LCRM – Legal Resources Centre from Moldova

PUBLIC CALL Influences on the Constitutional Court and judges' acceptance of such influences are inadmissible

Gribincea Vladislav · Monday, April 13th, 2020

Civil society organizations are deeply worried about the discussions the Moldovan President has had with the President of the Constitutional Court about a case examined by the Constitutional Court. We are also concerned about the Constitutional Court's President attempts to justify himself to the president of the country and voicing his opinion about the case before the issue of the Court's decision. Such actions seriously tarnish the image of the Constitutional Court. We call on the Plenum of the Constitutional Court to take a stance on this situation and to adopt appropriate measures to prevent such situations in the future. We also call on the President of the Republic of Moldova, Igor DODON, to stop interfering in the work of the High Court.

On 2 April 2020, the Government of the Republic of Moldova took the responsibility for passing Law No.56 on the measures to support citizens and entrepreneurship during the lockdown and to amend certain normative acts. Several MPs addressed the Constitutional Court on that fact (applications 49a/2020, 51a/2020, 52a/2020, and 53a/2020). They challenged, inter alia, the constitutionality of the provisions of the law regarding the change of the budgetary and fiscal policy by introducing a new mechanism for calculation of local taxes on the extraction of mineral resources, the extension of concessions on sale of tobacco products, and the change of the way of levying excise duties in the duty-free shops. On 9 April 2020, the Constitutional Court suspended the effects of the entire Law No. 56. On 9 April 2020, the Constitutional Court admitted the applications, scheduling the examination on the merits for today, 13 April 2020, and ruled against the entire Law No.56.

On 10 April 2020, the Moldovan president declared during a talk show (time stamp 03:02) that he had discussed the details of the Court's decision of 9 April 2020 with the President of the Constitutional Court, Vladimir ?URCAN. President Igor DODON said that he had asked the President of the Constitutional Court for details on this case and the latter answered that four constitutional court judges had voted for that decision, while he had had a dissenting opinion and expressed his arguments supporting the constitutionality of the contested law. The text of the 9 April 2020 decision does not mention how the constitutional court judges voted or whether there was a dissenting opinion. At the beginning of today's meeting, speaking about public reactions related to 9 April 2020 decision, the President of the Constitutional Court said that he had recused himself from examining the aforementioned applications. The Court plenum had admitted the recusal of Judge Vladimir ?URCAN, and the examination had taken place in his absence.

It is regrettable that the President of the Republic of Moldova, Igor DODON, uses the powers provided for in the Constitution to discuss ongoing cases with the President of the Constitutional Court and the latter consents to inform the Moldovan president about their progress and finds excuses for actions taken. Such actions, compounded by suspicions regarding the political appointment of some judges of the Constitutional Court, are against legal provisions and dent the image and confidence in the work of the Constitutional Court. In all democracies, communication between constitutional court judges and parties or other stakeholders about pending cases is inadmissible and represents an interference in the work of the constitutional court. Moreover, in the Republic of Moldova, ordinary judges who have such a behavior risk even being dismissed.

The signatory organizations urge:

1. the President of the Republic of Moldova to stop any actions undermining the independence of the Constitutional Court and any interference in the High Court's activity;
2. the Plenum of the Constitutional Court to take a stance on this situation and adopt appropriate measures to prevent similar situations in the future.

Signatory organizations:

- Legal Resources Centre from Moldova (LRCM)
- Institute for European Policies and Reforms (IPRE)
- Promo-LEX Association
- The WatchDog.MD Community
- Transparency International Moldova (TI Moldova)
- Center for Policies and Reforms (CPR)
- The Association for Participatory Democracy ADEPT
- Association for Efficient and Responsible Governance (AGER)
- Oral History Institute of Moldova (IIOM)

The public call in English is avalaible **HERE.**

The public call in Romanian is available **HERE**.

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