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Coverage of the Romanian magistrates' protests in the international press:

judge Veronica Sîrbu,
Bucharest 4th District First Instance Court

*Freedom is a pretty strange thing.
Once you've experienced it,
it remains in your heart,
and no one can take it away.
Then, as an individual,
you can be more powerful
than a whole country.
Ai Weiwei*

Romania, December 2017. Exactly a week before Christmas, hundreds of Romanian judges, prosecutors, and trainee magistrates silently protested in front of their institutions, holding their robes or the Constitution, but most of them showing printed versions of the common oath they took when sworn into office at the beginning of their career:

"I swear to obey the Constitution and the laws of the country, to defend the fundamental rights and liberties of people, to fulfill my duties with honour, conscience, and without prejudice. So help me God!"

In essence, the protests came after the Parliament adopted the so-called "justice laws", consisting in substantial changes in the three main laws affecting the organization and the statute of the judiciary without taking into consideration the firm opposition of more than half of the judiciary. Moreover, the silent protests concerned the announced changes in the criminal codes which would dramatically limit the investigation powers of police and prosecutors, as well as the possibility to protect the victims and identify criminals, no matter the nature of the crime (murder, theft, rape, corruption etc.).

Bucharest, Cluj, Constanța, Timișoara, Iași, Galați, Craiova, Pitești, Brașov, Bacău, Baia Mare, Suceava, Botoșani, Brăila, Satu Mare, Oradea, Călărași, Miercurea Ciuc, Zalău, Slatina, Târgoviște, Târgu Mureș, Tulcea, Piatra Neamț. These are the main cities where magistrates protested against the actions of the Parliament.

During and after these protests, there were some voices in the news that challenged our right to protest, saying that the law forbids magistrates to protest in any way.

This text sets forth to prove that not only *can* magistrates protest, but also that there are causes and situations where their very oath *calls* on them to do so.

To begin with, aiming to settle the first issue, whether the law actually forbids any form of protest, we must say that the law only forbids *political* reunions by magistrates, not *any sort* of public reunion and gathering. Therefore, art. 9 from the Statute of Judges and Prosecutors states that judges and prosecutors cannot be members of political parties, nor carry out or

participate in political activities, being also forbidden to publicly state or in any way show their political preferences.

What is essential in understanding the prohibition of political activities, but not any type of public activity (e.g. silent public protest), is the distinction between “*politics*” and “*policies*”.

Politics, defined very simply as the activity concerning governance, is - without a doubt - beyond the scope of a magistrate’s activity, falling under the interdiction stated above. Ironically, the changes made in the laws allow a magistrate to be a member of the executive branch (Government) and then resume his or her position as a magistrate. Although this is not the purpose of this short paper, it is worth mentioning that the most vocal critics of the magistrates’ right to protest voted that magistrates can be ministers in the Government; in simpler words, they are saying magistrates cannot criticize laws now, but they can pass laws in the future.

Policies, on the other hand, explained very shortly as a course of principle of action adopted or proposed by an organization or individual, should be debated, discussed, and - if the case - protested against by all the stakeholders involved by the policies.

Romanian magistrates did not protest against a political party or another (an activity strictly forbidden without a doubt), but against public policies adopted in the field of justice, affecting them directly as main stakeholders, along with each and every citizen or resident of the country.

Therefore, the question is not whether they *can*, but rather why and when magistrates absolutely *should* protest.

Judges and prosecutors are merely instruments; not instruments for a group of people, be it the majority or the minority of the population, serving fleeting material interests, but rather instruments serving constant values and principles of justice that guard the safety of a society as a whole, no matter the passing political and economical trends.

Magistrates are an instrument in serving justice and thus should be independent from any political influence. The independence of the judiciary is not a privilege of judges and prosecutors, but a fundamental right of every person. Art. 6 of The European Convention of Human Rights states that everyone is entitled to a fair trial by an independent court.

People should rise and speak up when magistrates - as a legal instrument - are threatened with political control, just as a surgeon should rebel if its knife - as a medical instrument - would be used to harm rather than heal.

Just as teachers should rise and speak up if they would be forced to teach children propaganda rather than science, art, and languages.

Just as policemen should resist if they would be forced to serve and protect their superiors and not the people.

It is not for magistrates to criticize politicians, only the members of a society can sanction or reward the behaviour of a politician, through the vote of the majority. However, this is not the

case here, as the distinction between politics and policies has clearly proven it - our protest is not aimed at politicians, but at the policies they proposed and adopted.

When basic rule of law principles, such as the independence of the judiciary and the separation of powers, are constantly threatened, it is a duty for magistrates to send a warning, no matter the political affiliation of the ones initiating the threat. It is a duty for magistrates and every citizen to take a firm and constant stand against policies that harm the very structure of a democratic republic.

