LCRM – Legal Resources Centre from Moldova

Changing the practices of selection and promotion of judges by the SCM is necessary to ensure merit-based appointments

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Even though, the process of selection and promotion of judges has been improved since the adoption of the legal amendments in 2018[1], qualitative changes are necessary to ensure the selection of judges among the best candidates. This is the main conclusion of the Policy Paper: „Resetting the system of selection and promotion of judges – lessons learned and (new) challenges", developed by the Legal Resources Centre from Moldova (LRCM).

On 6 August 2019, more than eight months after the amendment of the laws governing the selection and promotion procedure[2], the SCM held the first contest, considering the new rules. The legal amendments introduced the following novelties: the organization of contests twice a year; the obligation to participate and express option about every announced vacancy; evaluation by the SCM, accounting for 20% of the final score; as well as the extension of contests for administrative positions (chief judge, deputy chief judge), if only one contestant participates.

The monitoring of the contest of 6 August 2019 has identified three problematic aspects that can negatively influence the outcome of contests for judicial selection and severely compromise the purpose of the legal amendments introduced in late 2018:

- **The interview at the SCM was problematic.** The candidates did not have a "proper interview", with specific questions and evaluation of all the candidates by standard evaluation criteria. The interviews were short, with a duration of 2-3 minutes on average, where the candidates were asked one or maximum two questions. The final score offered by the SCM for more or less similar performances varied between 4 and 20 points. This had a noticeable influence on the final score for some of the candidates, who lost up to 17 places in comparison with the initial ranking.
- **The SCM accepted the applications of some candidates who graduated the National Institute of Justice (NIJ) to be assigned only for some vacancies.** According to the new amendments, the candidates are obliged to express option about all announced vacancies.
- **The SCM did not give up the practice of offering the "exclusive vote" of its members in the case of selection and the transfer of judges**. It is not clear why voting for a candidate again when each member of the SCM has already scored him/her. The mere vote counting may not stand as sufficient and fair reasoning. The SCM's decisions should lay out the majority's arguments in favor of selection.

The selection and career of judges are the key elements of the judiciary. The promotion of merit-based candidates is an essential condition for ensuring an independent, responsible and

professional judiciary. In order to ensure a transparent procedure of selection and promotion of judges, and their fair appointment, LRCM experts recommend:

- **The practice of biannual contests is welcomed and should be kept**. This change enables a better career planning for candidates and saves the SCM resources and time;
- **The SCM should require the candidates to the position of judge who graduated the NIJ to express their option about all vacancies put out to contest.** This change will solve the issue of unfilled positions and the impossibility of filling less attractive judge positions outside the Municipality of Chi?in?u;
- **The SCM needs to develop an interview methodology for evaluation of candidates.** This methodology will help to score and choose in a merit-based way between candidates with equal scores in contests for the vacancies in the judiciary.

For more details on the practice of selection and promotion of judges in the period 2013-2018, access the Policy Paper „Resetting the system of selection and promotion of judges – lessons learned and (new) challenges”. The document is available in Romanian and English.

The Policy Paper was developed within the project „ Promoting rule of law in Moldova through civil society oversight”, implemented by the LRCM with the support of the U.S. Agency for International Development.

[1] Law No. 137 of 27 September 2018 for Amending Certain Legal Acts, effective since 19 October 2018, with some exceptions, available at https://www.legis.md/cautare/getResults?doc_id=105496&lang=ro.

[2] Law No. 137 of 27 September 2018 introduced changes to the Law on Judicial Organization, the Law on the Status of Judge, the Law on the SCM, the Law on the Selection, Performance Review, and Career of Judges, the Law on the Appointment and Promotion of Judges, and the Law on the Disciplinary Liability of Judges.

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