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REPUBLIC OF MOLDOVA

PARLIAMENTARY ELECTIONS

6 March 2005

OSCE/ODIHR Election Observation Mission Final Report



**Warsaw
3 June 2005**

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REPUBLIC OF MOLDOVA
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OSCE/ODIHR Election Observation Mission Final Report¹

I. EXECUTIVE SUMMARY

Following an invitation by the Ministry of Foreign Affairs (MFA) of the Republic of Moldova to observe the 6 March parliamentary elections, the OSCE/ODIHR deployed an Election Observation (EOM) in January, 2005. On election day, the OSCE/ODIHR EOM joined efforts with delegations from the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), and the European Parliament (EP) to form an International Election Observation Mission (IEOM), in order to assess the compliance of election day procedures with OSCE Commitments, Council of Europe and other international standards for democratic elections.

While the 6 March 2005 parliamentary elections in the Republic of Moldova generally complied with most OSCE commitments, Council of Europe and other international standards for democratic elections, nevertheless, they fell short of some that are central to a genuinely competitive election process. In particular, campaign conditions and access to the media were not satisfactorily equitable. In this regard, the elections confirmed negative trends already noted in the 2003 local elections.

The parliamentary elections presented voters with a genuine choice, as a number of parties representing a broad political spectrum contested the elections. Although the election campaign itself was rather low key, in general contestants were able to convey their messages to the electorate. Some restrictive legal provisions and interference by the authorities, in particular at local level, hampered the campaigns of some contestants, especially those representing the opposition. This may have limited voters' access to information, to some degree, and could have diminished voters' opportunities to make fully informed choices.

There were some credible reports of coercion and pressure on public employees to support the incumbents' campaign, as well as instances of misuse of administrative resources by political parties. At times, police officers used their discretionary power in a manner that interrupted the activities of candidate and party supporters engaged in lawful campaign. The subsequent constraints on the pre-electoral environment, stemming from these actions, amplified the advantages of incumbency and did not serve to create fully equitable campaign conditions.

The state television, *Moldova 1*, the only Moldovan broadcaster with countrywide coverage, displayed a clear bias in favor of the ruling party and failed to meet its obligation as a public media. Restrictive and, at times, ambiguous regulations on campaign coverage in broadcast media further impeded voters' access to information and resulted in undue self-restraint in campaign coverage. Print media expressed a diversity of views and covered the campaign extensively, but they were of limited circulation and impact.

¹ This report is available in also in Moldovan, but the English version remains the only official one.

While the Election Code provides, in general, an adequate basis for the conduct of democratic elections, it contains shortcomings that must be addressed, ahead of future elections, in line with recommendations provided jointly by the OSCE/ODIHR and the Council of Europe's Venice Commission.

According to the Election Code, election administrators should be non-partisan. The Central Election Commission (CEC) consists of nine members who serve six year terms. Three members are appointed respectively by the President, the Parliament and the Supreme Council of Magistracy. In the current context of Moldova, six members of the CEC were in effect chosen by one political party. A few judges who served on District Election Commissions (DECs) were at the same time sitting judges, and could be tasked to adjudicate complaints against decisions of the same DEC, opening the potential for for a possible conflict of interests. Election stakeholders expressed lack of confidence in the impartiality of the CEC and of some DECs.

Generally, the election administration at all levels functioned efficiently and in accordance with the law. However, to the detriment of transparency, the CEC published only some of its decisions in the Official Gazette, and the publication of decisions on the CEC website was often delayed. Furthermore, the CEC did not publish polling station results on its website. Overall, the performance of DECs and polling station bureaus would have benefited from more consistent guidance and timely training by the CEC.

Election complaints and appeals were generally adjudicated in compliance with the law. However, courts frequently failed to respect legal deadlines and a number of DECs did not issue decisions on complaints in a timely manner, or chose to forward complaints to courts without examining them.