Lex iniusta non est lex - unjust law is not law. Romanian magistrates, similar to most around the world, pledged loyalty to the Law and not its makers.

judge Veronica Sîrbu,
Bucharest 4th District First Instance Court

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Coverage of the Romanian magistrates' protests in the international press:

[Euronews](#): *Hundreds of Romanian judges and magistrates have taken part in protests in front of Bucharest's main courts.*

They turned out to show their opposition to government imposed changes to the country's legal system which are currently going through parliament.

They claim they will hamper prosecutions and restrict Romania's ability to punish high-level corruption.

[Washington Post](#): *Hundreds of Romanian judges and prosecutors took part in protests around the country Monday to show their opposition to legal changes they say would hamper prosecutions.*

The first demonstrations were held outside courts in the capital, Bucharest, and other cities that included Cluj, Timisoara, Galati, Brasov and Constanta.

The unusual judicial display continued in the evening with a silent protest outside the Bucharest Court of Appeal and outside a court in the central city of Brasov. Many of the participants held papers printed with the oath new judges take vowing to respect Romania's Constitution and laws.

[Voice of America](#): *Hundreds of Romanian judges and prosecutors took part in protests around the country Monday to show their opposition to legal changes they say would hamper prosecutions.*

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In Cluj, people gave flowers to judges and applauded them outside court, where they held their robes in their arms to symbolize the difficulties they'd have in doing their jobs properly if the amendments, some of which Parliament approved last week, became law.

[Citizen Tribune](#): *Hundreds of Romanian judges and prosecutors took part in protests around the country Monday to show their opposition to legal changes they say would hamper prosecutions.*

[Norwich Bulletin](#): *Among the proposed changes are a move to ban public statements about investigations and trials, and another to limit the use of video and audio recordings. A further proposal would allow suspects to be present when witnesses are giving testimony.*

Prosecutors say that could mean the victim of a pedophile being obliged to give evidence in front of their perpetrator.

One agency charged with prosecuting organized crime and terrorism said last week that 1,200 drug trafficking cases would be halted if the amendments became law.

[Ouest-france.fr](#): *Après la Pologne, la Roumanie adopte jeudi à son tour une réforme de la Justice qui fait débat, même au sommet de l'État. L'indépendance des magistrats et la lutte contre la corruption pourraient être remises en cause. Le gouvernement social-démocrate parle d'un rééquilibrage des pouvoirs.*

[Dailycapital \(Pakistan\)](#): video.

[Foxnews](#): *On Monday, hundreds of judges and prosecutors staged demonstrations outside courts in the capital, Bucharest, and other cities.*

Among other proposed changes are a move to ban public statements about investigations and trials.

[Maroc-diplomatique.net](#): *Les magistrats roumains ont exprimé, dans un communiqué, leur mécontentement suite à l'adoption la semaine dernière par la Chambre basse du Parlement, dominée par les sociaux-démocrates au pouvoir, de projets de lois visant à réformer la justice, en dépit de l'avis négatif émis par le Conseil supérieur de la magistrature.*

Ces textes qui doivent encore être adoptés par le Sénat, ont été approuvés malgré les critiques de l'opposition qui voit dans ces mesures une mise en péril de la lutte contre la corruption.

[WSBTv](#): *In a joint statement, prosecutors in Constanta said the proposals "don't just hamper the anti-corruption fight, but (also) the fight against all crime."*

[Philippine Times](#): *On Monday, hundreds of judges and prosecutors staged demonstrations outside courts in the capital, Bucharest, and other cities.*

Among other proposed changes are a move to ban public statements about investigations and trials.

[RFI](#): *Le Parlement social-démocrate roumain a définitivement approuvé ce jeudi 21 décembre une réforme judiciaire décriée dans le pays et à l'étranger. Le président craint des sanctions européennes, à l'instar de la Pologne.*

[San Francisco Chronicle](#): *Centenares de jueces y fiscales rumanos protestaron el lunes en todo el país contra cambios jurídicos que ellos dicen obstaculizarán los enjuiciamientos.*

Las primeras protestas se realizaron en las afueras de tribunales en la capital, Bucarest, y otras ciudades, incluyendo Cluj, Timisoara, Galati, Brasov y Constanza.

[Angop.ao \(Angola\)](#): *Dans un communiqué, les magistrats ont exprimé leur mécontentement après l'adoption par les députés de projets de lois visant à réformer la justice alors même que le Conseil supérieur de la magistrature avait émis un avis négatif à leur sujet. Ces projets de loi, qui doivent encore être adoptés par le Sénat, font notamment craindre une réduction de l'indépendance des magistrats et une restriction des prérogatives du Parquet anticorruption (DNA), compromettant l'efficacité de la lutte contre ce fléau.*

[chron.com](#): *The unusual judicial display continued in the evening with a silent protest outside the Bucharest Court of Appeal and outside a court in the central city of Brasov. Many of the participants held papers printed with the oath new judges take vowing to respect Romania's Constitution and laws.*

[venturabroadcasting.com](#): *Hundreds stood on the steps of Bucharest's main courts to condemn legal changes which they say could hamper anti-corruption cases.*

[chieftain.com](#): *Hundreds of Romanian judges and prosecutors took part in protests around the country Monday to show their opposition to legal changes they say would hamper prosecutions.*

The first demonstrations were held outside courts in the capital, Bucharest, and other cities that included Cluj, Timisoara, Galati, Brasov and Constanta.

