LCRM – Legal Resources Centre from Moldova

Parliament's refusal to appoint Viorica Puica to the SCJ contravenes the law and undermines the efforts to build an independent and professional judiciary

Gribincea Vladislav · Thursday, March 18th, 2021

On 12 March 2021, nine months after the nomination by the Superior Council of Magistracy (SCM), the parliamentary majority rejected the appointment of Viorica PUICA as judge at the Supreme Court of Justice (SCJ). Ms. PUICA was rejected without a hearing before the MPs and without any concrete reason. This rejection contravenes the law and undermines the efforts to build an independent and professional justice in the Republic of Moldova. We call on the SCM to put forward Ms. Puica's candidacy for judgeship at the SCJ in Parliament repeatedly.

On 9 June 2020, the SCM nominated Judge Viorica PUICA for promotion to the SCJ. Judge Puica won the contest for this position where she competed with other five candidates. The SCM's decision to promote her was based on the results of the professional performance review, the review of her previous professional experience, and the candidates' performance at the interview before the SCM. Ms. PUICA's nomination was supported by the majority of the SCM members. None of the SCM members had a dissenting opinion against her nomination.

On 15 July 2020, the Parliamentary Committee for Legal Matters, Appointments, and Immunities (the Legal Committee) rejected the appointment of Judge PUICA to the SCJ with a majority of votes of the MPs from the Party of Socialists of the Republic of Moldova (PSRM). The report of the Legal Committee failed to provide any reasoning and only mentioned lack of the necessary number of votes from Committee members. The Committee members had not held a hearing of the judge despite it being a customary practice for the Legal Committee so far and had not discussed her professional qualifications. The discussion of Viorica PUICA's nomination in a plenary session of Parliament was scheduled for 16 and 20 July 2020, but this subject was excluded from the agenda on both occasions. On 22 July 2020, 15 civil society organizations issued a public call requesting Parliament not to breach the law and to vote for the appointment of Ms. Puica as Supreme Court justice as soon as possible.

On 12 March 2021 (nine months after the approval of the report of the Legal Committee), the parliamentary majority PSRM-Pentru Moldova (the ?or Party) voted against the appointment of Ms. PUICA as Supreme Court judge. The examination of Viorica PUICA's nomination at the 12 March 2021 plenary session of Parliament (timestamp: 8:43:24) was limited to the reading of the draft decision and report of the Legal Committee. Once again, Parliament did not invite the judge for a hearing.

Parliament's agenda for 12 March 2021 included the appointment of Tamara CHI?CA-DONEVA (Civil Chamber) and Nadejda TOMA (Criminal Chamber) as vice chief justices of the SCJ and Ghenadie PL?M?DEAL?, Nicolae ?OVA, Anatolie MINCIUN?, Oxana ROBU, and Viorica PUICA as Supreme Court judges. Previously, they all had had hearings before the Legal Committee, except Ms. Puica. The parliamentary majority voted to appoint Tamara CHI?CA-DONEVA. This appointment raised multiple questions among parliamentary opposition as she had participated in the judicial panel that had tried the Gemenii Case, which had resulted in the Republic of Moldova having to pay over EUR 3,600,000 in damages. Parliament also voted to appoint Nadejda TOMA. The parliamentary majority rejected the appointment of Nicolae ?OVA and Anatolie MINCIUN?, citing the Legal Committee's negative reports on them. Without citing any reasons, MPs did not discuss the appointment of Oxana ROBU and Ghenadie PL?M?DEAL? as Supreme Court judges, although according to the Plenum agenda, this subject was to be discussed before the one about the appointment of Ms. PUICA. The selective approach to voting on the nominees for appointment to the SCJ raises big questions, all the more so that the SCJ has been unable to convene the plenum for more than one year due to lack of quorum. Currently, the SCJ has only 22 siting judges out of 33 judge positions required by the law.

According to Article 9 of the Law on the SCJ, Parliament may refuse to appoint Supreme Court judges only if it identifies irrefutable evidence of candidates' incompatibility or the violation of the law or violations in the statutory procedures for their appointment and promotion. The Legal Committee's report on Ms. PUICA did not cite any of these reasons. During the plenary session, MPs who voted for the rejection of Ms. PUICA's candidacy did not offer any explanation to support their refusal. And yet such explanations were provided for other candidates.

Judge Viorica PUICA enjoys an impeccable reputation in the judiciary and is known as a person of undeniable integrity and thorough professionalism. In 2007, the SCM designated Ms. Puica as the best judge of Moldova. In 2018, at the latest ordinary professional performance review, the judge's performance was appraised as "excellent." The nomination of Judge Viorica PUICA for the SCJ was backed by the , the Association of Judges Vocea Justi?iei, and the judges of the Chi?in?u District Court (Centru Office).

The rejection of this candidate sends out an alarming signal to honest judges from the Republic of Moldova and further undermines confidence in a genuine political will for reforming the judiciary. Moreover, the unjustified refusal to promote a judge constitutes a breach in the judicial independence. This process, once again, confirms the need for amending the Constitution of the Republic of Moldova to revoke Parliament's powers to appoint Supreme Court judges. The Venice Commission welcomed this initiative, but unfortunately, Parliament failed to pass this amendment twice.

The signatories condemn Parliament's refusal to promote Judge Viorica PUICA to the SCJ. Parliament's refusal contravenes the law, discourages honest judges, and strikes at the very heart of the efforts to build an independent and professional judiciary in the Republic of Moldova, constituting gross interference in the independence of the judiciary.

The signatories call on the SCM to nominate Ms. PUICA repeatedly as judge at the SCJ. We also call on the Parliament to amend the Constitution, by excluding at the earliest opportunity the Parliament from the process of appointing judges, to increase judges' independence.

The public statement in English is available HERE.

The public statement in Romanian is available HERE.

Signatory organizations:

1. Legal Resources Centre from Moldova (LRCM)
2. Institute for Public Policies (IPP)
3. MD Community
4. IDIS Viitorul
5. Acces-Info Center
6. RCTV Memoria
7. Institute for European Policies and Reforms (IPRE)
8. Foreign Policy Association (APE)
9. AGER – Association for Efficient and Responsible Governance
10. Amnesty International Moldova (AIM)
11. Soros Foundation Moldova
12. CPR Moldova
13. Promo-LEX
14. Association for Participatory Democracy (ADEPT)
15. The Centre for Analysis and Prevention of Corruption (CAPC)

This entry was posted on Thursday, March 18th, 2021 at 4:29 pm and is filed under News
You can follow any responses to this entry through the Comments (RSS) feed. Both comments and pings are currently closed.