32.36%	115
Greater Romania	12.92%	48	3.15%	0
Hungarian Democratic Union	6.17%	22	6.17%	22
Minor National Parties/Indep.	10.15%	0	3.21%	0
Minor Ethnic Parties	2.82%	18	3.45%	18
T	100%	332	100%	334
B. Senate				
Party	2004 Election		2008 Election	
	Percentage	Seats	Percentage	Seats
National Union	37.13%		34.16%	
Social Democratic		46		48
Humanist/Conservative		11		1
Truth and Justice Alliance	31.77%			
National Liberal		29	18.74%	28
Democratic/Dem-Liberal		20	33.57%	51
Greater Romania	13.63%	21	3.57%	0
Hungarian Democratic Union	6.23%	10	6.39%	9
Minor National Parties/Indep.	11.24%	0	3.57%	0
Minor Ethnic Parties	0	0	0	0
T	100%	137	100%	137

Source: Biroul Electoral Central.

in nearly half of contested districts for the Chamber of Deputies and thus might have produced a Chamber enormously larger than in the past. The problem of 'overhang seats' is inherent to any electoral system where the outcome from district-based voting and from broader mathematical aggregations need not be consistent. For the purposes of the counterfactual comparisons of this paper, we will consider Arad-7 to have had two separate Deputy elections, one of which produced a majority-winner and the other an allocation-winner from the national level.

On close examination, in 2008 there were 87 majority winners for the Chamber of Deputies (27.5% of the 316 seats elected by district, apart from the 18 seats assigned to qualifying ethnic minority organizations); there were 31 majority winners for the Senate (22.6% of 137 total seats). The remainder were allocated according to first-stage constituency distribution and second-stage national distribution calculations.

	Majority-winner	Constituency-distribution	National-distribution
Chamber of Deputies	87 (27.5%)	157 (49.7%)	72 (22.8%)
Senate	31 (22.6%)	35 (25.6%)	71 (51.8%)

The greater proportion of national distributions for the Senate is a mathematical consequence of the fewer Senate seats to be allocated in all constituencies.

In addition to the majority winners, others who ranked first by vote within each election district fared quite well. For the Chamber, 238 first-place finishers (75.3%) received seats; for the Senate, 96 first-place finishers (70.1%) received seats. This implies, however, that approximately one-quarter of election winners did not garner a plurality in their districts. In 33 Chamber districts and 21 Senate districts, a candidate with at least 40% of the vote failed to be elected. Moreover, a significant share of third or fourth-place finalists was awarded their district seat.

	First place	Second place	Third place	Fourth place
Chamber of Deputies	238 (75.3%)	41 (13.0%)	32 (10.1%)	5 (1.6%)
Senate	96 (70.1%)	29 (21.2%)	11 (8.0%)	1 (0.8%)

This was a consequence of the mathematical aggregation formula that took into account votes cast outside the boundaries of each specified district. The most extreme result concerned the final deputy to be selected from the national allocation process, External Constituency/Seat 4, where the winning candidate came from fourth place and received only 34 votes (less than 2% of those cast in the district).

The effects of electoral law reform

Any direct comparison of 2008 against 2004 electoral results, it must be noted, potentially confuses two separate causal effects. Sound interpretation must distinguish changes in voter preferences from changes produced by the electoral law aggregating those preferences for the purpose of allocating parliamentary seats. The 2008 law instituted election by candidates-within-districts rather than by party lists. It is necessary to examine the degree to which this made a difference. The methodology is to contrast the 2008 actual result against a series of constructed counterfactual alternatives.

The first approximation is based on seat/vote ratios. A pure proportional representation system generally should produce a more equal ratio pattern across qualified parties than a pure uninominal system, where individual seat winners can vary quite widely in the share of votes garnered. We should expect, given the reform in law from 2004 to 2008, to observe some significant difference in seat/vote ratios between the two elections. In fact, there was little change, either in the mean ratio or the variance across parties. The easiest way to construct the comparison is to apply 2004 seat/vote ratios to the 2008 vote percentages by party, thereby generating a simulated 2008 electoral outcome.

