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TO: *The State Department of the United States of America*

FOR THE ATTENTION OF: *The Assistant Secretary, Bureau of European and Eurasian Affairs, Dr. A. Wess Mitchell*
The Romania Desk Officer, Mr. Frank Sellin

CC: *His Excellency Mr. Ambassador of the United States to Romania,*
Mr. Hans Klemm
The US Embassy in Romania

FROM: *Asociația Platforma Inițiativa România (En: Initiative Romania)*

Dear Mr. Assistant Secretary Dr. A. Wess Mitchell,

Dear Madam,

Dear Sir,

As one of the top NGOs in Romania,

- upholding democracy, rule of law, independence of the judiciary, public integrity and fundamental rights in our country;
- promoting closer and better ties between our two countries and the strategic partnership between the US and Romania;
- fully supporting our EU and NATO membership, as well the values of freedom and rule of law they stand for;

We address to you in consideration of:

- the powers you are invested with under Proclamation 7750 of January 12, 2004 issued by the President of the United States, section 1 – letter (c), section 3, section 4 and section 6;
- the Regulation 22 CFR 41.122 - Revocation of visas,

which concern the **suspension of visas** for “*public officials or former public officials whose misappropriation of public funds or interference with the judicial, electoral, or other public processes*”, **asking you in good faith to enforce such a suspension in the case of Mr. Liviu Nicolae Dragnea, Chairman of the Chamber of Deputies - the lower chamber of the Parliament of Romania, and President of the Social Democratic Party** (hereinafter called “PSD”).

If such a suspension has already been enforced, please provide us this relevant information in line with the best interest of our two countries’ partnership and of the defense of rule of law, independence of the judiciary and the anti-corruption fight in Romania.



INIȚIATIVA ROMÂNIA

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Mr. Liviu Nicolae DRAGNEA, President of the Chamber of Deputies and of the PSD, was:

- **Convicted to 2 years imprisonment (suspended sentence) in a case related to electoral fraud** for the *offence of using the influence or authority by a person who holds a leading position in a party, for obtaining undue advantages for himself/herself or for someone else* (the case was investigated by the National Anticorruption Directorate and the sentence was pronounced by the Supreme Court in April 2016);
- **Sent to trial** for the offences of 1) *abuse of office* and 2) *incitement to intellectual fraud* (the case was investigated by the National Anticorruption Directorate and was sent to trial at the Supreme Court in July 2016);
- **Indicted in a criminal file regarding European funds fraud, following an European Anti-Fraud Office (OLAF) investigation** for 1) *setting up an organised crime group*, 2) *two offences of the use or presentation in bad faith of false, inaccurate or incomplete statements or documents, which has as its effect the unlawful obtaining of European funds* and 3) *two offences of abuse of office* in order to obtain benefits for himself/herself or for another person (the criminal investigation started in November 2017);
- **Under criminal investigation for money laundering in Brazil**, as of March 2018, according to the official statements of the Federal Brazilian Prosecutor Carlos Wagner Barbosa Guimarães of the Federative Republic of Brazil.

In connection to this request, we kindly remind you that such a suspension of visa was already enforced in April 2012 in the case of Mr. Adrian Năstase, former Prime Minister of Romania, who was convicted for corruption offenses and corruption related offenses, such as bribery or blackmail.

The events of the past year and a half in Romania, which are presented below in detail, indicate that, following his conviction and indictments, Mr. Liviu Dragnea and his actions became an immediate danger to democracy, rule of law and independence of the judiciary in Romania. As the facts prove, in order to save himself from the judicial consequences of his own corruption and abuse of power, Mr. Dragnea is ready to lead Romania back in the darker historical past, replicating authoritarian political models, such as in Russia or Turkey, thus threatening not only Romania's democratic future, but also the US interests in Romania. We believe in good faith that it is in the best interest of our countries to suspend Mr. Dragnea's visa to the US, as a clear statement that Romania should remain on its democratic path and the Romania-US friendship and partnership is built on common democratic values and on rule of law standards.



