

WITNESS STATEMENT

(Criminal Procedure Rules, r16.2 (1); Criminal Justice Act 1967, s.9;
Extradition Act 2003, s.205)

Statement of: Catalin Breazu

Office Address: 52A Ion Brezoianu Street, ap. 4, Sector 1, Bucharest, Romania

Age if under 18: Over 18

Occupation: Lawyer

This statement, consisting of five (5) pages, each signed by me, is true to the best of my knowledge and belief and I am aware that if it is introduced in evidence, then it would be an offence for me to have wilfully stated anything that I know to be false or did not believe to be true.

Signed: _____

Date: _____



02.11.2017

Background

1. I was one of the legal counsel instructed by Grigore Dan Adamescu (“**Mr Adamescu**”) in relation to the Romanian criminal proceedings brought against him. I acted for Mr Adamescu from 9 February 2016 until his death on 24 January 2017. However, I was in contact with Mr Adamescu since 2014, because I defended two of the four judges in the same criminal case where Mr Adamescu was accused of giving bribes. I therefore know this case well.
2. After I have graduated in Law from University of Constanta in 2006, I also graduated in Master in Law of the Sea at Maritime University from Constanta in 2007. In 2007 I was admitted as a member of Bucharest Bar. From 2007 to 2010 I was an Associate Lawyer at Stanculescu & Associates. From 2010 to 2014 I was a Managing Associate at Musetescu & Associates. Since 2015 I have been Managing Partner at Musetescu & Associates.
3. I am a practitioner in criminal law (particularly white-collar crime), representing judges facing corruption accusations; politicians (Parliament members, Ministers of Government, former members of EU Parliament) or business people in various criminal law cases, in areas such as corruption (bribery, trading in influence, abuse of office, European funds), tax evasion and money laundering, as well as financial and fiscal frauds concerning banking and finance, public acquisitions and IT.
4. In my 10 years of experience, I have worked especially in cases against the National Anticorruption Directorate (DNA) and against the Directorate for Investigating Organized Crime and Terrorism (DIDCOT), and as well in front of the Criminal Law Courts (including the Courts of Bucharest, Constanta, Prahova, Buzau, Dolj, Cluj, Ilfov, Mures, Craiova, Pitesti, Timisoara, Ploiesti, Targu-Mures) as well as the High Court of Cassation and Justice.

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5. I make this statement in response to the letter no. 17718/DM/20.01.2017/5681, issued by the National Administration of Penitentiaries (“the NAP letter”) and provide my opinions as to certain features of the prosecutions of Mr Adamescu and his son, Alexander Adamescu. I understand that the NAP letter has been served by the Romanian authorities in the extradition proceedings concerning Mr Adamescu’s son, Alexander Adamescu. I can only comment on those aspects of the NAP letter which are within my own knowledge and which arise from my representation of Mr Adamescu and what he told me directly.
6. In relation to the comments in the NAP letter about Mr Adamescu’s need for a wheelchair in 2014 during the period he was detained in Rahova Penitentiary, I recall that, from my own interaction with Mr Adamescu at this time, he was walking with increasing difficulty and could not walk up a flight of stairs. In the High Court of Cassation and Justice where the measure of his arrest was discussed, I recall that Mr Adamescu testified that he had climbed the basement stairs towards the court room on what he described as “all fours”, and also I recall that his clothes were dirty from the stairs. It seems to me that he was morally affected by this, he was humiliated, and from what I recall he was complaining to the judge about this situation.
7. In relation to the comments in the NAP letter about water and hygiene in Rahova Penitentiary, I recall that, as Mr Adamescu was not eligible for work, he was only entitled to a short schedule of hot water. Mr Adamescu told me that the hot water ran for two hours per week, and also that sometimes it was only warm (not hot) water. It is probable that the NAP considers the warm water as hot water.
8. In relation to the comments in the NAP letter about food given to inmates, Mr Adamescu told me that he could not eat the food offered by Rahova Penitentiary. He told me that he did not have any kind of dietary regime established by Rahova Penitentiary, although such a recommendation existed in his medical records. Mr. Adamescu was complaining to me about this situation and he was upset that the Penitentiary was not providing any edible food and that at the same time he was not allowed to receive everything he needed from outside. In my experience, very few inmates submit written requests contesting the quality of food or indeed the detention conditions in general, most of them having the belief that any such request is pointless.
9. In terms of medication taken by Mr Adamescu, I am aware of the medication request made by Mr Adamescu with registered no. 7745/S2/23.07.2014 (which is referred to in the NAP Letter). Whilst this was approved by the director of the prison management unit, Mr Adamescu told me that this medication only arrived after three weeks. I recall Mr Adamescu telling me about this wait. I also recall that he complained to the Court about this wait. At page no. 5 fifth paragraph (Romanian version) of the decision dated 29 August 2014 of the High Court of Cassation and Justice, the lawyer of Mr Adamescu told the Court that “his medication was insufficient in custody”, and at page no. 7 third paragraph “that in custody are not allowed medications unless they are approved by the commander, and during approval he is forced to stay without drugs”. This confirms what Mr Adamescu told me, that he stayed a long period without receiving this medication.
10. In terms of the knee prosthesis for Mr Adamescu, I am aware of the request no. 6591/17.07.2014, which is referred to in the NAP Letter. The NAP Letter quotes from