National minorities, which represent around 30 percent of Moldova's population, were represented on the lists of most mainstream parties, although Roma remained under-represented. However, the Law on Political Parties and Socio-Political Organizations makes it practically impossible for parties representing minorities and regional interests to be registered. The share of women elected to parliament more than doubled compared to 2001, and women were also well-represented in the election administration.

Civil society, notably "Coalition 2005", played a role in these elections, by conducting long-term observation and deploying some 2,200 observers on election day. However, verbal attacks by leading representatives of the Party of Communists of the Republic of Moldova (PCRM) on "Coalition 2005" point to the need for a better understanding of the role of civil society. As a result of regulations lacking sufficient detail, representatives of two foreign NGOs attempted to observe the election without an official invitation and notice of accreditation, and were unable to do so.

Election day was generally calm and peaceful, and some 64.8 percent of voters cast their ballots. While observers overall rated voting and counting positively, they reported that procedures were not always followed, in particular during the count. Frequently, voters were added to supplementary voter lists on election day, an indication that the accuracy of voter lists should be improved. Unauthorized persons were often involved in polling and counting.

Regrettably, as in previous elections, voting did not take place in Bender and the territories to the east of the Nistru River which have *de facto* not been under the control of the Moldovan authorities since 1992. Nevertheless, nine polling stations were established on government controlled territory for voters from Transdnistria, and some 8,200 voters residing there were able to cast their ballots on election day.

The OSCE/ODIHR stands ready to support the authorities and civil society of Moldova to address the concerns identified in these elections and achieve their stated goal to conduct elections in line with OSCE Commitments, Council of Europe's and other international standards for democratic elections.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation by the Ministry of Foreign Affairs of the Republic of Moldova, the OSCE/ODIHR deployed an Election Observation Mission (EOM) on 26 January 2005 to observe the 6 March parliamentary elections. The mission was headed by Ambassador István Gyarmati (Hungary) and included 16 international experts based in Chişinău and 16 long-term observers (LTOs) deployed in Chişinău and seven regional centers (Edineţ, Bălţi, Orhei, Ungheni, Căuşeni, Cahul and Comrat). International experts and LTOs were drawn from 17 OSCE participating States.

For election day, the OSCE/ODIHR EOM joined efforts with delegations from the OSCE Parliamentary Assembly (PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP) to form an International Election Observation Mission (IEOM). The IEOM deployed some 500 observers from 36 OSCE participating States, including 63 members of the OSCE PA, 38 from the PACE, and 14 from the EP. Mr. Kimmo Kiljunen (Finland), Head of the OSCE PA delegation, was appointed as Special Coordinator by the OSCE Chairman-in-Office to lead the short-term observers. Mr. André Kvakkestad (Norway) led the PACE delegation, and Mrs. Marianne Mikko (Estonia) led the European Parliament delegation. The IEOM observed voting throughout the Republic of Moldova in around 1,400 of a total of 1,970 polling stations, and counting in around 140 polling stations. In addition, IEOM observers followed the tabulation process in 24 DEC's.

The OSCE/ODIHR EOM wishes to thank the Ministry of Foreign Affairs of the Republic of Moldova, the Central Election Commission, other state and local authorities, civil-society organizations and individuals for their cooperation during the course of the observation. The OSCE/ODIHR EOM also wishes to express appreciation to the OSCE Mission to Moldova and to the Special Representative of the Secretary General of the Council of Europe, as well as to other international organizations and embassies accredited in Chişinău, for their support throughout the duration of the mission.

III. POLITICAL CONTEXT

A. BACKGROUND

Moldova is a parliamentary republic. The Parliament, which also elects the President, is a unicameral body, consisting of 101 deputies elected for a four-year term.

The 6 March 2005 elections constituted the fourth competitive election of the Moldovan Parliament since the country's independence in August 1991. These elections came at the end of the regular mandate of the Parliament elected in 2001, in which the Party of Communists of the Republic of Moldova (PCRM) held a comfortable majority of 71 seats. Only two other political formations were represented in the outgoing Parliament: the Braghiș Alliance, which held 19 mandates, and the Christian Democratic People's Party (PPCD) with 11 seats. Following the 2001 elections, the PCRM formed a government headed by Prime Minister Vasile Tarlev, and in April 2001, the Parliament elected PCRM leader Vladimir Voronin as President of the Republic of Moldova.