INIȚIATIVA ROMÂNIA

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As aforementioned, Mr. Liviu Nicolae Dragnea received a definitive conviction for the *offence of using the influence or authority by a person who holds a leading position in a party, for obtaining undue advantages for himself/herself or for someone else*, in connection to conspiracy, instigation to the violation of the confidentiality of the votes by the members of the election offices or by other persons, instigation to the promise, offer or payment of money or other benefits to push the people to vote. **In short, for electoral fraud.** The facts subjected to this conviction took place in relation to the July 29th, 2012 Referendum for the dismissal of the President of Romania Traian Băsescu.

Mr. Liviu Dragnea committed this offense as regional head of the PSD, Chairman of the County Council of the Teleorman County and as coordinator of the electoral campaign of the PSD at national level. At the time, the attempt of the PSD to impeach President Băsescu was largely perceived by the national and international media, by the European Commission, by the EU allies and the US as resembling or being an attempt of parliamentary *coup d'etat*. The US State Department, by Ms. Victoria Nuland, the European Commission under the Presidency of Mr. Jose Manuel Barroso and EU Western chancelleries, such as the German Chancellery of Ms. Angela Merkel, who publicly expressed her worries regarding the violation of rule of law and Constitutional standards, were instrumental in stopping these abuses.

It is, therefore, our opinion that Mr. Liviu Nicolae Dragnea's conviction related to this case falls under the provisions of the Section 1 (c) of the Proclamation 7750/2004: *Public officials or former public officials whose misappropriation of public funds or interference with the judicial, electoral, or other public processes has or had serious adverse effects on the national interests of the United States*. He was convicted for interference with the electoral process in a key moment when democracy and rule of law in Romania were in grave danger, while he played a major role in the events. Considering Romania is a NATO full member, has a strategic partnership with the United States of America, has a strategic geographical location and the values of democracy and rule of law were under peril, it is clear to us the actions of the PSD and Liviu Dragnea in particular were creating a serious risk situation for the national interests of the United States.

However, although the reasons for an enforcement of the suspension provisioned by Proclamation 7750/2004 were clear even before the definitive conviction, this did not happen. As a consequence, Mr. Liviu Dragnea, already convicted, was able to travel to the US in January 2017 and to pretend to have attended a dinner with the then Elect President, Mr. Donald Trump, which in fact was just a photo opportunity in a public event. He later used this event for political propaganda purposes in Romania, trying to demonstrate the political support of the President of the US, our closest ally.



INIȚIATIVA ROMÂNIA

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Immediately after this encounter, Mr. Liviu Dragnea who, in the meantime (since 2012) was indicted in several other criminal cases, as aforementioned, and has become President of the PSD – the main governmental political party in Romania, pushed for legislation changes that undermine rule of law and Romania's last 10 years of progress in reforming the judiciary and the fight against high-level corruption, but **also threaten the US-Romania and the EU-Romania judicial cooperation and the capacity of fighting cross-border crime** (e.g. corruption regarding EU funds, money laundry or **combating international terrorism**). The reform packages voted or proposed by the Romanian authorities under the leadership of Mr. Liviu Dragnea:

1. Open up the possibility of politically harassing magistrates, especially prosecutors;
2. Open the door to the political subordination of the judiciary, as before the EU accession;
3. Weaken the investigative tools and the legal provisions on serious crimes, including corruption and terrorism (e.g. corruption offenses will be partially decriminalized, normal investigative procedures across Europe and the US will be deemed as unlawful in Romanian courts);
4. Are in breach of the benchmarks of the Cooperation and Verification Mechanism set up by the European Commission (Decision 2006/928/CE), part of the Romania's Accession to the EU Treaty;
5. Deepen the crisis of liberal democracy and rule of law standards in Eastern Europe, as well as favour the sliding towards authoritarianism of the regime in power, as the case in other Eastern European countries.

