

N^o 135/06.06.2023

To:

Ursula von der Leyen
President of the European Commission
ursula.von-der-leyen@ec.europa.eu

Didier Reynders
Commissioner for Justice
didier.reynders@ec.europa.eu

Dear President of the European Commission,
Dear Commissioner for Justice,

The undersigned associations,

The Romanian Magistrates' Association (AMR), a non-governmental, apolitical, national and professional organization of judges and prosecutors, declared “of public utility” by Government’s Decision No. 530 on 21 May 2008, email: amr@asociatia-magistratilor.ro, member of the International Association of Judges (IAJ-UIM) and of the European Association of Judges (EAJ-AEM) since 1994, represented by Judge Andreea Ciucă, PhD, as President,

The National Union of Romanian Judges (UNJR), email: office@unjr.ro, member of the Association of European Magistrates for Democracy and Freedom – MEDEL, represented by Judge Dana Gîrbovan, as President,

The Association of Judges for the Defense of Human Rights (AJADO), a non-governmental, apolitical and professional organization of judges, email: contact@ajado.ro, represented by Judge Florica Roman, as President,

The Romanian Public Prosecutors' Association (APR), a non-governmental, apolitical, national and professional organization of prosecutors, email: apr@mpublic.ro, represented by prosecutor Elena Iordache (ret.), as President,

send the following

legislation on judicial reform", and to take the opinion of the body of magistrates seriously into consideration.

In the November 2017 report of the European Commission on the CVM, it reiterated and emphasized the idea that "the capacity of the Government and the Parliament to ensure an open, transparent, and constructive legislative process regarding the laws of justice will be essential".

However, the law of magistrates' service pensions is an integral part of their status and is precisely regulated by the laws of justice.

It is unacceptable and outrageous that now the European Commission not only endorses but actively participates in hidden negotiations with political parties regarding the status of magistrates.

We demand that the European Commission takes full responsibility for the disastrous situation in which the judicial system currently finds itself, facing a severe human resources crisis, and immediately halt this so-called "reform".

Any substantial modification to the status of magistrates should be made under conditions of stability in the system, especially when it comes to human resources, the stability, and attractiveness of a judicial career.

Currently, however, **the justice system is facing the most severe and prolonged personnel crisis since Romania joined the European Union.** In the past five years, there has been a true exodus of magistrates, coupled with a noticeable decrease in the number of well-prepared law graduates willing to enter the judicial system.

The reason for this unprecedented crisis is precisely the instability of the magistrates' status, including the perpetual threat of abolishing the service pension, and the blow dealt now with the support and direct initiative of the European Commission will throw the judiciary into chaos.

We remind the European Commission that there are already 1,129 vacant judge positions, and the courts are operating with a severe deficit of personnel, with the additional workload being taken on by active judges. The situation is equally grave in the prosecution offices, where the deficit of prosecutors is 861.

At the same time, interest in a judicial career has consistently declined in recent years. For example, in 2022, out of 580 positions offered to be filled, 141 remained unfilled, even

though the required admission grade to become a magistrate dropped to a six out of ten from eight out of ten in the recent years.

The negotiations conducted by the European Commission with the Romanian Government ignores the Romanian State's interest in having a strong judiciary and respected magistrates, as evidenced by its disregard for the unanimous opinions and arguments expressed by Romanian judges through the General Assemblies held at all courts in Romania in November 2022.

These resolutions unanimously requested that any increase in the retirement age be implemented under conditions of stability, without affecting serving judges, and be correlated with improvements in workload and working conditions.

The amendments made at the request of the European Commission not only ignore the will of the entire body of magistrates, but defy it by establishing rules that grossly violate requirements imposed, including by CJEU case law, regarding predictability (a judge who would have met the retirement conditions in one year will now only be able to do so in ten years, for example), equal treatment (a judge with the same seniority in the judicial profession will not be able to retire under the same conditions as a colleague with the same length of service but older), as well as European standards regarding the calculation method of the retirement conditions.

Even worse, the action of the European Commission puts the system in a situation where it will have to function in the coming years with a decimated body of exhausted and discouraged magistrates, with no hope that the younger generations of legal professionals will be tempted to join the system.

Invoking the National Recovery and Resilience Plan (PNRR) as justification for such so-called reforms is unacceptable.

The status of judges and prosecutors is regulated by the Romanian Constitution, organic laws, and international standards. A politically negotiated agreement between the European Commission and different Romanian political parties can never override these legal norms, and conditioning the allocation of funds to countries at the expense of compromising the independence and well-functioning of the judiciary system is outrageous.

The actions of the European Commission have led to unanimous protests within the courts. On May 30, 2023, the courts firmly rejected the proposed modifications to the draft law on service pensions. Furthermore, some courts have already initiated protests, and the majority of courts have announced that they will also resort to all legal forms of protest if these amendments are not withdrawn.