Chamber of Deputies	PD-L	PSD/PC	PNL	UDMR
2008 Vote pct.	32.36%	33.09%	18.57%	6.17%
2004 Seat/vote ratio	3.57	3.60	3.57	3.56
2008 Simulated seats	115.5	119.1	66.2	21.9
2008 Actual seats	115	114	65	22
Senate	PD-L	PSD/PC	PNL	UDMR
2008 Vote pct.	33.57%	34.16%	18.74%	6.39%
2004 Seat/vote ratio	1.54	1.53	1.50	1.60
2008 Simulated seats	51.7	52.2	28.8	10.2
2008 Actual seats	51	49	28	9

The results are dramatically similar. Moreover, virtually the entire difference is attributable to the fact that the Greater Romania Party received seats in 2004 but not in 2008.

A far more rigorous test entails applying the 2004 election law, in all its detail, to the 2008 election vote, compiled from the set of bounded districts comprising the 34 separate constituencies, both for the Chamber of Deputies and Senate. The calculations included, as the 2004 legislation stipulated: (1) summing for each constituency the total 2008 vote for all qualified political parties; (2) dividing that total by the number of 2008 districts for each constituency entitled to elect representatives, to determine Hare Quota constituency electoral coefficients; (3) dividing, for each constituency, the 2008 sum vote for each qualified party by the constituency electoral coefficient, to determine first-round seat allocations; (4) subtracting from the total 2008 number of seats to be elected the amount allocated during the simulated first-round constituency process, to determine the number of seats to be allocated by the simulated second-round national process; (5) summing nationally for each party the remaining ‘unused’ votes; (6) dividing for each party the sum of unused votes sequentially using the d’Hondt method and constructing a list of quotients in descending order until the number of second-round seats to be allocated is reached and the national electoral coefficient is defined; (7) dividing for each qualified party the sum of unused votes by the national electoral coefficient, to determine second-round seat allocations.

Chamber of Deputies	PD-L	PSD/PC	PNL	UDMR	Ethnic	Total
2008-Simulated constituency allocation	92	95	43	14		
2008-Simulated national allocation	23	19	22	8		
Sum – 2008 simulated result	115	114	65	22	18	334
2008 Actual result	115	114	65	22	18	334
Senate	PD-L	PSD/PC	PNL	UDMR	Ethnic	Total
2008-Simulated constituency allocation	26	29	7	4		
2008-Simulated national allocation	25	20	21	5		
Sum – 2008 simulated result	51	49	28	9		137
2008 Actual result	51	49	28	9		137

There was absolutely zero difference between the 2008 actual result and the simulated result produced by applying the 2004 electoral law to the 2008 vote outcome. Had the 2004 law simply been left in effect, the exact same party result would have occurred, both nationally and within each of the 34 designated constituencies. All the change in partisan fortunes stemmed from voter preferences. Viewed in terms of its electoral consequences, the 2008 reform had absolutely none at all.

A possible objection might be that the comparison of 2008-actual with 2008-stimulated results based on an application of the 2004 law is illegitimate, because voters are strategic and can be expected to change their revealed preferences in recognition of new circumstances. The identical result therefore might have occurred merely as a product of rational anticipation and reaction. Although logical in potential, this is very unlikely to have happened in practice. Strategic voting requires high levels of information regarding the law and its entailed consequences. In 2008 Romania, however, this was the initial application of the new electoral mechanism, widely heralded as a significant uninominal reform. It was an enormously complicated mechanism with multiple stages of calculation, even more so than in the past. This mechanism, according to opinion poll reports, was barely understood by the voters, many of whom approached the 2008 parliamentary elections with noticeable apathy. Rather than imagining super-rational voters, a more plausible alternative is to conclude, despite all the political credit-taking, underneath the additional rules apportioning candidates by district, that the 2008 reformed electoral law was at its core not fundamentally different in operation from that which preceded it.

There were a number of other options available to Romanian legislators seeking to reform the 2008 electoral law. One possibility was to use a simple proportional representation formula, in which qualifying political parties receive seats in exact proportion to their vote share, calculated after deleting all votes cast for non-qualifying parties. The vote percentage for the four qualifying parties in 2008 was calculated, and the total number of seats per chamber was divided by the relevant percentages.