Between 2001 and 2005, Moldova has enjoyed institutional stability and has witnessed noticeable changes, characterized by the readiness of political parties to achieve a degree of social accord and consolidation of centrist political forces. At the same time, particularly as the elections approached, there was growing acrimony between the ruling party and the opposition. The situation was reinforced by the resurgence of national cleavages around linguistic and cultural issues, and the country's geopolitical orientation.

The 6 March 2005 elections thus took place in a political climate characterized by repeated statements, of all opposition parties, that they intended not to recognize the outcome of the elections and planned to organize post-electoral protests to denounce fraud. Ultimately, such protests did not materialize, despite complaints lodged by several opposition parties with the CEC and statements by parties denouncing the legitimacy of the elections.

Furthermore, no solution was found for the question of the territories to the east of the Nistru River, which *de facto* have not been under the control of the Moldovan authorities since 1992. Several initiatives to reach a settlement and continued negotiations between Moldova, the leadership in Tiraspol, Russia, Ukraine and the OSCE did not achieve a breakthrough.

B. PARTICIPANTS IN THE ELECTION

A number of contestants presented voters with a genuine choice from across the political spectrum comprising nine political parties, two electoral blocs, and 12 independent candidates. Of these 23 contestants, five were perceived as standing the most chance of clearing the electoral threshold.

The ruling Party of Communists of the Republic of Moldova (PCRM), which won the election in 2001 on a predictable communist platform, asserted to have evolved to a European, pro-market and social-democratic orientation. The Christian Democratic People's Party (PPCD), popular among part of the Romanian-speaking electorate, was strongly advocating for the integration of Moldova into the European Union. The Electoral Bloc "Moldova Democrată" (BMD), which was the result of a consolidation process in the political centre, called for the restoration of close relations with the Russian Federation and the Commonwealth of Independent States, while at the same time professing to be in favor of Moldova's entry into the European Union. The Social Democratic Party of Moldova (PSDM) focused its electoral program on small entrepreneurs and on an increased participation of citizens in public affairs. Finally, the Electoral Bloc "Patria-Rodina", had a strongly pro-Russian and far-left orientation.

IV. LEGISLATIVE FRAMEWORK

The main legal basis for the conduct of elections and referenda in the Republic of Moldova is the Election Code, adopted in November 1997 and amended several times since. The Election Code is a comprehensive, largely cohesive body of regulations that covers all elections and referenda taking place in the Republic of Moldova. It can provide an adequate basis for a democratic election, if there is political will to implement it in good faith.

In addition to the Election Code, the legal framework for elections also includes the Constitution of the Republic of Moldova, the Law on Political Parties and Socio-Political Organizations, the Law on the Organization and Running of Assemblies, CEC regulations and other legislation.

Members of parliament are elected by proportional representation in one countrywide constituency. Political parties registered with the Ministry of Justice, electoral blocs of such parties, and independent candidates can stand in parliamentary elections. Independent candidates must submit between 2,000 and 2,500 support signatures to be registered.

The threshold for parliamentary representation is six percent for parties running individually, nine percent for electoral blocs of two parties, 12 percent for coalitions of three or more parties, and three percent for independent candidates. Mandates are awarded to parties and blocs using the d'Hondt formula², and candidates are awarded seats in the order of their inclusion on a candidate list. For a parliamentary election to be valid, there must be at least a 50 percent voter turnout.

The high thresholds can lead to the non-representation in Parliament of a large part of the electorate. In the 2001 elections, the share of votes cast for contestants who failed to clear the thresholds amounted to 28.3 percent. In the 6 March elections, it dropped to 16.4 percent, to some extent due to the partial consolidation of the party system.