[Deutsche Welle](#): *Unos 500 magistrados de varias instancias y fiscalías de Rumanía se manifestaron este lunes (18.12.2017) en las escaleras de la Corte de Apelación de Bucarest contra los proyectos de modificación de las leyes de Justicia y las iniciativas para cambiar el código penal.*

[philstar.com](#): *Hundreds of Romanian judges and prosecutors staged protests around the country on yesterday over planned modifications to the legal system they say will hamper prosecutions.*

The demonstrations were held outside courts in cities including the capital, Bucharest, Cluj, Galati, Brasov and Constanta.

In the city of Cluj, people gave flowers to judges and applauded them outside court, where they held their robes in their arms to symbolize the difficulties they'd have in doing their jobs properly if the amendments, some of which Parliament approved last week, became law.

In a joint statement, prosecutors in Constanta said the proposals "don't just hamper the anti-corruption fight, but (also) the fight against all crime."

[tampabay.com](#): *Hundreds of Romanian judges and prosecutors took part in protests around the country Monday to show their opposition to legal changes they say would hamper prosecutions.*

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record-eagle.com: *Hundreds of Romanian judges and prosecutors took part in protests around the country Monday to show their opposition to legal changes they say would hamper prosecutions.*

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youm7.com (Egypt):

نظم العشرات من القضاة وأعضاء النيابة العامة في رومانيا اليوم الثلاثاء احتجاجا مناوئا لنواب البرلمان الذين يمررون قوانين يقول المتظاهرون إنها تعرقل النظام القانوني للبلاد.

وذكرت شبكة "إيه بي سي نيوز" الأمريكية أن مسئولين قضائيين تجمعوا اليوم أمام المحكمة الرئيسية بمدينة كونستانتسا الواقعة على البحر الأسود. وصرح عضو النيابة العامة فيوريل جابرييل تيليسيونو بأن القوانين المقترحة لن ترهب زملاءه، قائلا "لسنا خائفين.. فنحن لم نعد نعيش في عصر الشيوعية".

ووافق نواب البرلمان اليوم على تعديل قانوني يلزم الدولة بالمطالبة بتعويضات من القضاة وأعضاء النيابة حالة وقوعهم في خطأ في الأحكام بسوء نية أو نتيجة الإهمال الجسيم. وكان المئات من القضاة وأعضاء النيابة قد نظموا أمس الاثنين تظاهرات أمام المحاكم بالعاصمة بوخارست ومدن أخرى.

يذكر أن عشرات الآلاف من الرومانيين تظاهروا - في وقت سابق - في العاصمة بوخارست احتجاجا على مشروع قانون جديد للسلطة القضائية يتقدم به الحزب الاشتراكي الديمقراطي الحاكم يتضمن تعديلات من ضمنها منع إصدار التصريحات العلنية عن التحقيقات والمحاکمات

[Politika \(Serbia\)](http://Politika (Serbia)): *Прве демонстрације су одржане испред судова у Букурешту, Клужу, Темишвару, Гالاتи, Брашову, Констанци и другим градовима.*

Тужиоци у Констанци су рекли да предлози измена закона „не ометају само борбу против корупције већ и борбу против криминала”.

Међу предлозима су забрана изјава о истрагама у суђењима и ограничавање употребе видео и аудио технологије, као и дозвољавање да оптужени буде присутан док сведоци дају исказе.

Једна агенција задужена за кривично гоњење организованог криминала саопштила је прошле недеље да би у случају усвајања амандмана 1.200 случајева за трговину дрогом било заустављено.

wpxi.com: *Hundreds of Romanian judges and prosecutors took part in protests around the country Monday to show their opposition to legal changes they say would hamper prosecutions.*

[Ynetnews \(Israel\)](#): בהפגנות (יום ב') אתמול השתתפו ותובעים השתתפו אתמול (יום ב') בהפגנות יצאו מאולמות הדיונים לרחובות: מאות שופטים ותובעים השתתפו אתמול (יום ב') בהפגנות ברחבי רומניה כדי להביע את התנגדותם לשינויים שמבצעת הממשלה המקומית במערכת המשפט, וטענו לשינויים אלה יעכבו תביעות.

עוד חדשות מעניינות מהעולם בדף הפייסבוק של דסק החוץ

ההפגנות הראשונות נערכו מחוץ לבתי משפט בבירה בוקרשט, ובערים אחרות, בהן קלוז', טימישוארה, גלאטי, בראשוב וקונסטנצה.

[BusinessReview.eu](#): *Bucharest judge: 'When democracy and fundamental freedoms are in jeopardy, the judge's duty to be reserved becomes subsidiary to the obligation to be indignant'*.

Selection of online reviews and press articles made by
Dragoş Călin, judge, Bucharest Court of Appeal

