Romanian Judges' Forum Association

Bucharest, April 22, 2021

Your Excellency Ambassador of Austria in Romania,

Your Excellency Ambassador of the Kingdom of Belgium in Romania,

Your Excellency Ambassador of the Kingdom of Danemark in Romania,

Your Excellency Ambassador of Finland in Romania,

Your Excellency Ambassador of France in Romania,

Your Excellency Ambassador of Germany in Romania,

Your Excellency Ambassador of Ireland in Romania,

Your Excellency Ambassador of the the Kingdom of the Netherlands in Romania,

Your Excellency Ambassador of the Kingdom of Spain in Romania,

Your Excellency Ambassador of the Kingdom of Sweden in Romania,

Your Excellency Ambassador of the Kingdom of Norway in Romania,

Your Excellency Ambassador of the United Kingdom of Great Britain and Northern Ireland in Romania,

ROMANIAN JUDGES' FORUM ASSOCIATION brings your attention a event that has recently intervened and is meant to put in peril the judges' freedom of expression in connection with the criticism against the way our Justice system is functioning.

1) Thus, between 27 and 31 of March 2021, on the stiripesurse.ro website appeared three articles under the title “Justice Leaks” in which dozens of messages in the form of printscreens were presented, messages that were claimed to belong to members of a Facebook group entitled “The Magistrates Forum”, as well as to a WhatsApp group of a prosecutors' association.

The content of the reproduced messages essentially referred to opinions of judges and prosecutors on the establishment of the Justice Crime Investigation Section, its stakes, the interests of members of the Superior Council of Magistracy and certain politicians regarding the establishment of this structure, to criticism or appreciation for the conduct of certain members of the Superior Council of Magistrates

or politicians and criticism against Judicial Inspection and the fact that this institution is politically seized.

We underline that in the first article, it is stated that these messages came into possession of the publication, without indicating the source, and the following articles mention that some magistrates took courage and sent incriminating images of their peers' side-slips, guaranteeing their authenticity.

What is noticeable is the fact that, in the case of alleged messages belonging to a WhatsApp group of a prosecutor's association, the journalist anonymised the authors of the messages. On the other hand, in the case of messages considered as belonging to a Facebook group called "Magistrates Forum", the journalist failed to do in the same way. Thus, as authors of the messages posted appeared judges operating at various courts in the country, most of them being members in leading positions of the Romanian Judges' Forum Association, simple members or sympathisers. Moreover, in the articles it is expressly stated that those indicated as authors of messages are activist magistrates who signed various petitions in recent years or supporters of various causes that agitate public opinion.

In response to this situation, the Superior Council of Magistracy issued a press release, on 29 March 2021, stating that it stands apart from these side-slips resulting from the discussions held by some judges and prosecutors on a social network, strongly asking the Judicial Inspection to clarify this situation on the basis of its competences. As a result of this statement, the Judicial Inspection is investigating ex officio in connection with the correspondence of the magistrates, this information being revealed in the press.

On 20th of april 2021, three of the judges, namely judge Dragos Calin (Bucharest Court of Appeal, co-president of the Association), Judge Alina Gioroceanu (Dolj County Court, Member of the Association) and Judge Laurentiu Grecu (Mehedinti County Court, Member of the Association), were summoned by Judges' Section of the Superior Council of Magistracy, as a disciplinary court, to appear on 23rd of April 2021 in order to settle the case brought by the Judicial inspection (led by Mr. Chief inspector Lucian Netejoru), asking for the suspension from office until the end of the disciplinary investigation on the following facts: (1) prejudicial manifestations that infringe the professional honour or integrity, or the prestige of justice, carried out in the course of or outside the office duties; (2) breach of legal provisions on incompatibilities and prohibitions; (3) carrying out public activities of political nature or presenting political conviction in the exercise of duties.