Overall, campaign activities as regulated by Art.47 of the Election Code provide a legal framework that is consistent with internationally recognized standards, providing for the respect of fundamental human rights and freedoms. Citizens, parties and socio-political organizations are free to promote their platforms campaigning for and against political parties in the media, if they do not "disturb public order" and are ethical in their performance.

Candidates are liable for the content of all printed material, which must contain the contestant's name, date of publication, print run and printing house. Local administration must provide all contestants with a minimum of equally-distributed space for display of posters. DEC's and local administration are required to permit, under equal terms and conditions for campaigning, the holding of public meetings for candidates and parties (see Section VI).

Nevertheless, vagueness of some regulations contained in Art.47 could be interpreted to the benefit of the incumbents, while restrictive interpretation could limit access of competitors to the electorate. In particular, a broad interpretation of the notion of public order, the minimum space for posters to be allocated by local administration bodies, and the mode of authorization of public meetings have the potential to constrain campaign activities.

² Known also as the method of highest quotient.

The Law on Political Parties and Socio-Political Organizations prohibits foreign funding of political parties. Violations to this rule could result in deregistration of a party. Under the Election Code, electoral competitors are obliged to open a bank account specified as “Electoral Account”, to which funds granted by natural and legal persons shall be transferred. The CEC should establish a ceiling for such grants; for the 6 March elections, the ceiling was set at 2.5 million lei (approximately 150,000 Euro) for parties and electoral blocs, and at 100,000 lei (around 6,000 Euro) for independent candidates.

All electoral campaign expenses must be paid from the Electoral Account, and regular bi-weekly reports had to be sent by electoral competitors to the CEC. These disclosure reports were public. As reported by the CEC, none of the electoral candidates exceeded the ceiling established for campaign financing. Nevertheless, both the CEC and some parties expressed concerns with regard to the lack of provisions requiring disclosure of funding sources, as well as the actual level of campaign expenditures. Addressing these issues has the potential to significantly enhance transparency on the issue of campaign finance.

The Election Code provides a general framework for election observation by representatives of election contestants, non-partisan domestic observers, as well as by international organizations, foreign governments and NGOs. Accreditation is provided upon request. For domestic partisan and non-partisan observers, accreditation is granted by the election administration. For observers who are foreign citizens, accreditation is granted by the Ministry for Foreign Affairs.

In July 2004, the Council of Europe’s Venice Commission and the OSCE/ODIHR issued Joint Recommendations aimed at improving the election legislation and administration. The recommendations highlighted issues such as: the need to lower the representation threshold; the registration criteria for political parties; the secrecy of the vote; the scrutiny of voter lists; more transparent counting procedures; and more detailed rules for the use of public infrastructure during election campaigns. None of these recommendations have been addressed so far, although most had been made by the OSCE/ODIHR or the Council of Europe as early as 2001, and had been repeated since.

V. ELECTION ADMINISTRATION

Parliamentary elections in the Republic of Moldova are administered by a three-tiered election administration: the CEC, 37 DEC’s (one for each second-level administrative territorial unit), and 1,970 Polling Station Election Bureaus (PSEBs). The CEC is a permanent body of nine members, three of which are appointed by the President, three by the Parliament and three by the Supreme Council of Magistracy, for a six year mandate. DEC’s and PSEBs are temporary bodies appointed for each election by the CEC and the competent DEC, respectively. DEC’s have between 7 and 11 members, and PSEBs between 5 and 11 members. Each election contestant is entitled to appoint one non-voting member to the CEC and DEC’s, and representatives to PSEBs.

The law requires that members of election commissions be non-partisan and should not be members of local councils. However, given the political affiliation of the President and the parliamentary majority, six members of the CEC appointed in December 2003 were, in effect, chosen by one political party. Furthermore, at least two CEC members previously served as

PCRM representatives on electoral bodies. Many stakeholders expressed lack of confidence in the impartiality of the CEC.

The Election Code does not regulate in detail several areas of election administration, leaving a wide margin of discretion for the CEC to address them³.

