LCRM – Legal Resources Centre from Moldova

Societatea civil? cere modificarea urgent? a Constitu?iei cu privire la alegerea Procurorului General

paik · Friday, November 4th, 2016

The signatory organizations request the Parliament to amend, as a matter of utmost urgency, the Constitution of the Republic of Moldova with the view to allow the appointment of the Prosecutor General under the procedure established by the new Law on Prosecution Service.

At the beginning of 2016, the reform of the prosecution service represented one of the major outstanding unfulfilled commitments undertaken by the Republic of Moldova towards the European Union and the Council of Europe. The current government declared its intention to adopt the necessary legislation to reform the prosecution system and ensure its independence.

On 25 February 2016, the Parliament, with a quasi-constitutional majority, adopted a new Law on Prosecution Service. The new law, which came into force on 1 August 2016, provides that the Prosecutor General is appointed by the President of the Republic of Moldova, at the proposal of the Superior Council of Prosecutors, for a term of 7 years.

According to the current version of Art. 125 of the Moldovan Constitution, the Prosecutor General is appointed by the Parliament, following the proposal submitted by its Speaker, for a term of 5 years. Throughout the elaboration of the draft Law on Prosecution Service, it was generally agreed that the current procedure for appointing the Prosecutor General does not guarantee the independence of the prosecution service and Art. 125 of the Constitution is to be amended so as to ensure the appointment of the Prosecutor General by the President of the Republic of Moldova, at the proposal of the Superior Council of Prosecutors.

The working group in charge with reforming the legal framework of the prosecution service prepared a draft law amending the Constitution in full compliance with the concept of the new Law on Prosecution Service. The Government asked the Constitutional Court’s opinion on the draft law. On 19 April 2016, the Constitutional Court gave a positive opinion on the draft law. The draft was registered in the Parliament on 3 May 2016.

According to Art. 143 of the Constitution, the Parliament has the right to pass a law on amending the Constitution at least 6 months after the initiative was registered. Starting today, 4 November 2016, the Parliament may adopt the draft law amending the Art. 125 of the Constitution.

We urge the Parliament of the Republic of Moldova to urgently adopt the above-mentioned draft amendment to the Constitution, so that the new Prosecutor General to be selected by the Superior

Council of Prosecutors and appointed by the President of the Republic of Moldova. It should be recalled that on 22 September 2016, the Superior Council of Prosecutors launched a contest to select the new Prosecutor General, which is to be completed by the end of this year.

It is crucial to make this appointment according to the new procedure. It will strengthen the independence of the prosecution service and will ensure the society and development partners that the current government takes effective measures to guarantee the independence of prosecutors. Any hesitation in adopting this amendment to the Constitution risks to be interpreted by the society as an attempt to maintain political control over the prosecution service.

Moreover, the failure to adopt the draft amendment to the Constitution may lead to confusion on the tenure of the to be appointed Prosecutor General.

The appeal is available here.

Signatories:

1. Legal Resources Centre from Moldova (LRCM),
2. Institute for European Policies and Reforms (IPRE),
3. Center “Partnership for Development”,
4. National Environment Center,
5. Association of Independent Press (API),
6. Transparency International-Moldova,
7. Women’s Law Center (WLC),
8. EcoContact,
9. Est-European Foundation,
10. Women’s Association for the Environment Protection and Sustainable Development,
11. Human Rights Embassy,
12. Amnesty International-Moldova,
13. Association for Efficient and Responsible Governance (AGER)
14. Foundation for Advancement of Moldova,
15. Institute for Development and Social Initiatives (IDIS) “Viitorul”,
16. Small Business Association,
17. GENDERDOC-M Information Centre,
18. CHILD RIGHTS INFORMATION CENTER,
19. Association Promo-LEX,
20. Institute for Public Policy (IPP),
21. Foreign Policy Association (APE),
22. Association for Participatory Democracy (ADEPT),
23. Resources Centre DIALOG-Pro,
24. Justice Program, Soros Foundation – Moldova,
25. Association of Professional and Business Women from Moldova,
26. Expert-Grup,
27. Olga Bîtc?, project coordinator, Resource Center for Human Rights,
28. Institute for Urban Development,
29. La Strada, Moldova,
30. Investigative Journalism Center of Moldova,
31. Rehabilitation Centre for Torture Victims “Memoria”.

The list of signatories remains open.

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