

MEDEL STATEMENT ON THE JUDICIARY IN ROMANIA

The situation of the Romanian Judiciary has recently witnessed another episode that reveals the worrying path towards the degradation of the Rule of Law in that country.

MEDEL sees with much concern the revision of the three basic laws of the Judiciary (the Statutes of Judges and Prosecutors, the organisation of Courts and of the Prosecution Service and the organisation of the Superior Council of Magistracy) – that came into force between July and October 2018 – and the proposed changes of the criminal and criminal procedure. As Vice-President Frans Timmermans said in the European Parliament on October 3rd, 2018, these changes put at serious risk the independence and effectiveness of the Judiciary, especially in the fight against corruption.

The changes undertaken since 2017 that affect the most the Rule of Law were clearly described in the March 2018 report of GRECO and in the Venice Commission's opinions of October 20th, 2018 (927/2018 and 930/2018), and were reaffirmed in the European Commission's report of the Cooperation and Verification Mechanism (CVM), issued on November 13th, 2018: the rules of appointment and revocation of high ranking prosecutors and the increase of powers of the Minister of Justice (risks already confirmed in last year's dismissal of the Prosecutor charged with investigating corruption); the rules limiting freedom of speech of magistrates, especially towards the other powers of the State; the rules concerning the possibility of dismissal of elected members of the Superior Council of Magistracy.

Moreover – as MEDEL has repeatedly denounced, including in a letter addressed to the European Commission about the CVM report – the influence of the secret services, achieved through secret protocols with institutions of the Judiciary, constitutes also a major threat to the independence of the Romanian Judiciary.

Despite all the criticism of international institutions, the public protests of Romanian magistrates and the serious warnings made by the European Commission in the CVM report, the Romanian government insists in its intention of changing the rules of the Judiciary, doing it through emergency ordinances – as in the case of the recent emergency ordinance 7/2019 and of a new and more recent one, published on March 7th 2019, intended to change some aspects of the former.

Unfortunately, the responsible attitude of UNJR (MEDEL's Romanian member association) – keeping the dialogue with the government in order to try to limit the negative effects of the changes undertaken – hasn't moved the Romanian government, that reveals a very worrying trend of not respecting the basic international standards of the independence of the judiciary.

The information provided recently by the chief prosecutor of the newly formed Section for Investigating Infractions within the Judiciary – according to which, out of the pending criminal cases concerning magistrates, several of them were opened *ex officio* by the National Anticorruption Directorate against judges for their civil or criminal rulings – raises serious concerns not if, but on how severely the independence of judges in Romania was affected by

such practice. According to international norms, judges must be free to decide according only to the law and the merits of the case, and any pressure on them – especially by the threat of criminal investigations for their ruling – are completely unacceptable. However, the changes needed to avoid such abuses must in no case undermine the independence of the Judiciary or the effective fight against corruption.

The independence of the Judiciary is one of the basic pillars of the State and the laws governing it must be made in a clear, transparent and widely discussed manner and not through emergency ordinances.

In view of the above, **MEDEL – MAGISTRATS EUROPEENS POUR LA DEMOCRATIE ET LES LIBERTES CALLS ON THE ROMANIAN GOVERNMENT :**

- **TO ADOPT A TRANSPARENT AND RESPONSIBLE ATTITUDE IN WHAT REGARDS ANY CHANGES TO THE LAWS CONCERNING THE JUDICIARY, CEASING THE ISSUING OF EMERGENCY ORDINANCES AND PROMOTING A WIDESPREAD DEBATE AND DISCUSSION, INVOLVING ALL THE RELEVANT TAKEHOLDERS OF THE CIVIL SOCIETY;**
- **TO ENSURE THAT THE SUPERIOR COUNCIL OF MAGISTRACY HAS THE TIME TO CONSULT WITH THE PROFESSIONAL BODY OF JUDGES AND PROSECUTORS IN ORDER TO ISSUE ADVISORY OPINIONS ON ANY PROPOSED CHANGES;**
- **TO FULLY RESPECT THE INDEPENDENCE OF THE JUDICIARY (ESPECIALLY IN WHAT REGARDS TO THE INDEPENDENCE OF JUDGES TO DECIDE FREELY AND SHIELDED FROM ANY PRESSURES, EITHER FROM WITHIN OR OUTSIDE THE SYSTEM), TAKING INTO ACCOUNT THE OPINIONS AND RECOMMENDATIONS OF THE INTERNATIONAL INSTITUTIONS, MAINLY THE EUROPEAN COMMISSION.**

MEDEL will continue to follow carefully the debates concerning the judiciary and expresses its solidarity with all those who have been publicly showing their concern with the degradation of the Rule of Law in Romania.

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