

LCRM – Legal Resources Centre from Moldova

The non-transparent appointment of three judges to the Constitutional Court undermines public trust and confidence in the independence of the constitutional court

Natalia Țeremet · Monday, December 17th, 2018

The civil society organisations are deeply worried about the totally non-transparent way of appointing the latest three judges to the Constitutional Court by the Superior Council of Magistracy, the Government, and the Parliament. The consecutive and sudden early resignations, as well as the hasty, secret, and politically charged appointments denote the disregard for the importance of the High Court and deepens public distrust in its independence.

The Constitutional Court is formed of six judges. Within three days, two judges of the Constitutional Court, Igor DOLEA and Victor POPA, suddenly and secretly submitted their resignations, even though their terms had not expired yet. At the same time, within four days, from 11 through 14 December 2018, the Superior Council of Magistracy (SCM), the Government, and the Parliament appointed three new judges to the Constitutional Court.

On 11 December 2018, the SCM appointed Corneliu GURIN as a judge of the Constitutional Court. According to the SCM's press release following its meeting on 11 December, the SCM took this decision in response to the request of the Chief Judge of the Constitutional Court regarding the resignation of Mr. Igor DOLEA from judicial office at the Constitutional Court and asking the SCM to appoint another judge to this institution. This topic was absent both in the agenda of the SCM meeting, supposed to be published 3 days before the meeting, and in the additional agenda. Contrary to previous practice, when the Court announced resignations the same day, neither the Constitutional Court, nor the SCM published any information about Mr. Igor DOLEA's resignation on their websites. Judge Igor DOLEA's term expires on 12 February 2019. He resigned on 10 December 2018, two months before the end of his term. The following day, the SCM examined the request of the Constitutional Court's Chief Judge regarding the vacancy of the judicial office and the appointment of a new judge. The SCM had not announced any competition for appointing a new judge. Corneliu GURIN acknowledged that he had decided to apply at the invitation of the Chairman and some members of the SCM. Mr. Corneliu GURIN's candidacy was the only one examined by the SCM. The latest three constitutional judges appointed by the SCM had been identified on a competitive basis (for details, see SCM Decision No. 130/6 of 12 February 2013 on the appointment of Judges Tudor PANĂRĂ and Igor DOLEA and Decision No. 117/7 of 6 March 2018 on the appointment of Judge Mihai POALELUNGI).

The following day, 12 December 2018, the Government appointed Artur REȚETNICOV as a judge

of the Constitutional Court. Just as with the appointment of Corneliu GURIN by the SCM, this topic did not figure on the agenda of the Government's meeting. It is worth noting that this office had been vacant since March 2018, when the current Justice minister Victoria IFTODI resigned from it due to her appointment as minister.

On 14 December 2018, with 54 votes, the Parliament appointed Raisa APOLSCHII, Parliament deputy from the Democratic Party and chair of the parliamentary Legal Committee for Appointments and immunities, as a judge to the Constitutional Court. As of 14 December 2018, the websites of the 2 Constitutional Court and the Parliament did not contain any public information about the vacancy of the office of constitutional judge from the Parliament.

Corneliu GURIN, Artur RE?ETNICOV, and Raisa APOLSCHII were appointed as constitutional judges for a six-year term in an unprecedented hurry and with disregard for any appointment procedure. There were no explanations of the nine-month vacancy of a position at the Constitutional Court and of the sudden appointment of Mr. RE?ETNICOV by the Government, without a competition. The resignation of Judges Igor DOLEA and Victor POPA, immediately followed by the unexpected appointment of Mr. Corneliu GURIN by the SCM and Ms. Raisa APOLSCHII by the Parliament, also raises doubts as to the possible hidden interests behind these appointments.

The signatory organisations deeply regret the sudden and non-transparent way of resignation of Constitutional Judges Igor DOLEA and Victor POPA and also disagree with the way the SCM, the Government, and the Parliament appointed Constitutional Judges Corneliu GURIN, Artur RE?ETNICOV, and Raisa APOLSCHII, respectively. Such a way of appointing judges to an institution as important for the democracy and the rule of law as the Constitutional Court and its seemingly politicization are incompatible with the requirements of a functioning democracy. Moreover, this is a regression in comparison with previous practices of appointing constitutional judges.

The signatory organisations call on the Superior Council of Magistracy, the Government, and the Parliament to develop transparent and merit-based procedures for the appointment of judges to the Constitutional Court.

[The English declaration is available here.](#)

[The Romanian declaration is available here.](#)

SIGNATORIES:

1. Legal Resources Center from Moldova (LRCM)
2. Institute for European Policies and Reforms (IPRE)
3. East European Foundation (EEF)
4. Institute for Public Policy (IPP)
5. CPR-Moldova
6. Association for Efficient and Responsible Governance (AGER)
7. Transparency-International Moldova
8. Promo-LEX Association
9. WatchDog.md
10. Independent Journalism Center (IJC)
11. Center "Partnership for Development"

12. Institute for Strategic Initiatives (IPIS)
13. Association of Independent Press (API)
14. Centre for Investigative Journalism (CIJ)
15. Amnesty International Moldova
16. IDIS "Viitorul"

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