

Dear Mrs. Dogioiu!

Here, my responses already:

1. Do you think that the independence of a prosecutor, whose activity is directly subordinate to the authority of the minister of justice, who is, by definition, a politician and a member of a political government, can be safely guaranteed?

Operational independence of prosecutors is one of the most important preconditions for their objective and impartial work. Activities of all international organisations dealing with the work of prosecutors are mainly directed to ensuring that independence. Direct subordination of prosecutors to the political figure is a clear breach of that principle, which can have serious consequences for the position of the country in international organisations.

2. The fact that a chief-prosecutor can be appointed or revoked exclusively as a result of the will of a minister of justice, without any regard to what the President of Romania or the Higher Council of Magistrates have to say, is a threat to the independence of the judiciary or not?

First of all, such a solution changes the system, which enabled Romania to be seen one of the most successful countries fighting high-level corruption. Romania has been seen as a model for many countries struggling with prosecutorial and judicial independence. Current decision of the Constitutional Court clearly runs against the balance of powers in your country and against that independence. I cannot avoid the impression that this decision is an intentional one since we saw similar strange interference of some other Balkan constitutional courts in the fight against corruption in the last years already.

3. What is your opinion of the fact that 600 magistrates, prosecutors as well as judges, have signed a joint statement demanding respect for the independence of justice, of European standards and of the treaties that Romania is part of in the area of justice? Do you perceive it as a cry for help?

Your magistrates, prosecutors and judges are much too professional and too proud to cry for help. They have simply taken the position, which is in line with all international standards and clarified to everybody that they are aware of what is going on and that they will not return back to old times, when the politics was telling them what to do and how to do it. And international community will support them in that.

4. What is your assessment of the activity of the DNA in the fight against corruption?

DNA is one of the success stories in the fight against corruption in the world. Its functioning and results are being taught to generations of students across the globe in order to show them how a professional prosecutorial authority can make a change and bring the country from the stone age of corruption to internationally recognised anti-corruption results and standards.

5. Are the changes planned by the current governing coalition with respect to the laws of justice, the status of prosecutors and penal legislation threatening the struggle against corruption?

I don't know enough about those changes to comment them.

6. The minister of justice thinks that the recommendations of GRECO, which include the lessening of the role played by the minister and an increase in the role of the Higher Council of Magistrates with regard to the appointment of senior prosecutors, as well as the elimination of recent changes in the laws governing the functioning of the judiciary, which GRECO views as harmful to the independence of the judiciary, are actually optional and that GRECO experts' professional standards are unsatisfactory. What is your comment on minister Toader's position?

It is interesting to observe what politicians are willing to say to defend their actions, which are breaching international standards and common sense. In principle, it is very simple: current government of Romania does not want the fight against high-level corruption - as personalised by the DNA - to go on and they are doing everything to find an excuse for that. They are making a terrible mistake: people of Romania have proven already that they know what is going on and they will do it again.

My colleagues at GRECO do not need my defence but there is something I have to say: your Minister of Justice will soon learn that he is terribly wrong and obviously he will have to learn it in a hard way. I just feel sorry that image of the whole country will suffer due to his bad-tempered statements. And let us not forget: it is not only GRECO, who expects Romania to guarantee prosecutorial and judicial independence but other international organisations, too.

7. What is your view on the results obtained by the DNA in fighting corruption in Romania?

Answer to this question is already given above (see No. 4).

8. Are acquittals necessarily to be interpreted as evidence of unjust repression tactics against the accused?

Absolutely not! Acquittals are normal part of every normal judicial procedure in every normal country. I would not like to live in a country where prosecution would have 100% success rate (meaning that all their indictments would end with a conviction) because that would mean that the country does not need courts.

Having significant experience with the fight against corruption in the world I can say, that using the argumentation, which you mention, is a very common tactics of perpetrators of corruption and their allies, being afraid that one day themselves will have to face the justice, too. I only hope people in Romania are not buying that interpretation since international community does not buy it, for fure.

All the best,

Drago Kos