Throughout the country, over 20 judges were appointed as DEC members. While most of them were temporarily relieved from their permanent positions, DEC members in Bălți and Cahul confirmed that they were still sitting judges. This practice raises a question of a possible conflict of interest since the court where these DEC members normally work may also have to handle election-related complaints and appeals.

During the pre-election period, election commissions at all levels generally functioned efficiently. The level of engagement, however, varied from one DEC to another, with some needing more guidance from the CEC than others. Many contestants professed a lack of confidence in the impartiality and professionalism of certain DECs. Furthermore, DECs and PSEBs work was, at times, hampered by the CEC failure to provide detailed and clear instructions in a timely manner.

Regrettably, not all CEC decisions were published in the Official Gazette, a fact that restricted public access to its work and its commitment to transparency. Although the CEC published its decisions on its official website, the website was updated with delays, and not all CEC decisions were posted before election day. After election day, only limited information was to be found on the website, and again, with a considerable delay. Decisions deemed “important” by the CEC were published in the state-owned newspapers *Moldova Suverană* and *Nezavisimaia Moldova*. Some CEC decisions appear to have been taken in response to concerns raised by stakeholders, rather than as a result of systematic efforts to address gaps in the Election Code.

The CEC decision number 590 of 30 December 2004 on the status of observers, which provided a generally satisfactory framework for observation, contained a shortcoming. While the decision provided a timeframe for the accreditation of domestic partisan and non-partisan observers, it failed to provide a similar timeframe for the accreditation of observers who are foreign citizens (see Section IX).

Compilation and maintenance of accurate voter lists, in particular by local government authorities, was problematic. There was a lack of uniformity in the preparation of the voter lists, compounded by little or no guidance from the CEC. Updating procedures varied widely.⁴

³ The CEC issued a large number of decisions. These concerned the right of students to vote in their place of temporary residence; the “Concept for the Reflection of the Election Campaign for the Parliamentary Elections in the Broadcasting Institutions”; the validation of expired identification documents for voting purposes; the assignment of polling stations for Moldovan citizens residing in Transdnistria; and the accreditation of observers

⁴ Some municipalities chose to include all eligible voters living abroad on the regular voter lists, others included only those living in Russia, Ukraine or Romania, while still others chose not to include any citizens living abroad. According to observers, a number of PSEBs failed to display voter lists on time, such as in Orhei, Telenești, Criuleni and Cimișlia, or published them late, e.g. in Bălți and Chișinău.

Lack of uniformity could also be observed with regards to training of mayors and election officials. In most cases, none or little reference material was distributed, training sessions often had loose agendas, and some invited officials failed to attend. The quality and content of training sessions depended, to a large extent, on which CEC member was in charge of providing training in the respective district. Before and on election day, this resulted in various, and at times wrong, interpretations of the legal provisions by DEC and PSEBs staff⁵.

Voter education provided by the CEC was limited, and local efforts were generally restricted to the distribution of voter notifications. Given the fact that voting procedures were subject to changes until a very late stage of pre-election period, and that new procedures were introduced compared to previous polls, it is likely that voters lacked a clear understanding of the process.

In Comrat and Chişinău, several PSEBs asked voters to provide DEC with specific reasons in order to be issued Absentee Voter Certificates (AVCs). While such action may have been a response to concerns related to possible abuse of AVCs, neither the law nor the CEC regulations required this.

Voting of students became politically charged during the pre-election period⁶. The CEC addressed the issue, on 8 February, by permitting full time students to vote at their places of temporary residence (places of study), even if not registered, and disseminated its decision through state media⁷. Students were allowed to obtain an AVC from the CEC or from the respective DEC, rather than at their places of permanent residence. However, the estimated number of students to be possibly affected by the issuance of AVCs proved to be exaggerated⁸. The CEC issued AVCs to students from 18 February to 5 March.