Chamber of Deputies	PD-L	PSD/PC	PNL	UDMR	Ethnic	Total
2008 Vote percentage	35.88%	36.69%	20.59%	6.84%	–	
PR-simulation seats	113	116	65	22	18	334
2008 Actual seats	115	114	65	22	18	334
Senate	PD-L	PSD/PC	PNL	UDMR	Ethnic	Total
2008 Vote percentage	36.15%	36.78%	20.18%	6.89%		
PR-Simulation seats	50	50	28	9		137
2008 Actual seats	51	49	28	9		137

The PR-simulated result was remarkably close to the 2008-actual result. The Democratic Party gained two seats relative to the Social Democrats in the Chamber of Deputies and one seat in the Senate. The Liberal Party experienced no change. The Romanian parliamentary outcome would thus have been virtually the same had the country eschewed mathematical complexity and merely adopted the simplest form of proportional representation. (A parallel PR-simulation for the 2004 election generates an outcome in which only one Deputy seat is different from the actual, multi-stage election result; this is just another confirmation that the 2004 and 2008 rules had similar effects, both being essentially proportional.)

Another possibility, as advocated initially by President Basescu, was a purely uninominal electoral system, based on majority rule and a second-round runoff between the top two candidates in those districts where no majority winner at first prevailed. The counterfactual estimation for this alternative is a bit more difficult to construct, as we do not have actual second-choice preferences for the voters in 2008. Thus we cannot accurately determine who would have won any hypothetical runoff election. On the other hand, we can solve the problem probabilistically. A majority winner has a 100% probability of being elected in his district. In districts with no majority winner, we assign a 50% probability of being elected to each of the top two finalists (those who would have qualified for the runoff).

Chamber of Deputies	PD-L	PSD/PC	PNL	UDMR	Ethnic	Total
2008 Majority winners	27	42	4	14	–	
2008 Runoff members \times 0.50	98	86	37.5	8	–	
Sum – simulation result	125	128	41.5	22	18	334
2008 Actual seats	115	128	65	22	18	334
Senate	PD-L	PSD/PC	PNL	UDMR	Ethnic	Total
2008 Majority winners	11	12	1	7		
2008 Runoff members \times 0.50	45.5	41	16.5	3		
Sum – simulation result	56.5	53	17.5	10		137
2008 Actual seats	51	49	28	9		137

For the first time, there is a significant difference. The Democrats and Social Democrats probably would have fared better under a uninominal runoff electoral system. The Liberals probably would have fared substantially worse. From the counterfactual analysis, the Liberals received approximately one-third more seats from the actual 2008 election law compared to the probabilistic runoff result. It therefore does not appear surprising that Prime Minister Tariceanu, as head of the National Liberal Party, led the opposition to the runoff alternative for uninominal representation.

The same partisan finding emerges from a different calculation. In the 2008 parliamentary election, of the 316 Deputies elected from representation districts, 32 were allocated under the distribution process to third-place finishers and 5 to fourth-place finishers in the popular vote. Nearly 60% of such seats (22 of 37) went to Liberal candidates. Slightly more than one-third of all elected Liberal Deputies were third-place or fourth-place finishers, far more than any other party. Similarly, of the 137 senators elected in 2008, 12 were third or fourth-place finishers. Again, nearly 60% of such seats (7) went to Liberal candidates, and the party received one-quarter of its elected senators from an allocation to third and fourth-place candidates. None of these candidates could have been elected under uninominal runoff, since none would have succeeded to the second round. The conclusion is reinforced, that the National Liberal Party was the most advantaged under the actual 2008 complex distribution system, compared to the counterfactual employing a more straightforward district-based vote.