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the discharge notes from Monza Hospital, which specified that *"the patient's non-compliance with the recommended low sodium diet, hyperglycaemia"*, as the reason why the reason the knee surgery could not be performed. However, my understanding from Mr Adamescu was that the hyperglycaemia was caused by the inability of Rahova Penitentiary to ensure an adequate dietary regime for him (see paragraph 8 above). Monza Hospital refused to treat him because he was in very bad physical condition and they refused to do the surgery within two weeks. The authorities were expecting Monza to operate on him within one week and after another week maximum to transfer him back to jail, and they were not patient to keep him in hospital for longer than that. So he was transferred back to Rahova before the operation could be done in Monza.

11. At the beginning of September 2017 Mr Adamescu was transferred to Floreasca Emergency Hospital, in a very bad condition, and unconscious. After this, the authorities were more patient with him and he was transferred to Ponderas Hospital at the end of September 2016, when the doctors treated him for more than a month so that he could be ready for an operation. The Penitentiary approved his transfer to Ponderas Hospital because he was very sick and they were afraid that he would die in prison (a doctor from Penitentiary told Mr Adamescu that *"we are afraid that you will die here because you are a very sick man."*)
12. In relation to the checkups which Mr Adamescu received on 12 and 13 September 2016, my understanding was that the surgical intervention on 13 September 2016 consisted of an incision, without local anesthetic, of an abscess caused by an infection. I understand from Mr Adamescu that he lost consciousness during this procedure due to the pain. This surgical intervention also proved to be unsuccessful.
13. In relation to Mr Adamescu's refusal on 23 September 2016 to be hospitalized in Bucharest Rahova Hospital Penitentiary, my understanding was that this was done on account of the failed surgical intervention referred to in paragraph above, an episode that almost cost him his life. His refusal was also on account of the lack of medical equipment in Rahova Hospital Penitentiary, which was proven with the lack of local anesthetic in his previous operation. Mr. Adamescu told me that these were his reasons why he refused to be hospitalized.
14. I exhibit as my **Exhibit CB/1** an English translation of a statement dated 7 February 2017 given by Constanze Eugene-Calinescu, sister of Mr Adamescu, in which she explains her understanding of the circumstances of Mr Adamescu's death. This statement was served in Romanian proceedings opened following the death of Mr Adamescu in custody. In Romanian law, it is a standard procedure, when an inmate dies in custody, that the Penitentiary notifies the prosecutor to verify the circumstances of death. As part of this procedure the sister of Mr Adamescu gave this statement in front of the prosecutor.
15. Having spent significant amount of time in pre-trial and trial detention and under house arrest, Mr Adamescu was eligible for early release under Romanian law on 20 October 2016. I prepared the application for early release. The first step of the procedure is a resolution of a penitentiary commission, which is then discussed in front of a judge from the first competent court, and then, if is appealed, the judgment is reanalyzed by another judge from a higher court.

