

LCRM – Legal Resources Centre from Moldova

PUBLIC STATEMENT: Politicians must halt intimidation of judges

Gribincea Vladislav · Monday, May 4th, 2020

The signatory organizations express their deep concern regarding the attacks launched by politicians against the Constitutional Court and the judiciary and urge to end them immediately. We ask the Office of the Prosecutor General to investigate *ex-officio*, expeditiously and diligently the suspicions concerning the surveillance of the Constitutional Court judges and to provide public details regarding the undertaken actions. We also urge mass-media to report on the judiciary in an impartial manner respecting ethical norms. We urge the development partners to monitor closely the current situation around the Constitutional Court and attacks on judges.

In recent weeks, the President of the country, Igor DODON and some MP's from the governing parties have made several public statements that could be considered attacks against the Constitutional Court and the judiciary.

A. Attacks against judges of the Constitutional Court

The pressure exerted on judges of the Constitutional Court was revealed by a MP from the opposition on 25 April 2020. According to him, the constitutional judges were visually oversight by two state institutions. On 28 April 2020, the Office of the Prosecutor General stated in a press release that it had not started any criminal proceedings and had not authorized special investigative measures regarding the judges of the Constitutional Court. It is also mentioned in the press release that the MP will be invited to the prosecutor's office to present the evidence and get explanations about the responsibility for the false or slanderous denunciation. The press release seems to be rather an intimidation of the MP, who publicly revealed the information about the surveillance of judges, than the concern for investigation of the raised facts. On 29 April 2020, the Chairperson of the Legal Committee for Appointments and Immunities of the Parliament requested the Superior Council of Magistracy (SCM) to launch disciplinary proceedings against and sanction three judges of the Constitutional Court. The application referred to the disclosure of the way the former President of the Constitutional Court was elected in August 2019. On 30 April 2020, the President of the Constitutional Court stated that four judges of the Constitutional Court suspect that they were surveilled and that they would request the prosecutors to investigate these suspicions.

It seems that the pressure on the judges is determined by the Constitutional Court examination of the constitutionality of the loan agreement with the Russian Federation, suspended by the Court on 23 April 2020. Moreover, the pressures seem to have been fuelled by the dismissal of the former

MP from the Party of Socialists, Mr. Vladimir ȚURCAN, from the position of the President of the Constitutional Court on 23 April 2020. The dismissal took place following his discussion with the President Igor DODON regarding the decision to suspend the loan agreement. Shortly after Mr. Țurcan dismissal, a leading representative of the Party of Socialists declared that the „Plahotniuc-Țor Group” had regained control over the Constitutional Court, and the parliamentary opposition was involved in this reshuffle. In the following days, the media affiliated with the governing alliance published biased articles on the integrity of the new President of the Constitutional Court. On 28 April 2020, the Constitutional Court issued a press release denouncing the media attacks against it. On 4 May 2020, the Plenary of the Constitutional Court notified the Office of the Prosecutor General regarding the statements for the press of some public persons and the alleged shadowing and intimidation against some judges of the Court.

B. Attacks against other judges

Members of the Government used offensive remarks expressions against judges. According to these statements, the judges are a “corrupt gang” that uses the system to obtain privileged retirement benefits and high salaries. The attacks on the judiciary have intensified after the adoption on 18 February 2020 of the decision by the ECtHR in the “Gemenii” case, according to which the Government was obliged to pay damages of over EUR 3.6 million. On 20 February 2020, the Prime Minister Ion CHICU asked the Minister of Finance to initiate the procedure of reducing the budget of the judiciary by MDL 70 million. On 23 April 2020, the Law on the State Budget was amended, reducing the budget of the judiciary by that amount. However, so far no recourse actions have been initiated against the judges involved in the “Gemenii” case. On the contrary, the process of changing recourse action against judges liable for ECtHR judgments was launched, unjustifiably insinuating that the current legislation does not allow claiming for compensation from judges who have violated the law in bad faith.

In a recent interview, the former interim Chairperson of the SCM, Dorel MUSTEA??, stated that politicians put pressures on him to resign, by launching a criminal case against his brother. Mr. Mustea?? declared that pressure was also exerted on other members of the SCM and that they would have been suggested to resign from office.

Attacks or intimidation of judges cannot be accepted. Judges must be independent. This is one of the main guarantees of the rule of law, respect for the rights and safety of citizens, as well as social equity. The best sign of the independence of judges is that they do not take decisions to the likes of the politicians. The best example of a dependent judiciary in democracies in the making is the lack of decisions unfavourable to the country’s leadership and praising of judges and prosecutors by politicians.

In a fragile democracy, even public attacks by politicians are enough to discourage judges. This does not mean that judges cannot be criticized for their behaviour, but the criticism need to be done with discretion, based on reliable information and in good faith. Orchestrated campaigns to discredit judges cannot be accepted under any circumstances.

The Republic of Moldova does not have a political tradition of respecting the independence of judges. Politicians often attack the judiciary either through statements or by other measures or try to compromise the independence of the judiciary. The SCM and the Constitutional Court must act in their defence, and prosecutors must investigate ex officio and thoroughly any attempt to shadow or intimidate judges or prosecutors.

The signatory organizations urge:

1. **Politicians – to cease the attacks on the Constitutional Court and the judiciary;**
2. **The Office of the Prosecutor General – to investigate *ex-officio*, thoroughly and promptly the suspicions concerning the surveillance of the Constitutional Court judges and to provide public details regarding the undertaken actions;**
3. **Mass-media – to report impartially and in good faith on the situation in the justice sector, including on the activity of the Constitutional Court;**
4. **Development partners – to monitor closely the current situation around the Constitutional Court, as well as the attacks of politicians and actions or inactions of law enforcement institutions against judges and prosecutors.**

Signatory organizations:

1. Legal Resources Centre from Moldova (LRCM),
2. Institute for European Policy and Reforms (IEPR),
3. Amnesty International Moldova (AIM),
4. WatchDog Community,
5. Association for Participatory Democracy “ADEPT”,
6. Promo-LEX Association,
7. East Europe Foundation,
8. Institute for Public Policy (IPP),
9. Centre for Policies and Reforms (CPR),
10. Soros Foundation-Moldova,
11. Association for Efficient and Responsible Governance (AGER).

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