LCRM – Legal Resources Centre from Moldova

International Commission of Jurists concerned of the constitutional crisis in Moldova

Natalia ?eremet · Wednesday, June 12th, 2019

The International Commission of Jurists (ICJ) today expressed concern at recent developments in Moldova which are effectively paralyzing governance in the country.

During the past week, the Constitutional Court has ordered the dissolution of Parliament, suspended its functioning and invalidated its subsequent acts, including the appointment of a government and speaker, and has triggered the removal of the President.

The ICJ is particularly concerned at the excessively swift procedure through which the Constitutional Court reached its decisions to dissolve Parliament, remove a sitting President of the Republic and replace him with the Prime Minister. The ICJ calls attention to the unhelpful timing of the Constitutional Court ruling that was issued on the very day it identified as the end of the Parliamentary term, depriving Parliament of the clarity needed to exercise its powers.

These developments occur against the background of the manifest deficiencies in the institutional independence of the Moldova judiciary which were documented in a recent ICJ report.

In the report issued in March 2019, the ICJ highlighted the problematic appointment in 2018 of three judges of the Constitutional Court in circumstances that did not ensure a sufficient level of transparency, during an electoral campaign and without an open competition process. The report noted that the three appointed judges have previously been Prosecutor General, director of the intelligence service and chair of the legal committee of Parliament, part of the then ruling political majority.

The ICJ welcomes the announcement by the Secretary General of the Council of Europe that the Venice Commission has been asked to issue an urgent opinion on the constitutional crisis.

“The rule of law is the common ground on which constitutional conflicts must be solved”, said Massimo Frigo, Senior Legal Adviser of the Europe Programme of the ICJ. “We call on all institutions and parties in Moldova to seek a solution that squarely complies with the rule of law and the international law and standards to which Moldova has subscribed. In this regard, we urge all parties concerned to wait for the opinion by the Council of Europe Venice Commission in this matter and to reconsider the situation in light of its findings.”

Background

The Constitutional Court, in decisions issued on 7, 8 and 9 June 2019, held that Parliament should be dissolved for having been unable to establish a government within three months of the end of the previous Government's term of office.

The decisions triggered the removal from office of the President of the Republic, Igor Dodon, for having refused to dissolve Parliament. This led to the interim appointment of Pavel Filip, as acting President of the Republic.

The Court also declared unconstitutional and void any act issued by Parliament after 7 June.

Neither Parliament nor President Dodon have accepted the decisions of the Constitutional Court on their removal or on the validity of their acts, nor do they consider as legitimate the appointment of Pavel Filip as acting President.

Parliamentary factions constituting the current majority in Parliament had reached a deal to form a coalition government and appointed a speaker and Prime Minister.

According to the Constitutional Court's interpretation of article 85 of the Constitution, these agreements failed to respect the three-month deadline.

Others have put forward different interpretations of when the deadline of the three months period to appoint a Government would elapse, and of the obligation of the President of the Republic to dissolve Parliament.

Article 85 of the Constitution states:

(1) In the event of impossibility to form the Government or in case of blocking up the procedure of adopting the laws for a period of three months, the President of the Republic of Moldova, following consultations with parliamentary fractions, may dissolve the Parliament.

(2) The Parliament may be dissolved, if it has not accepted the vote of confidence for setting up of the new Government within 45 days following the first request and only upon declining at least two requests of investiture.

(3) The Parliament may be dissolved only once in the course of one year.

(4) The Parliament may not be dissolved within the last six months of the term of office of the President of the Republic of Moldova nor during a state of emergency, martial law or war.

See original press release here

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