We emphasize that the entire legislative process undermining the rule of law in Romania is simultaneously accompanied by an aggressive public campaign of discrediting and harassing civil society organisations and leaders (e.g. media and political campaigns targeting the credibility of the independent watchdogs and human rights organisations *via* fake news, changes in the financial regulations regarding the funding of the NGOs by private companies of citizens, a surge of nationalism in the mainstream political discourse targeting the European project and democratic standards).



INIȚIATIVA ROMÂNIA

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FACTS of 2017, which were generated by Mr. Liviu Dragnea's troubles with the law:

I. The Government partially decriminalizes corruption by emergency decree (January 2017)

- **January 18, 2017** – The newly appointed PSD-ALDE Government drafts 2 emergency decrees: one to **pardon prisoners** (including those convicted with suspended sentences, as well as the perpetrators who committed crimes until January 18, but were not yet convicted – in fact, an amnesty) and one to **partially decriminalize the offenses of abuse of office and conflict of interests and to totally decriminalize the offense of negligence in office**. Both **Liviu Dragnea, the President of PSD, and Călin Popescu Tăriceanu, the President of ALDE, would have directly benefited by the provisions of the 2 decrees;**
- **January 18, 2017** – The President of Romania participates in the weekly Government meeting to address the issue of the 2 decrees. The Government backs down, postpones their adoption and publishes the drafts of the decrees, whose provisions had been kept secret until January 18;
- **January 18, 2017** – Thousands of people take to the streets and protest the Government intentions to weaken the anticorruption fight;
- During the next few days, the drafts of the 2 decrees were publicly criticized by the President of Romania, the General Prosecutor, the Supreme Court, the Chief anti-corruption prosecutor and the chief of the directorate fighting organized crime (DIICOT), as well as civil rights groups and US and EU member states' diplomats in Bucharest;
- **January 22, 2017** – Tens of thousands of Romanians rallied in Bucharest to protest the Government's plans to undermine the fight against corruption;
- **January 31, 2017** – **Late in the night, the Government adopts an emergency decree for amending the Criminal Code. Among other provisions, the decree partially decriminalized the offences of 1) *abuse of office* and 2) *favouring the perpetrator*. Both Liviu Dragnea, the President of PSD, and Călin Popescu Tăriceanu, the President of ALDE, were direct beneficiaries of the decree. The decree was published in the Official Journal during the same night, at 1 o'clock in the morning;**
- **January 31- February 5, 2017** – Hundreds of thousands of Romanians take to the streets across the country in the largest protests since the fall of the communism in 1989;



INIȚIATIVA ROMÂNIA

Here. Now. Together.

- **February 5, 2017** – The Government backs down and repeals the decree;
- **June 21, 2017** – The Prime-minister is dismissed after a no-confidence motion voted by the ruling PSD-ALDE majority itself. The official reason was that there were delays in the implementation of the governing program. However, the real reasons behind are connected to the refusal of the PM to further support the amendment of the criminal laws by government decrees.

II. The Government drafts proposals to amend the judiciary laws, undermining fundamental rule of law standards and the European Commission's Decision 2006/928/CE (August 2017)

- **August 23, 2017** – The PSD - ALDE backed minister of Justice publicly presents a draft law, which proposed several changes to the 3 laws regarding the judiciary (Law no. 303/2004 on the statute of judges and prosecutors, Law 304/2004 on judicial organization and Law 317/2004 on the Superior Council of Magistracy). Among other changes in the law, the minister proposed:
 - *That the solutions adopted by the prosecutor be invalidated by the hierarchically senior prosecutor, when they are assessed as being illegal or **ungrounded**.* The regulation that is currently in force provides for the possibility of invalidation only for reasons of illegality. The proposed regulation would harm the independence of the prosecutors. This would be a step back to the situation of the 90s, when the work of the prosecutors, especially in cases of corruption and organized crime, was often invalidated by their politically-influenced hierarchical seniors;
 - *The creation of a new, separate structure for the penal prosecution of the magistrates, whatever the nature or seriousness of the deeds committed by judges and prosecutors.* At present, the magistrates who, due to political influence, commit offences in their line of duty, or those who commit corruption crimes come under the sway of the National Anticorruption Directorate (DNA). So, this means removing competencies from the DNA, without any justification and in spite of the impressive results of the DNA, recognised as such by the European Commission;
 - *The reorganizing of the Judicial Inspection, as a structure with juridical personality within the Ministry of Justice (MoJ).* By transferring the Judicial Inspection, the body currently