In respect of Mr judge Dragos Calin, the Judicial Inspection considered the following messages as incriminating: *(1) "However, the Constitutional Court decision on C3 is contrary to EU law; there are saved resounding files, if the CJEU takes the same approach"; (2) " It would have gone much faster if there was someone in the CJEU who hastened the colleagues, as I understand the Polish judge had done, who explained to them the situation in detail. Our judge recused herself. This is the case when you have domestic-style selections for the CJEU, with committees in which the majority do not know the court's deliberations language"; (3) " Delineations regarding the selections made by the new MJ have started, which is a sign that they are no longer agreed by the stable majority in the CSM (let's say this), during Mr Predoiu's length of office. At that time, the moralist wolf from the site in question did not get horrified when 2/3 of the committee members for the selection of the Romanian judge for CJEU did not know the language in which part of the interview was conducted,*

including the chief of the terrible Commission"; (4) "It is official. The Justice Ministry got rid of Catalin Predoiu. A year wasted on a political character who must never take another office at the head of the Ministry of Justice". In the eyes of the Judicial Inspection the first message is considered a criticism against the activity of the Constitutional Court, the second message is considered to be a criticism on the CJEU and on Romania's representative to the CJEU. The third message is seen as criticism on the efficiency of the Superior Council of Magistracy, and the fourth message concerns a political comment.

As for Mrs. Judge Alina Gioroceanu, it is noted that the following message referring to the map of parliamentary elections is incriminating: *„Is that red thing a belt or a gallow? That I don't realize".* Another message was taken into account: *„Sars-cov19 creates victims and heroes. Both attract an emotional reaction, move something in us, by compassion or admiration. Some enter this role without wanting to, others, knowingly, aiming to induce the same reactions. So we must keep away from the cardboard heroes and victims, from victimization and heroic deeds of opportunistic persons who are not genuine. For the rest, good health and let's learn something from everything!".*

Regarding Mr Judge Laurentiu Grecu, the following message is imputed: "*apart from USR (*political party „Union Save Romania*"), I do not think that anyone wants this measure".*

Although no evidence has been provided in connection with the authenticity of these messages, which are allegedly derived from the exclusively private correspondence of a group of judges, messages which are not dated and cannot be determined in what context they were expressed, however, the Judicial Inspection requires that an extremely serious measure to be taken against these three colleagues (suspension from office) despite of fact that disciplinary investigation has not started yet (none of the judges being informed of the start of such proceedings or heard).

It is to be noted that Mr. Dragos Calin was the judge who drafted the referrals for preliminary ruling to the Court of Justice of the European Union, which aimed to establish the compatibility of the amendments made to the justice laws in 2018 with EU law (one of these referrals concerning the extension of the Chief Inspector's term of office, mr. Lucian Netejoru by the Emergency Ordinance). Mr. Dragos Calin had an uninterrupted activity of whistleblower in connection with any attempt to destroy and unbalance the independence of judiciary. Mrs. Alina Gioroceanu was the judge who ordered the referral to the Court of Justice of the European Union in regard with the compatibility of the measure extending the term of office of Chief Inspector, Mr. Lucian Netejoru by the Emergency Ordinance with EU law.

Beyond the fact that the Superior Council of Magistracy through its president, Mr. Bogdan Mateescu, did not react and did not disavow the way in which this attack took place on the private life and correspondence of some magistrates-members in the association of judges who, over the last three years, have consistently fought against the transformation of justice into a political instrument and against the loss of the judiciary independence, the conduct of Judicial Inspection is unacceptable in a state respecting the rule of law, its powers conferred by the law being exercised for vindictive and repressive purposes.

We consider that this attack launched by Judicial Inspection against some members of the Association (which have had many interventions and public

statements in the last years, explaining the harmfulness of the amendments brought to justice laws in 2018, which have legally challenged the normative acts issued by Superior Council for Magistrates in implementation of those amendments and has initiated the requests for referral to the CJEU in order to assess the compatibility of these amendments with EU law) has as aim to discourage magistrates from signing memos and petitions in favour of the rule of law and judicial independence, in order not to be exposed to public scourge (through certain media channels) and to the risk of being targeted by Judicial Inspection. In addition, freedom of thought, expression and association is severely affected since members of the association risk to suffer disciplinary sanctions if, by their active involvement in the activity of the association, they end up disturbing certain interest groups. At the same time, it is also serious that this type of attack is meant to discourage magistrates who, even if they are not members of an Association, would like to have a reactive attitude towards what is happening with the judiciary (i.e. to leave the state of reserve and criticise acts/actions affecting the independence of justice).

Please accept, your excellency, our highest consideration,

The Romanian Judges' Forum Association

judge Lucia Zaharia, co-president