

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 9th, 2012

Romanian citizens and civil society warning: the Blitzkrieg against the rule of law in Romania continues

Your Excellency,

This letter is a follow-up to the Civil Society Warning sent to you by the signatory NGOs on July 4th, to update you on the negative political developments taking place in Romania.

During the last week, the ruling Socialist-Liberal coalition continued the attacks against the rule of law:

1. Contrary to the reassuring public statements made by the Prime-Minister and, probably, messages the Romanian government may have sent to its European partners, the law of the Constitutional Court was indeed amended by an Emergency Ordinance, on July 5th, in order to limit the powers of the Constitutional Court to rule upon Parliamentary decisions such as:

- a. the decision to replace the Ombudsman, who is the only entity entitled to challenge to the Constitutional Court Ordinances of the Government before they are discussed in Parliament
- b. the decision to replace the President of the Senate, who serves as interim President of Romania in case the current President is impeached
- c. the decision to revoke the President of the Chamber of Deputies

The Emergency Ordinance was issued in breach of the Romanian Constitution, which in article 115, para 6 prohibits Emergency Ordinances amending laws on fundamental institutions of the Romanian state, such as the Constitutional Court.

2. With a view to make the dismissal of the President of Romania easier, the Government also amended the referendum law, also through Emergency Ordinance. The amendment eliminates the condition of 50% + 1 of citizens registered in electoral lists voting as a validity condition for the referendum. Amending the law on referendum less than a month before the referendum breaches the international standards set by the Venice Commission and incorporated in jurisprudence by the Romanian Constitutional Court, which prohibits any changes to the electoral / referenda framework less than one year before the ballot. Moreover, the adoption of Emergency Ordinances that in the area of electoral rights is prohibited by the Romanian Constitution in the same article 115, para 6.

Although we, together with other hundreds of Romanian citizens, have petitioned the Ombudsman newly appointed by the ruling coalition to challenge these Emergency Ordinances before the Constitutional Court, no legal procedure has started yet. It is clear that this quick sequence of events, consisting in breaking one constitutional norm per day and simultaneously blocking the independent institutions that may check on such trespassings, is meant to create political faits accomplis which are very difficult to redress later on, when institutional accountability may be restored – if ever.

In addition to these developments, we would like to draw your attention to the threats reported by a judge of the Constitutional Court in relation to her vote for the Avis the Constitutional Court had to issue on the impeachment of the Romanian President. On July 6th the Constitutional Court has issued an official protest on the matter and the judge in question has filled a criminal complaint. In another incident, an influent Socialist senator and close collaborator of the Prime Minister threatened a journalist from the public radio accredited in Brussels with legal repercussions, because allegedly she has determined the *twitter* reaction from Commissioner Reding by asking the spokesperson of the Commissioner what would be the Commission's position if constitutional court judges are arrested and the Romanian Constitutional Court dismantled. The journalist denied having asked such a question and the recordings of the briefings on the 4th of July 2012 available on the European Commission's website confirm the version of the journalist: no such insidious question or suggestion exists. Still, the journalist was recalled from her posting in Brussels and faces disciplinary measures by the new management of the Romanian public radio, installed by the new ruling coalition two weeks ago. We condemn all threats to the judiciary and to the media, which are now in Romania the last internal defence system against serious breaches of the rule of law.

We would like to thank you for the reaction the European Commission had with regard to the events in Romania and ask you continue monitoring the events closely.