INIȚIATIVA ROMÂNIA

Here. Now. Together.

subordinated to the Superior Council of Magistracy (CSM) whose main attribute is the disciplinary action against judges and prosecutors, to the MoJ, the Government in fact proposed a control and pressure mechanism over the judicial power. This would have been a serious step back, bringing back the Judiciary under the sway of political command, like it was before 2004.

- *The appointment of the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, of the Chief prosecutor of the National Anticorruption Directorate and their deputies upon the proposal of the Minister of Justice, thus removing the President of Romania from the procedure. This proposal was in breach with the provisions of the Cooperation and Verification Mechanism, established by Decision 2006/928/CE of the European Commission, as of 13 December 2006. The benchmark 3 of the MCV ("Building on progress already made, continue to conduct professional, non-partisan investigations into allegations of high-level corruption") is detailed in a number of specific measures of which one is looking at "Ensuring the legal and institutional stability of the anti-corruption framework, in particular by maintaining the current nomination and revocation procedure for the General Prosecutor of Romania, the Chief Prosecutor of the National Anti-Corruption Directorate and other leading positions in the general prosecutor's office".*

III. Disregarding normal parliamentary procedures and democratic standards of transparency, the parliamentary majority adopts changes to the laws of the judiciary that have been assessed as a threat to the independence of the judiciary (December 2017)

- **September 2017 - Following weeks of protests** against the aforementioned proposed changes, which would have seriously undermined the independence of the prosecutors and would have opened the way to the replacement from office of the General Prosecutor and of the Chief prosecutor of the National Anticorruption Directorate by the minister of Justice, **the new Prime-Minister refuses to adopt the changes by government decree** (later, as a consequence, he was pushed to resign by a no-confidence vote of PSD Executive Committee);
- **The leaders of the PSD-ALDE coalition decide to transfer to the Parliament the proposals for amending the laws on the judiciary, but refuse to follow the normal procedures of parliamentary debates** (through several parliamentary committees in both chambers) and decide to set up an ad-hoc *Common Special Committee of the Chamber of Deputies and of the Senate on*
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INIȚIATIVA ROMÂNIA

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systemizing, unifying and ensuring legislative stability regarding the judiciary. The Special Committee is established at the end of September and was chaired by the former Minister of Justice of the January-February 2017 period, the main author of the emergency decree back then;

- **October 2017** – The minister of Justice hands in to the *Special Committee* the draft law (mentioned in chapter II), which proposed the changes to 3 laws regarding the judiciary (Law no. 303/2004 on the statute of judges and prosecutors, Law 304/2004 on judicial organization and Law 317/2004 on the Superior Council of Magistracy);
- **November 22, 2017** – The Special Committee begins the debates on amending the judiciary laws.
- **December 12, 2017** – The Special Committee finalizes the debates on amending the judiciary laws.
- **December 12 - 13, 2017** – The Chamber of Deputies votes for adopting the amendments.
- **December 18, 2017** – Hundreds of judges and prosecutors organize unprecedented protests in front of the courts' and prosecutor offices' buildings against the adoption of the amendments to the judiciary laws
- **December 20, 2017** – The Senate votes for adopting the amendments.
- **In less than a month, disregarding normal parliamentary procedures, democratic standards of transparency, public debate and participation in the decisions, the parliamentary majority adopted changes to the laws of the judiciary that have been publicly assessed as a threat to the independence of the judiciary, to the rule of law and to the fight against corruption by:**
 - **The Superior Council of Magistracy**, which issued a negative opinion on their adoption (<https://www.csm1909.ro/PageDetails.aspx?FolderId=4773>);
 - **The National Anticorruption Directorate** (<http://www.pna.ro/comunicat.xhtml?id=8474>);
 - **The General Prosecutor's Office attached to the High Court of Cassation and Justice** (http://www.mpublic.ro/ro/content/c_08-11-2017-12-11);