By contrast, the Greater Romania Party (PRM) has claimed that it was the most disadvantaged by the 2008 electoral rules, that those rules were adopted in large part to prevent the party from gaining legislative representation, and that the party's failure to secure a seat following the November 2008 election is proof of conspiracy by the other parties against it. The results do not sustain this assertion. The Greater Romania Party, with 3.2% of the vote in the Chamber of Deputies and 3.6% of the vote in the Senate, failed to achieve the specified electoral threshold in 2008. Yet, given this vote, it equally would have failed to achieve the electoral threshold had the 2004 law remained in effect. Moreover, in no constituency and in no bounded district within any constituency did the Greater Romania Party finish either first or second in the vote count. Therefore, had a runoff uninominal system been adopted instead, the party still would have received no 2008 representation. The defeat of PRM was due entirely to a change in articulated voter preferences, and not at all to the legislated mode of vote aggregation.

Last, it might be said that this entire analysis has advanced in the wrong direction, focusing on the party distribution of seats rather than the individuals who occupy them. The 2008 reform was advertised as necessary to cleanse the Romanian political class. Allegedly, those parliamentarians uninterested in legislative work and constituency representation would be purged from office by the force of uninominal election. In fact, less than 40% of those elected by districts were former parliamentarians from 2004–08. Yet turnover in the Romanian Parliament has always been relatively high, as many incumbent legislators decline to stand for election in the next contest. We cannot determine from aggregate data how many 2004 legislators were deterred from running for office in 2008, but we can investigate the fate of those who did decide to run, now within the bounds of specified districts and without the protection of a secure place on party lists. In the Chamber of Deputies, 219 former Deputies ran for office in November 2008; in the Senate, 105 former Senators ran for office. In some instances, two or more former parliamentarians contested the same seat. For those districts in which a former parliamentarian could have been re-elected, nearly two-thirds succeeded – 109 in the Chamber and 54 in the Senate. In a number of other instances, the former parliamentarian garnered a plurality of votes yet was defeated by mathematical distribution.

Election Districts	Chamber of Deputies	Senate
Parliamentarians running	219	105
Districts with	175	84
Parliamentarians running		
Parliamentarians who won	109 (62.3%)	54 (64.3%)

Of prominent politicians from the mainstream parties, few failed to get re-elected. Most of these were candidates for the Senate who lost due to the mathematical allocation process (for example, Adrian Paunescu of PSD and Norica Nicolai of PNL, both of whom nevertheless had pluralities in their districts). It is also interesting to note that, despite critics' fears that uninominal election would become a popularity contest, relatively few famous people without previous political experience ran for Parliament in 2008, and most of these failed to be elected. The conclusion is apparent – the new electoral system might have confused some sitting parliamentarians deciding where and how to run for re-election, but the results do not indicate a wholesale repudiation of the Romanian political class.

Discussion

Quantitatively, this study has generated three main conclusions relevant for the interpretation of contemporary Romanian politics. First, the 2008 parliamentary elections reinforced rather than altered the Romanian status quo, maintaining the three-party stalemate requiring a coalition of opponents for the establishment of stable government – and this stalemate most probably would have persisted regardless of the mode of parliamentary election adopted. Second, the 2008 reformed electoral law had no effect on the partisan outcome. For all the controversy, counterfactual analysis reveals that the number of legislative seats per political party, in the Chamber of Deputies and in the Senate, would have been exactly the same had the 2004 law merely been retained. Third, the version of electoral law adopted for 2008, based on a multi-tier allocation formula, entailed a degree of systematic advantage for the National Liberal Party compared to hypothetical alternatives based instead on majority or plurality rule single-member districts.

Explanation is found in the qualitative analysis of electoral procedures. The assignment of mandates to parties in 2008 was still heavily influenced by proportionality calculated doubly – at the constituency stage (Hare) and then at the national stage (d'Hondt) – both of which focused beyond the confines of district outcomes. Only subsequently were those party mandates affixed to specific single-member districts. An entailed consequence was that, aside from majority winners, it was not always necessary for a parliamentarian to obtain a substantial percentage of the vote in the district that elected him. Ultimately, the 2008 system must be characterized as a complex arrangement for the mathematical allocation of seats among the qualified parties, compounded one step further to achieve district-based representation. In operation, it still produced an outcome with clear resemblance to one that would have occurred from pure proportional representation alone. In structure, it was related to the previous electoral law far more than to a candidate-centered uninominal formula, in which the voters of each district are responsible entirely for the selection of their individual Deputy and Senator. The reform initiative that had sparked such storms of political passion in final version added just an extra dimension to the allocation formula of Romanian parliamentary elections, implemented only after the prior dimensions had been completed.