Regrettably, as in previous elections, voting did not take place in Bender and the territories to the east of the Nistru River which have *de facto* not been under the control of the Moldovan Government since 1992. On 4 February, as suggested by the BMD, the CEC sent a letter to the leadership in Tiraspol, proposing to organize voting for the 6 March elections there as

⁵ Such cases included: instances of voters' documents not being stamped on election day, since the Election Code does not require it; refusal to issue Absentee Voter Certificates without voters presenting "important" reasons; Absentee Voter Certificates for students being issued by PSEBs rather than DECs; Absentee Voter Certificates being issued for students who were actually eligible to vote without one; failure to exclude the names of students who received Absentee Voter Certificates from regular voter lists; PSEBs not retaining Absentee Voter Certificates on election day; or PSEBs claiming that fewer identity documents were valid for voting than the full scope on which CEC had decided.

⁶ The Federation of Students and Youth Organizations of Moldova, supported mainly by BMD, requested that polling stations be established in educational institutions and that students be allowed to vote there. Several public gatherings of limited numbers of attendants were held to support this request. Student activists were maintaining that it would be too expensive and time consuming for most students to travel to their place of permanent residence to obtain a regular AVCs before election day or to vote there, despite the fact that students are entitled to free transport at regular intervals and that the elections were held on a long weekend with four non-working days.

⁷ However, in Gagauzia there was confusion about the purpose of the AVCs. In Svetlii (DEC Comrat), the PSEB issued a number of AVCs to students temporarily residing there, so that they could vote at their place of permanent residence.

⁸ Initially, there were claims that almost 100,000 students were affected by the issue of possible voting with AVCs, educational institutions submitted some 45,000 names of full-time students, a number of whom did not need AVCs since they had registered temporary residency at their place of study. Ultimately, only 2,498 students were issued an Absentee Voter Certificate. In Comrat (Gagauzia), no information on student voting was displayed both at the DEC and at the university, and only two students were issued AVCs by the DEC.

well. The Tiraspol leadership responded to the letter on 19 February and ultimately rejected the proposal. Despite the fact that BMD requested more polling stations be opened for voters from Transdnistria, on 18 February, the CEC decided that nine polling stations on government-controlled territory would also serve voters residing in Transdnistria⁹. Based on their place of residence, such voters were assigned to one of these polling stations, and on election day their names were entered on separate supplementary voter lists. Voters from Transdnistria could use their Moldovan identity documents, cast their ballots in separate ballot boxes; the results were counted separately and were recorded in separate results protocols.

On 15 February, the CEC adopted a decision on voting abroad, according to which Moldovan citizens living permanently or temporarily abroad would be able to vote in one of the 23 polling stations established at embassies and consular offices of the Republic of Moldova. The CEC turned down requests to open additional polling stations abroad, citing financial, organizational and diplomatic impediments.¹⁰

VI. CAMPAIGN

Overall, the election campaign was low-key, partly due to the fact that campaign techniques traditionally used in Moldova, in particular door-to-door canvassing, rarely generate lively campaigns. However, the campaign efforts of many parties were significantly hampered by the restrictive implementation of the legal provisions and obstructed by the frequent interference of the public authorities, in particular at local level.

Little campaign material was in evidence in cities and villages, largely due to the fact that the Election Code provides only for a minimum amount of space for campaign posters. The effect of this provision was further compounded by the fact that many local authorities either interpreted the law in a restrictive manner or failed to implement it¹¹.

Rallies and campaign meetings took place throughout the country in a peaceful and quiet manner. However, the frequency of such events and the voters' participation remained limited. LTO findings and credible first-hand accounts have revealed patterns of obstruction to the freedom of assembly. In Dondușeni, Congaz, Vulcănești, Drochia and Edineț, the local administration either did not authorize the allocation of premises for campaign meetings or impeded voter's and parties' access to those premises.

⁹ The BMD argued that up to 100,000 people might come to vote and that nine polling stations would not be sufficient to process them. Ultimately, only about 8,200 citizens from Transdnistria came to vote and only one polling station was seriously overcrowded.