INIȚIATIVA ROMÂNIA

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- **The President of the High Court of Cassation and Justice** (<http://stirileprotv.ro/justitie/sefa-iccj-cere-parlamentului-ca-legile-justitiei-sa-fie-retrimise-la-mj.html>);
- **Judges and prosecutors** all over the country:
 - ✓ more than half of the Romanian magistrates (around 4000) sign a *Memorandum to withdraw the draft amendment to the “laws of justice”* in October 2017, addressed to the Romanian Government, following the refusal to take into account the negative opinion on the whole project issued by the Superior Council of Magistracy (<http://www.forumuljudecatorilor.ro/wp-content/uploads/Romanian-Judges-and-Prosecutors-against-Proposed-Changes-of-Laws-regarding-the-Judiciary-1.pdf>)
 - ✓ again, in December 2017, they sign an appeal to the Romanian Parliament to reject the bill amending the laws of justice (<http://www.forumuljudecatorilor.ro/index.php/archives/3002>);
- **Over 100 Romanian civic groups and NGOs** (<https://vedemjust.ro/index.php?p=societatea-civila-impotriva-modificarii-legilor-justitiei>);
- **The European Commission:**
 - ✓ *via* the Progress Report on the Cooperation and Verification Mechanism (https://ec.europa.eu/info/files/progress-report-romania-2017-com-2017-751_en) in November 2017;
 - ✓ again, *via* a joint statement of European Commission President Juncker and First Vice-President Timmermans (http://europa.eu/rapid/press-release_STATEMENT-18-423_en.htm) in January 2018.
- **The embassies of Belgium, Denmark, Finland, France, Germany, the Netherlands and Sweden** to Romania (<https://www.agerpres.ro/english/2017/12/21/embassies-of-seven-european-countries-in-romania-we-call-on-all-parties-involved-to-avoid-harming-independence-of-justice--26622>);
- **The US State Department** (<https://www.state.gov/r/pa/prs/ps/2017/11/275899.htm>).



INIȚIATIVA ROMÂNIA

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- **December 22, 2017** – The High Court of Cassation and Justice challenges the 3 laws at the Constitutional Court on grounds of their unconstitutionality.

IV. Main amendments to the judiciary laws and their consequences

- **The main amendments to the laws regarding the judiciary have 2 major effects:**

1) They open up the possibility of politically harassing magistrates, especially prosecutors, e.g.:

- The prosecutors' independence guarantees were eliminated from the law;
- The magistrates are obliged to go and answer in front of the parliamentary committees on the control of the secret services whenever the committees believe that a magistrate might be a collaborator of the secret services (without defining clear conditions and terms for their summoning in front of the parliamentary committee, the magistrates will be just harassed whenever the politicians want);
- The facultative right of the state to return with a regression action for the reparation of material damages in case of judicial error against the magistrate who generated the damages by his/her bad faith or severe negligence was transformed into an imperative obligation. It is clear that any state needs a mechanism for material and moral reparation in the case of a judicial error, especially in penal cases. However, this mechanism must not operate like an inhibiting element, it must not sow fear among the magistrates to propose or to pronounce penal and civil verdicts, because in case of error, or by extension, of acquittal or case dismissals, they will be submitted to pressure and to the inherent risks of a regression action. Moreover, severe negligence is a vague term that favours the harassment of prosecutors in acquittal cases or of first instance courts' magistrates, whose decisions are open to appeals or revisions.

