

To:

The President of the European Commission, His Excellency Jose Manuel Barroso

The Vice-President of the European Commission, Her Excellency Viviane Reding

The Commissioner for Home Affairs, Her Excellency Cecilia Malmstrom

To the Secretary General of the European Commission, Ms. Catherine Day

Bucharest, July 3<sup>rd</sup>, 2012

## **Civil society warning: the rule of law under unprecedented attack in Romania**

Dear Mr President

Dear Commissioners

This is the third warning in less than two months, issued by a list of reputable Romanian civil society organizations, since the current Socialist-Liberal ruling coalition took power. The drift towards a non-democratic regime has continued, with serious steps taken in the last few days which will potentially affect the independence of institutions and the separation of powers.

- There were open threats to dismiss and replace the judges of the Constitutional Court, which by Constitution are irremovable during their term of office, coming from the top government officials (the Prime Minister, the Minister of Justice). On July 3<sup>rd</sup> all the judges of the Constitutional Court have signed an open letter and sent a protest to the Venice Commission, signaling the political pressures on the institution.
- The ruling coalition has dismissed the independent Ombudsman during the parliament plenary of July 3<sup>rd</sup>, without due cause. The Ombudsman is the only Romanian institution entitled to challenge the emergency ordinances of the Government before the Constitutional Court. Presumably, it is by emergency decree that the dismissal of the Constitutional Court judges before the end of their mandates will take place. Though by law the Ombudsman may be replaced only if s/he breaches the Constitution or the laws, the

speedy proceedings used in the present case show that no consideration was given to the legal requirements. The Ombudsman is an essential institution in any rule of law country.

- In the notorious case of the ex-prime minister Adrian Nastase, who was convicted to two years in jail for corruption, the Minister of Internal Affairs, Mr. Rus, unusually called Mr Nastase after the verdict to negotiate with him the terms of the imprisonment. Political pressure was put on the police and the medical authorities in the hospital where Mr Nastase was taken after his failed suicide attempt, to extend his stay in the emergency hospital for about a week, with no medical reason, as the court has established subsequently. The prosecutors have started criminal investigations against three police officers and one doctor (who happens to be a former Socialist senator and under criminal investigation for corruption himself). The Minister of Justice called upon the Superior Council of Magistracy, the guarantor of the independence of justice, to refrain from taking position against the threats of Social-Liberal politicians to the judges and prosecutors. Fortunately, the Superior Council of Magistracy took a firm position against all interferences in the justice system.

- The Prime Minister acted against the Constitutional Court decision which stated clearly that the prerogatives of external representation of Romania belongs to the President, not to the Prime Minister. This equals contempt of the constitutional court which in itself undermines the basis of democracy and the separation of powers.

- The Official Gazette was shifted also by emergency ordinance, from Parliament to Government's control, for the first time in Romania's modern history. It cannot be a coincidence that among the first acts published in the Official Gazette was the resignation of Mr. Voiculescu (one of the leaders of the ruling coalition) from the Senate, so that the High Court lost competence to judge upon his criminal file regarding graft allegations. The Government is known for its appetite for speedy legislation, when all acts enter in effect upon publication. This is why the legislator intended to put the Official Gazette under the Parliament as a form of control between powers. Since the change, the relevant documents are published overnight in the Official Gazette.

- Two members of the Parliament from the ruling coalition were declared by final court decision as incompatible with their mandate, because of conflicts of interests. In spite of this, they refuse to step down. Their colleagues from the Standing Legal Committee of the parliament seem to protect them, without offering any plausible explanation.

On top of all, Mr Crin Antonescu, senator, president of the National Liberal Party and co-president of the ruling coalition, has declared publicly on July 2<sup>nd</sup> that all institutions that are “blocking the coalition from ruling”, and in particular the Constitutional Court, must be changed.

These are serious threats against the underlining elements of a rule of law state. Therefore we, Romanian civil society organizations, ask the European Commission to strongly urge the Romanian government and ruling coalition to stop their current actions against the rule of law and separation of powers. We emphasize that the EU institutions have vigorously reacted previously, in the case of Hungary. We believe similar actions are necessary in our case. One such action would be to consider starting infringement procedures against Romania, based on the Charter of Fundamental Rights of the European Union, Art. 47.

We also want express our strong belief that the Mechanism for Cooperation and Verification (MCV) should continue, as an effective instrument for preserving democracy in Romania.

Group for Social Dialogue (GDS)

Expert Forum (EFOR)

Freedom House, Romania

Romanian Center for European Policy (CRPE)

Romanian Helsinki Committee (APADOR-CH)

ActiveWatch – Media Monitoring Agency (MMA)

Romanian Independent Journalists' Association (AZIR)

Center for Independent Journalism (CJI)

Center for NGO Assistance (CENTRAS)

Resource Center for Public Participation (CeRe)