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16. In the case of Mr. Adamescu, the penitentiary committee rejected the request for release, arguing with extreme inaccuracy and with no interest in analyzing in concrete terms the situation of the detainee : *"four months postponed / there is no evidence of rectification, insufficient time to achieve the purpose of punishment."* There is a total lack of analysis of the merits of the defendant's application, and the solution was totally contrary to the facts mentioned in Mr Adamescu's characterization by the penitentiary itself. Mr Adamescu's characterization was indeed positive and would have justified his early release.
17. As a result of the negative resolution of Jilava Penitentiary, I appealed to the Court of The Fourth District of Bucharest on 24 October 2016. The hearing was held on 23 November 2016. I asked the Judge to find that the conditions for Mr Adamescu's conditional release were met, but the Judge also rejected the request. He argued that the detainee had participated in only 10 educational programs and had to do more efforts to be rewarded ignoring that Mr Adamescu was immobilized in bed and that it was impossible for him to participate in any activities and educational programs. In this sense, the judge recommended to Mr Adamescu that until 19.02.2017, he had to "reflect on his behavior and make efforts to justify his release, and to participate in educational and cultural prison activities and to step up efforts to reintegrate into society". Mr Adamescu was actually fighting to stay alive, and the judge asked him to step up his efforts and participate in more programs in order to obtain an early release. The judgment is an utter contradiction. It was nothing else than a cruel condemnation to death for Mr Adamescu and I said in front of the Court that Mr. Adamescu was sentenced to jail and not to death.
18. There were medical records in front of the Judge, and Mr Adamescu was hospitalized at the time of the judgment of the conditional release. Although the court accepted the fact that the health of Mr Adamescu is very poor, the Judge explicitly dismissed this as a reason to release Mr Adamescu.
19. The prosecutor, the DNA, vehemently opposed a conditional release during the hearing on 23 November 2016, even pointing out that Mr Adamescu was not so sick, having been just undergone a knee operation. The prosecutor suggested in court that Mr Adamescu is feigning illness to obtain an early release.
20. I appealed the judgment. The upper court hearing was held on December 21, 2016. The upper court upheld the first instance solution and copy-pasted its arguments and contradictory judgment. Shortly thereafter Mr Adamescu entered in a coma. He passed away on 24 January 2017.
21. I would like to mention that one of the other defendants convicted in the criminal trial, Ms Elena Roventa, was in a very similar situation as Mr Adamescu: convicted on the same date, in the same file, also over 60 years old, convicted to 4 years and six months (two more than Mr Adamescu), but was released on December 19, 2016, only two days after Mr Adamescu's request was definitively rejected.
22. My personal opinion is that any other person, without Mr Adamescu's notoriety and political background, would not have been in his situation, he would have been released.

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23. I would now like to consider the judgment by Judge Mirancea who recently decided to send Mr Adamescu to trial in the abuse of office proceedings, 9 months after his passing.
24. My opinion is that the judge should have decided the cessation of the criminal proceedings, given the existence of a cause of impediment to criminal liability. It is a nonsense to judge a deceased person in a criminal trial. As far as I know, there is no similar case. By ruling in such a way, the judge violated the right of the defendant, even if he died, to have a fair trial. The judge decided in the preliminary chamber procedure on the lawfulness of the evidence administered before the prosecutor and the regularity of the court case, without Mr. Adamescu being able to challenge it. He thus breached a fundamental principle of the contradictory nature of the criminal process.
25. His judgment will be discussed before the High Court of Cassation and Justice.
26. I would now like to consider the question of the possibility of a fair trial for Alexander Adamescu. The criminal file in which Alexander Adamescu is prosecuted will be tried on the basis of the same evidence on which his father, Mr Adamescu, was charged and convicted.
27. In Mr Adamescu's trial, Mr Onute's witness statement was considered enough in itself to lead to a heavy sentence of four years and four months for Mr Adamescu. Given that Mr Onute also declared that Alexander Adamescu knew and ordered the bribes to the judges, and that his statement was deemed sufficient to lead to a sentence of conviction for his father, I consider that Alexander Adamescu's trial can't have any other result than his conviction for the same accusations for which Mr Adamescu was convicted.
28. I would like to make clear that in criminal trials in Romania, there's no jury. A single judge or a panel of judges takes the decisions based on the evidence presented by the parties.
29. Mr Onute has made a part of his statements in front of a Romanian court in Mr Adamescu's case but they all concern Alexander Adamescu as well. This means that the moment Alexander Adamescu will be tried, all evidence on which the DNA indictment is based, has already been heard by a court. I therefore consider that Alexander Adamescu will necessarily be convicted by a Romanian court.
30. Alexander Adamescu won't be able to prove his innocence because the evidence against him was already considered by a court in Mr Adamescu's case.. The court in Alexander Adamescu's case will feel itself bound by the findings in the case of his father, and won't be disposed to reach any other conclusion on guilt.
31. I hence think that Alexander Adamescu will not be given a fair trial.
32. Given the recent practice of Romanian courts, I deem that in the case of an extradition of Alexander Adamescu to Romania, he will be held in pre-trial detention until the end of his trial. Again, the courts have already accepted the DNA theory that Alexander Adamescu is a fugitive from justice and will treat him accordingly.

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