2) They reopen the door to the political subordination of the judiciary, as before the EU accession, e.g.:

- *The solutions adopted by a prosecutor can be invalidated by the hierarchically senior prosecutor, when they are assessed as being illegal or **ungrounded**.* The present



INIȚIATIVA ROMÂNIA

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regulation provides for the possibility of invalidation only for reasons of illegality. The adopted new regulation will harm the independence of the prosecutors. This is a step back to the situation of the 90s and early 2000s, when the work of the prosecutors, especially in cases of corruption and organized crime, was often invalidated by their politically-influenced hierarchical seniors;

- *A new, separate structure for the penal prosecution of the magistrates, whatever the nature or seriousness of the deeds committed by judges and prosecutors, was created. At present, the magistrates who, due to political influence, commit offences in their line of service, or those who commit corruption crimes come under the sway of the National Anticorruption Directorate (DNA). This means that competencies from the DNA were removed, without any justification and in spite of the impressive results of the DNA, recognised as such by the European Commission. In fact, several judges were successfully indicted and arrested by the anticorruption prosecutors in the last years for receiving bribes in order to acquit politicians indicted in corruption cases. There is no other explanation for cutting down the DNA competencies than the obstruction of such investigations;*
- *The appointment of the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, of the Chief prosecutor of the National Anticorruption Directorate and their deputies upon the proposal of the Minister of Justice, partially removing the President of Romania from the procedure. The current procedure is as follows: 1) the minister of Justice proposes the chief prosecutors following a competitive selection procedure; 2) the Superior Council of Magistracy (CSM) gives a non-binding opinion upon the proposal; 3) the President of Romania appoints the chief prosecutors, following the proposal of the minister, the opinion of the CSM and his own assessment. This procedure was ensuring an equilibrium of the state actors, transparency and public debates, and guaranteed a high level of independence of the prosecutors.*

The new procedure *de facto* removes the President of Romania from the appointment procedure, as he/she will not be able to reject the minister's proposal more than once and no matter the opinion of the CSM. *Ipsa facto*, the only decision maker is the minister of Justice.

This proposal is in breach of the provisions of the Cooperation and Verification



INIȚIATIVA ROMÂNIA

Here. Now. Together.

Mechanism, established by Decision 2006/928/CE of the European Commission, as of 13 December 2006. The benchmark 3 of the MCV (“*Building on progress already made, continue to conduct professional, non- partisan investigations into allegations of high-level corruption*”) is detailed in a number of specific measures of which one is looking at “Ensuring the legal and institutional stability of the anti-corruption framework, in particular by maintaining the current nomination and revocation procedure for the General Prosecutor of Romania, the Chief Prosecutor of the National Anti-Corruption Directorate and other leading positions in the general prosecutor's office”.

- The President of Romania is entirely removed from the appointing procedure of the President of the High Court of Cassation and Justice. At the same time, new provisions in the law have made it more difficult for younger and more reformist judges be appointed as judges at the Supreme Court.
- All the aforementioned changes in the laws (and many others) will give the minister of Justice too much control over magistrates, will leave prosecutors vulnerable to political pressure, and will weaken one of the most important checks on the legislative branch’s powers—the President’s ability to veto the appointment of chief prosecutors;

V. New legislative proposals for amending the criminal codes are tabled in the Parliament, undermining the fight against corruption (December 2017)

- **December 2017 – In addition to the reform package on the judiciary, the Social-Democrat MPs have initiated a wave of legislative proposals for amending the criminal codes, including the code of criminal procedure, that will undermine the fight against corruption and rule of law in Romania, as well as any successful form of judicial cooperation among the member states for fighting corruption regarding EU funds, cross-border crime or even terrorism. Sentences for bribery will be lowered, corruption will be partially decriminalized, while normal investigative procedures across Europe will be deemed as unlawful in Romanian courts, according to these legislative initiatives.**
- Under the “most favourable law” principle, all changes to the Criminal Code, even if in force for a second, will still be applicable even if they are changed afterwards.