¹⁰ On election day, only the polling station in Moscow was seriously overcrowded, with 2,760 voters voting there. According to news reports, the Russian authorities were encouraging Moldovan citizens living in Moscow to go and vote. In Romania, where 3,264 Moldovan citizens voted at the embassy in Bucharest, parties and local authorities reportedly organized transport for voters living in other places, mainly for students. Apart from Bucharest and Moscow, the only other cities where significant numbers of voters turned out were Athens (1,005 voters) and Rome (850 voters).

¹¹ EOM LTOs reported that virtually no space had been allocated in Cahul, Căușeni, Drochia, Taraclia and Fălești. In Edineț, following several complaints by political parties, the local administration allocated space for posters, but only after 14 February, well into the campaign. Similar delays were reported by LTOs in Bălți.

As such, the limited allocation of space for posters, combined with the persistent difficulty of political parties to gain access to premises for public meetings have subtly, and yet systematically, impeded political parties' outreach to voters.

The OSCE/ODIHR EOM received credible reports of instances of pressure by government representatives on public service employees not to attend opposition parties' rallies and to refrain from participating in their activities. In Călărași, Dondușeni and Edineț, teachers and medical staff were warned not to attend opposition meetings, and in some cases were threatened with job loss. Similarly, a credible report was made of a university dean being pressured to ensure that students attend campaign activities of the ruling party. In one instance, students were threatened with failing grades. Lastly, pressure was also reportedly exerted on mayors and directors of public companies to ensure the participation of employees at meetings organized by the ruling party in Edineț, Bălți, Strașeni and Florești. While such meetings were ostensibly held to discuss the previous year's performance of the institution in question, participants reported that these meetings were little more than thinly veiled campaign events.

In addition, the OSCE/ODIHR EOM received numerous reports of instances of police officers abusing their power against candidates and party supporters¹². Among these, the case of Mr. Arcadie Covaliov, a PSDM candidate who was allegedly maltreated by the police in Bălți and sentenced in court to a 36 lei fine for resisting arrest, raises particular concerns.

Numerous instances of abuse of administrative resources by political parties were also reported. In Ocnița, Edineț, Dondușeni, Rîșcani, Sîngerei and Bălți, PCRM offices were hosted in local administrations premises, reportedly without the requisite proof of rental payment. Usage of public vehicles and "working visits" for what was effectively campaigning, was also noticed, on the part of both the ruling party and the opposition.

VII. MEDIA

A. MEDIA LANDSCAPE

Approximately 80 TV and radio channels operate in the Republic of Moldova. From 1 February to 4 March, the OSCE/ODIHR EOM monitored two publicly owned TV stations: the nationwide broadcaster *Moldova 1* and the Chișinău station *Euro TV*. Additionally, the OSCE/ODIHR EOM monitored three privately owned TV broadcasters. The nationwide *Pervii kanal v Moldove* has the highest audience share (about 70 percent) and partly retransmits the Russian channel *ORT*. Since the end of December 2004, the private channel *NIT* is able to cover about 70% of Moldova's territory and airs Russian produced programs as well as locally produced news and analytical programs. The local private station *Pro TV Chișinău* retransmits the programs of private Romanian *Pro TV* and broadcasts locally produced news and talks shows.

¹² In Criuleni, Florești, Telenești, Cahul and Ceadâr-Lunga, opposition supporters were detained and brought to police stations while posting electoral material in unauthorized places. In Leova, an arrest was followed by confiscation of electoral material and ill-treatment of campaigners. In other cases, such as in Cioc Măidan, Drochia and Călărași, the police intervened while candidates and party supporters were conducting lawful campaign activities. Some cases of premises of political parties being searched were observed in Chișinău and Căușeni.

