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**From:** MACOVEI Monica

**Subject:** Information and an update on the PSD-ALDE actions to escape from justice and breach the rule of law in Romania

Dear colleagues

Please find bellow **information** and an **update** on the PSD-ALDE actions to escape from justice and breach the rule of law in Romania.

1. Contrary to the state of play during the LIBE hearing in the European Parliament, minister Tudorel Toader stated that corruption offenses were exempted from the draft pardoning law. On the 6<sup>th</sup> of March, **PSD senator** Serban Nicolae had tabled amendments to this legislative project by which **corruption offenses were pardoned**. These proposals were not withdrawn as we speak. The draft law is pending in the Senate; debates will continue this week, starting 11 of April.

<http://www.ziare.com/serban-nicolae/stiri-serban-nicolae/propunere-psd-sa-fie-gratiata-si-luarea-si-darea-de-mita-traficul-de-influenta-si-abuzul-in-serviciu-1456436>

In addition, minister Toader stated last week that in the new draft law for changing the Codes he would not propose any threshold for the abuse of office (neither minimum, nor maximum) and that the judge would have the freedom to decide if an abuse case is an offense.

Or ECHR ruled numerous times that a law needs to be clear and predictable, because people have to adapt their behaviour to this law. Such a lack of clarity would make harmonisation of case law almost impossible. It would also make it a lottery - some would be "luckier", depending on the case judge.

2. The Senate tacitly approved changes to the conflict of interests on 30 March 2015, following the proposals by PSD and UDMR (Democrat Union of the Hungarians in Romania). On April 4, new amendments were tabled, decriminalising the conflict of interest. This decriminalisation was validated by the Legal Committee of the Chamber of Deputies; its adoption by the plenary is imminent. Basically, persons holding public office can award contracts to their relatives with impunity.

<http://www.hotnews.ro/stiri-opinii-21699128-vor-putea-fura-familie-liber-contracte-pentru-sotii-copii-rude-dezincriminarea-conflictului-interese-arunca-romania-harta-atacul-justitie-ultimele-faze.htm>

Conflict of interest was introduced in the Criminal Code in 2006, before Romania's accession to the EU, as an anticorruption measure. Since then, 251 persons holding public office were sent to trial for conflict of interests, out of which a large number of mayors and members of the Parliament. Only in 2016, 17 persons were finally convicted for this offense.

3. On April 4, several incompatibilities were eliminated from Law 161/2003 (allowing from now on members of parliament to carry on commercial activities), although the enforcement of the law was highly efficient: in its 2016 Report, the National Agency for Integrity mentions 682 incompatibilities (by final decisions) on persons holding public office, of which 18 deputies, 3 senators, 6 current or former presidents and vice-presidents of public institutions.

4. On April 4, former prime-minister Florin Iordache, the one responsible for Emergency Ordinance 13, was nominated by PSD and elected by the Parliament deputy speaker of the Chamber of Deputies, in pure defiance of the people who are still protesting, after more than two months, against the massive attacks to the rule of law launched by the governing coalition PSD-ALDE.

<http://www.hotnews.ro/stiri-politic-21698369-florin-iordache-fostul-ministru-justitiei-ajuns-vicepresedinte-camerei-deputatilor.htm?nomobile=>

5. Last week, Florin Iordache tabled amendments to the Law of Financing Political Parties, according to which contributions above the legal threshold for financing the electoral campaign can no longer be confiscated, regardless of where the money come from or the type of contribution. Moreover, he eliminated the obligation for candidates and political parties to return to the state budget the money or value of goods subject to contravention. These amendments were validated by the Legal Committee of the Chamber of Deputies; their adoption by the plenary is imminent.

[http://adevarul.ro/news/politica/dezincriminariada-legi-toxice-pregatesc-parlamentarii-1\\_58ea59395ab6550cb81c1e1f/index.html](http://adevarul.ro/news/politica/dezincriminariada-legi-toxice-pregatesc-parlamentarii-1_58ea59395ab6550cb81c1e1f/index.html)

6. A draft law tabled by 120 PSD and 4 PNL (liberal) members considerably increases powers of the Gendarmerie (a different body than the police), who will have the authority to search vehicles, retain people and take them to their headquarters, use force if they oppose and perform judicial investigation. This is seen as a measure against future protests. This proposal is unprecedented after the fall of communism and reminds of the oppressive structures that Ceausescu used to operate in order to repress freedom and human rights.

<http://epochtimes-romania.com/news/proiect-de-lege-puteri-sporite-pentru-jandarmi---259355>

7. On the 28 of March, 34 PSD deputies tabled a draft law (currently pending in the Senate) in order to change the Law of Accounting, the Law on Private and state Owned Companies and the Law on the Functioning of the Co-ops, which eliminates prison sentences for managers and administrators favouring other companies and discretionary using the money of the companies they are running. If this law is adopted, many political VIPs would be pardoned, including PSD secretary of state Madalin Voicu, sent to trial for diverting EU funds meant for Roma people integration. Then, the abrogation of the respective provisions would primarily favour directors and administrators of state-owned companies, who will not be held responsible if the punishable acts are no longer considered criminal offenses.

[http://adevarul.ro/news/politica/dezincriminariada-legi-toxice-pregatesc-parlamentarii-1\\_58ea59395ab6550cb81c1e1f/index.html](http://adevarul.ro/news/politica/dezincriminariada-legi-toxice-pregatesc-parlamentarii-1_58ea59395ab6550cb81c1e1f/index.html)

8. See attached Annex 1 for members of the current Romanian Parliament who are convicted, pending criminal trials or investigated.

Kind regards,

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