VI. Main amendments to the criminal codes that are currently proposed in the Parliament and their consequences

➤ **Examples of proposed changes to the criminal legislation:**

- Corruption was *de facto* abrogated by the following proposal: **“taking or giving bribes for another person” is no longer a crime. Therefore, it will go uninvestigated and unpunished.** Before the change, the text in the Criminal Code read that anyone who takes or gives a bribe for himself/herself or for another is guilty of “taking” or “giving” “bribe”.

Example: person A sends person B to take a bribe for him/her from person C and neither persons A and B, nor person C can be investigated, as this is not a crime any longer. Effect: all bribes will be given and taken through an intermediary and therefore corruption will fall outside the scope of the Criminal Code.

- **Images taken by cameras in banks, houses, parks, streets, subway, any place or private/public institution will not be used anymore as judicial evidence.** The head of the Murder Office on the National Police force was asked to resign by the minister of Interior after stating that this change would make it very difficult to investigate murder and other violent crimes;
- **Investigations will start only after a suspect is informed** that he/she is a suspect **and must be allowed to be present to all investigative activities** immediately after a complaint or a denouncement was tabled or investigations were triggered *ex officio*; otherwise all evidences are null and void. Effect: **surveillance measures** (authorized by Courts) **which imply confidentiality such as telephone tapping, recording and filming in public/private places, house/office search, computer search or flagrante delicto cannot take place any longer.** **Terrorism, corruption, money laundering, tax evasion, murder, any other crime could never be investigated.**
- **Any evidence of crimes obtained by computer searches that are not related to the crime the search warrant was released for will be destroyed and cannot be used for criminal prosecution.** Regarding this change in the law, the DNA stated: *"if we take a computer [in order to proceed to the computer search] and along with the documents and mails we are interested in, we also find video files with a murder or child pornography, we cannot do anything with these video files, on the contrary, we have to destroy them".*



INIȚIATIVA ROMÂNIA

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- **Perjury will be abrogated.** Effect: all witnesses can lie in any criminal, civil, commercial etc case. This makes it difficult, impossible even, to find out the truth, considering that the witnesses will know that they can lie with impunity. The first beneficiary is **the Senate's spokesman and chair of ALDE, Mr. Tariceanu, who is under trial for "perjury"**.
 - **A person under investigation will have the right to be present to all interviews taken to the victims or witnesses** from the very beginning of any investigation. Effect: a person charged for trafficking women or children will be present at the interview/hearing of the victims (e.g. the women and children trafficked). The chances to obtain accurate and complete testimonies from the victims are reduced dramatically, and the one accused for trafficking has all the chances to escape justice.
 - **Corruption, money laundering and tax evasion will be deleted from the article listing the crimes for which pre-trial arrest can be ordered by the courts.** Effect: all the suspects in cross-border crimes, but not only, can flee to third party countries, where European judicial cooperation cannot influence their extradition.
 - **A new amendment set the threshold for the crime of abuse of office to 200,000 EURO.** Effect: any act of abuse of office/power below this threshold is not a criminal offence and one can perpetrate more acts of abuse with a damage of 199,999 EURO and not be investigated and punished. The first beneficiary is **the Chamber of Deputies' spokesman and chair of PSD, Mr. Dragnea, who is under trial for "abuse of office"**.
 - **Those convicted and sentenced to maximum 3 years for giving/taking bribes cannot execute the conviction in prison, but only "at home"**.
- **December 14, 2017** – The National Anticorruption Directorate issues a press release describing the effects of the proposed amendments and warns that *"these amendments will have a devastating effect on the criminal investigations, since they eliminate the legal indispensable tools which the criminal investigation bodies use when they investigate crimes. [...] Therefore, the Directive (i.e. EU Directive 2016/343) is used only as a pretext to eliminate the capacity of the criminal investigation bodies to discover and prove the offences and the purpose of this amendment had no connection with the presumption of innocence."*
(<http://www.pna.ro/faces/comunicat.xhtml?id=8548>)



INIȚIATIVA ROMÂNIA

Here. Now. Together.

