

**Decision of the Section for Prosecutors no.1030/ 09.11.2021 relevant for the
independence/autonomy of prosecutors - extracts**

„ (...) Therefore, no person, authority or entity has the right to act in such a way as to create the unequivocal appearance of directing the judicial act towards a certain solution, other than the one that should be established by the magistrate, based on the law, the evidence administered, and in accordance to his/her conscience. Otherwise, it would induce to the public and the litigants the idea that the solution is determined by certain fears due to pressures, threats or interventions. (...)

The right to freedom of expression is also not an absolute one, as it is subject to certain restrictions, in the event that the use of freedom of expression is directed against values that the State can legitimately defend, such as the authority and impartiality of magistrates. (...)

Thus, although the legitimate concern of the representatives of the civil society within the Superior Council of Magistracy is admitted, in order to contribute to the debate on the functioning of justice, the Section for Prosecutors considers that the remarks made, without supporting evidence, have very serious connotations, and the use of inappropriate expressions, related to the entire professional body of prosecutors, such as "we see that there are prosecutors in the system who line up either on the right or on the left, in view of a potential appointment", go beyond the limits of admissible criticisms and are obviously elements that could affect the authority that prosecutors should enjoy in the exercise of their office, by accrediting the idea that prosecution is subject to political purposes or personal interests and that prosecutors in leading positions interfere with the attributions of prosecutors occupying executive positions outside the legal framework. (...)

Moreover, the Section for Prosecutors finds that the allegations of Mr. Victor Alistar that, in the fight against corruption, the cases have been selected at political level, even if they are strictly his personal opinion, are of a particular gravity. However, taking into account his membership of the Council, the Section considers that, given the fact that within the Report on the Cooperation and Verification Mechanism and the Report on the Rule of Law, published by the European Commission, no such anomalies have been identified in the functioning of the judicial bodies and in the activities related to the fight against corruption, the above statements are unacceptable and affect the independence and impartiality of prosecutors within the Public Ministry, especially those investigating corruption cases. "