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Klaus Iohannis
President of Romania
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August 22, 2018

Dear President Iohannis:

I am writing to express my concerns about continuing damage to the rule of law in Romania being done under the guise of "effective law enforcement." This damage directly and negatively affects the flow of foreign direct investment in Romania, because no rational investor would invest assets in a place where the rule of law and the legal system are subject to manipulation by those in power.

Prior to my election as the Mayor of New York City, I served as a high-ranking official in the United States Justice Department, including as the leader of its pre-eminent prosecuting office in New York City. Over many years as a prosecutor, I personally investigated and prosecuted, or led the prosecution, of a large number of public corruption schemes, resulting in the convictions of numerous public officials.

Since the fall of Nicolae Ceausescu in 1989, Romania has made important strides toward enforcement of laws in accordance with due process and the rule of law. Those strides, however, have been severely undermined by the excesses of Romania's National Anti-corruption Directorate ("DNA") under its former Chief, Laura Codruța Kovesi, including: intimidation of judges, defense lawyers, and witnesses; unconstitutional phone tapping; forced confessions; and, unfair judicial processes.

In addition to the DNA's excesses made in the name of "law enforcement," we have been saddened to learn over the past few months about the existence of "secret protocols" that various public institutions have signed with the Romanian Intelligence Service ("SRI"). They include secret protocols with: Romania's High Court of Cassation and Justice; the Prosecutor's Office Attached to the High Court of Cassation and Justice; and, the Superior Council of Magistracy. Signatories to the secret protocols include: Laura Codruța Kovesi on behalf of the Prosecutor's Office Attached to the High Court of Cassation and Justice; and, George-Cristian Maior, currently serving as Romania's Ambassador to the United States, on behalf of the SRI.

I recognize and understand the importance of vigorously fighting corruption. To that end, I encourage Romania to reaffirm its commitment to investigate and prosecute corruption fairly, transparently, and in accordance with the rule of law. An amnesty should be given to those who have been prosecuted and convicted through the excesses of the DNA since the implementation of the secret protocols, including many innocent people who have been sent to jail. I also urge the Government of Romania to establish an independent commission of international judges and legal experts, to examine the origins of the secret protocols and their impact on the General Prosecutor's Office and judges across Romania. Based on the results of its work, the independent commission could make specific recommendations to strengthen the rule of law in Romania and reform Romania's penal code in order to prevent the recurrence of such excesses.

The Government of Romania must also ensure that judges are not intimidated by the DNA or the SRI. Accordingly, there is a need to identify the hundreds of open DNA files on judges -- as described recently by a Deputy Chief of the DNA -- to determine the names of the judges, the allegations and origins of allegations against them, and the timeline and duration of the files. Finally, offices of professional responsibility should be established for the General Prosecutor's Office, the DNA, the SRI, and any other office as recommended by the independent commission, to set proper standards of conduct and accountability, as well as to investigate complaints against them.

Romania must make clear that it remains committed to due process, transparency, and the rule of law. This will require a correction of the many abuses of the DNA and the SRI and should include an amnesty for suspect prosecutions and convictions. Such a commitment to the rule of law will also improve investors' outlook towards investing in Romania's future.

Respectfully,



Rudolph W. Giulianii, Esq.