- **December 14, 2017** – The Prosecutors Office attached to the High Court of Cassation and Justice issues a press release warning also that the proposed changes will “*have negative consequences on criminal proceedings*” and “*are in contradiction with European standards in the matter*”. (http://mpublic.ro/en/content/c_14-12-2017-17-12)
- **December 14, 2017** - The Directorate for Investigating Organized Crime and Terrorism also issues a press release criticizing on the same grounds the changes to the Criminal Codes. (<http://www.diicot.ro/index.php/arhiva/2281-punct-de-vedere-14-12-2017>)

NEW DEVELOPMENTS in 2018:

The new judicial legislation was contested by the Opposition to the Constitutional Court of Romania, who admitted some of the objections raised and sent it back in the Parliament to be adjusted. The adjustments were completed in February and March 2018 in the same fast forward non-democratic way, and the laws were recently adopted in the amended forms; the Opposition announced it will address them again to the Constitutional Court.

However, **the worst is yet to come, as the PSD majority, under the leadership of Mr. Liviu Dragnea, is now preparing to start the modification of the Penal Code and the Penal Procedure Code and other related laws** so that the indirect amnesty envisaged by the Government Ordinance no. 13/2017 will be fulfilled. Furthermore, to create the idea these changes in the penal legislation are needed, the Mr. Dragnea's controlled Government and Ministry of Justice came with bizarre initiatives such as paying huge amounts as reparation to convicts serving their penalties in lesser jail conditions etc. Also, facing a new wave of street protests in the autumn and winter of 2017 and 2018, as well as stark criticism from NGOs, the Government started to work on pieces of legislation which would extend the powers of the riot police way beyond what is normal in a democratic society. Other PSD MPs close to Mr. Liviu Dragnea proposed a law inspired from the similar Russian law to control independent NGOs and which was severely criticized by the Venice Commission: “*It will have an intimidation effect on the civil society and violates the freedom of association and the right to privacy*”.

Also, we witness from **Mr. Liviu Dragnea and from his associates a more and more vocal appeal to the so-called illiberal democracy, more and more criticism toward the European Union and to the United States of America. The US Ambassador to Romania, Mr. Hans Klemm, was**



INIȚIATIVA ROMÂNIA
Here. Now. Together.

repeatedly ignored and even verbally attacked by Mr. Liviu Dragnea, while communications of the State Department, which publicly urged the majority coalition in Romania to cease the changes to the judiciary laws, were rejected.

The events of the past year and a half indicate that **Mr. Liviu Dragnea and his actions are an immediate danger to democracy, rule of law and independence of the judiciary in Romania, as well as to the US interests in Romania**, which should remain and consolidate as a stable, democratic, predictable and loyal strategic partner, close to key conflict areas such as Syria and Ukraine, and fully involved in operations in Afghanistan (previously in Iraq too). Also, Romania is hosting the Deveselu strategic antimissile shield and another growing US military base in Mihail Kogălniceanu.

Mr. Liviu Dragnea is clearly not the sole culprit, but he is the leader of this group within the PSD who, to save themselves from the judicial consequences of their own corruption and abuse of power, are ready to lead Romania back in the darker historical past and in muddier waters of the international politics. And his deeds now and before, in 2012, fell perfectly under the provisions of Section 4 of Proclamation 7750/2004: *For purposes of this proclamation, "serious adverse effects on the national interests of the United States" means serious adverse effects on (...) the stability of democratic institutions and nations.*

Therefore, **we think in good faith that it is in the best interest of our countries to suspend Mr. Dragnea's visa to the US, as a clear statement that Romania should remain on its democratic path and the Romania-US friendship and partnership is built on common democratic values and on rule of law standards.** In consideration of this we respectfully ask you to exercise your powers as defined in Section 6 of the Proclamation 7750/2004 and suspend indefinitely the right of Mr. Liviu Dragnea to enter the territory of the United States, including the US Embassy in Bucharest and other institutions in Romania who are seen by international treaties as US soil.

We are looking forward to receiving your answer.

Yours truly,

Elena Ghioc

President of Inițiativa România