Viewed as a mechanism of election, this paper has shown, the 2008 reform had negligible partisan consequences relative to the system of 2004. Viewed instead as a mechanism of representation, assessment can be only a matter for speculation. It is possible that the newly elected Deputies and Senators soon will feel responsibility to their districts and that district voters reciprocally will hold those Deputies and Senators accountable for their actions, thus strengthening the linkage of citizens to the party system. On the positive side, there is incentive for political candidates to be known and liked within their districts; the more votes a candidate receives, the better his chances for election, whether from majority rule or by means of the allocation process. Yet there are also reasons to suspect that not much will change. From the standpoint of voters, few seem to know the detailed operations of the electoral system, the boundaries of their respective districts, or the names of their newly elected representatives to Parliament. From the standpoint of representatives, they need not live in the county and district of their election and few seem anxious to establish explicit connections to district-based populations, interests, and organizations. From the standpoint of prospective candidates, they are still nominated by the political parties (for no independent candidate can succeed unless he receives an absolute majority in his district), insuring loyalty and preserving clientele networks. Finally, from the side of electoral rules, party membership still matters enormously, as aggregate totals at multiple levels of calculation remain fundamental for the determination of mandates. We thus anticipate a continued disassociation between local preferences and the national allocation of seats to the local level, reflective of the low institutionalization and centralized orientation of Romanian politics. This is a topic ripe for reexamination in four years, in a follow-up study that will correlate the electoral fortunes of incumbents with the extent and style of their district political representation.

It is an elementary truism that those who construct the rules of the political game rarely do so in contradiction to their own self-interest. One should not expect that an electoral law enacted by members of a sitting Parliament would cause those members to suffer unnecessarily. This is the paradox of all political reform, that high principles and low partisan motivations proceed most often in conjunction. Our findings have not contradicted this truism. The Romanian electoral law of 2008 was enacted to restore apparent legitimacy to the political system, in a manner that refused to cede precedence to President Basescu and that minimized the possibility of outcomes unfavorable to established interests. The ostensible justification for the new electoral system is that it preserves essential vote/seat proportionality but then locates each legislator within a bounded district. The cost, however, is increased complexity and significant absence of transparency, making by its multiple stages of arithmetical computation 'who' is elected and 'why' even more oblique to the voter. Despite the promises of reform, Romanian politics remains centered fundamentally upon the major national political party organizations. In terms of its inter-party competition, the new system added another level of electoral calculation with no estimated impact. In terms of its intra-party competition, the new system modified the former procedure of closed constituency lists with uncertain representational impact. Yet for those who forecast onto the 2008 electoral law substantially increased opportunities to purify the

political class, resulting directly in raised performance by and strengthened confidence for Romanian representative government, their hopes most likely will be disappointed.

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Data sources

- For a good English-language newspaper account of Romanian political events, with an online archive, see: <http://www.nineoclock.ro>.
- For the Romanian Constitution, in English, see: <http://www.cdep.ro/pls/dic/site.page?id=371>.
- For the 2004 Romanian Election Law, in English, see: http://aceproject.org/ero-en/regions/europe/RO/law_senate.pdf.
- For the 2008 Romanian Election Law, see: <http://www.becparlamentare2008.ro/legislat/monitorul%20oficial%20nr.%20196-2008.pdf>.
- For the 2004 Romanian Parliamentary Election Results (Biroul Electoral Central), see: <http://www.bec2004.ro/rezultate.htm>.
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- For the 2008 Romanian Parliamentary Election Results by District and Constituency, see: http://www.becparlamentare2008.ro/rezul/colegii_rezultate_ora10.htm.
- For the 2008 Romanian Parliamentary Elections, Calculations for Arad County, see: http://www.becparlamentare2008.ro/rezul/REPARTZARE_2/2/CD_7a_2.pdf.
- For members of the Romanian Parliament, 2008 and previously, see: <http://www.cdep.ro/pls/parlam/structura.home?leg=2004&idl=2>.