

The Minister of Justice in Romania  
Strada Apolodor 17  
Bucureşti 030167  
Romania

24 January 2018

The case of Mr Robert Rosu

Dear Minister,

We have seen compelling evidence in the form of transcripts of public statements made by officials of the Anti-Corruption Directorate (DNA), naming Mr Rosu and declaring that he was guilty of certain crimes, in clear breach of the presumption of innocence in general and of Article 6 of the ECHR in particular (*Alenet de Ribemont v France*, 10 February 1995, § 41).

This breach was compounded by pictures we have seen of Mr Rosu being paraded before television cameras, his face fully visible, in handcuffs and with a restraining hand on his shoulder, whilst being taken to a place of detention, in clear breach of the ECHR [*Fatullayev v Azerbaijan*, 28 October 2004, §§ 159-163, *Popovi v Bulgaria*, 9 June 2016, §§ 96-100 and now forbidden by Article 5 of Directive (EU) 2016/343 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings].

As regards substantive matters, we are aware that Mr Rosu has, along with others, been charged with a) setting up a criminal group, b) trafficking in influence, c) complicity in abuse of office and d) complicity in money laundering and that the trial is ongoing.

Whilst the courts will decide the case, the mere fact that Mr Rosu is on trial gives cause for concern. The charges against Mr Rosu's co-accused may or may not be justified, but it seems to us that the facts described in the charges against Mr Rosu do not amount to criminal behaviour, but on the contrary correspond to the provision of legal services in fulfilment of his client mandate.

In other words it appears that legitimate acts performed by Mr Rosu on the basis of his client mandate have been confused with criminal activities in circumstances where Mr Rosu at no time acted beyond his duties and at all times acted within his rights and competence as a lawyer. We note that in its ruling of 11 March 2016 the High Court of Cassation and Justice ended Mr Rosu's detention for precisely this reason.

It does, therefore, appear that in prosecuting Mr Rosu, Romania is in violation of the rules and principles governing legal practice and in particular Recommendation N° R (2000)21 of the Committee of Ministers to member States on the freedom of exercise of the profession and the United Nations Basic Principles on the Role of Lawyers.

We urge Romania to ensure that in Mr Rosu's case the following principles are observed and if they have not been observed hitherto to take the necessary remedial steps:

1. Principle 1.6 of Recommendation N° R (2000)21 which proclaims that all necessary measures *“should be taken to ensure the respect of the confidentiality of the lawyer-client relationship (...)”*;
2. Principle 16 of the United Nations Basic Principles which provides that *“Governments shall ensure that lawyers*
  - (a) *are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference;*
  1. (b) (...)
  - (c) *shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics;”*
3. Principle 18 of the Basic Principles which provides that lawyers *“shall not be identified with their clients or their clients' causes as a result of discharging their functions”,* and
4. Principle 20 of the Basic Principles which provides that lawyers *“shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority”.*

Finally, we respectfully point out that if these rules and principles are not respected then legal practice in Romania will become extremely hazardous, which will jeopardise citizens' rights, the rule of law and ultimately the democratic nature of the country.

Yours faithfully,



Scott Crosby  
Avocat

Chairman Human Rights Committee



RA Holger Matt  
Rechtsanwalt

President of the ECBA