The print media in Moldova present a variety of opinions and political orientations. Several political parties publish their own newspapers. The OSCE/ODIHR EOM monitored 12 printed media: the two state-owned dailies *Moldova Suverană*, in Romanian, and *Nezavisimaia Moldova*, in Russian; the daily *Flux*, owned by PPCD Chairman Iurie Roșca; and *Komsomolskaia Pravda*, the Moldovan edition of the homonymous Russian newspaper. Additionally, the OSCE/ODIHR EOM monitored eight periodicals: *Timpul*, published three times a week; *Moldavskie Vedemosti* and *Jurnal de Chișinău*, published twice a week; and the weeklies *Săptămîna*, *Kommersant Plus*, *Argumenty i fakty*, *Ziarul de Gardă*, and *Accente Libere*. The most influential newspapers in Moldova are considered to be *Komsomolskaia Pravda*, *Moldova Suverană*, *Nezavisimaia Moldova*, *Flux*, and the weeklies *Săptămîna*, *Timpul*, and *Moldavskie Vedemosti*.

B. LEGAL FRAMEWORK FOR THE MEDIA

In addition to Article 47 of the Election Code, two CEC decisions, N 608 (the Concept) and 613 (the Regulation), had relevance to the campaign in the media.¹³

The Audiovisual Coordinating Council (*Consiliul Coordonator al Audiovizualului*, CCA) is the body in charge of overseeing the broadcast media, but according to the president of the CCA, during the election campaign, the CEC was the only body which could sanction broadcasters. No sanctions were imposed during the campaign period.

According to the legal framework, private broadcasters may decide not to cover the election campaign; a choice made by *Pro TV Chișinău*, *Pervii kanal* and others. In contrast, all public broadcasters were obliged to offer free time for electoral campaign¹⁴ and debates¹⁵, distributed equally among all registered contestants. Additionally, each party or bloc could buy airtime¹⁶. At state level, possibilities of paid advertising were offered only by *Moldova 1*, *Euro TV* and *NIT*. Electoral debates were aired only by the public broadcasters *Moldova 1* and *Euro TV*.

Outside electoral programs, the approach adopted by certain broadcasters resulted in reducing the flow of information after the commencement of the official campaign. A number of broadcasters decided to take off the air some of their talk shows and analytical programs until after the elections, presumably concerned about possible sanctions.¹⁷

¹³ The “Concept for the Reflection of the Election Campaign for the Parliamentary Elections in the Broadcasting Institutions” (CEC Decision No. 608 of 6 January 2005), and the “Regulation on the Coverage of the Election Campaign for the Parliamentary Elections in the Mass Media” (CEC Decision No. 613 of 8 January 2005). The Regulation mostly repeated the stipulations of the Concept, but it also added the only legal obligation for the print media, in its Art.9, to mark electoral material as “Elections 2005” and to include the indication “paid from the electoral fund”.

¹⁴ Each party or bloc contesting the elections was granted 30 minutes of free airtime on every state TV channel and 60 minutes on every state radio station. The free airtime for independent candidates was set at five minutes for TV and ten minutes for the radio. However, up to 5–7 minutes on TV and 10–13 minutes on the radio could be used during one day.

¹⁵ Debates could not exceed two hours per week and broadcaster, and could not to be transmitted on Sundays.

¹⁶ A total of 120 minutes of paid airtime from every TV and radio station covering the election campaign. Independent candidates were allowed to buy up to 30 minutes, with a limit of two minutes of paid advertisement per day and broadcaster.

¹⁷ *Pro-TV Chișinău* decided to take its weekly talk show *Profunzime* off the air until after the elections. The Chișinău-based public radio station *Antena C* did the same with all its interactive programs. On 18 February, the weekly program *Hronicul Moldovenesc*, broadcast on *Pervii kanal* on Friday evenings,

C. NEWS COVERAGE

The legal provisions limited possibilities for parties and candidates to present themselves outside electoral programs, and for the media to cover campaign events. The ambiguous language of Article 47 of the Election Code, advising TV and radio news programs to cover campaign activities of electoral contestants, combined with Article 46 of the Concept, that electoral issues could be reflected in the news bulletins only as “press news”, appeared to generate confusion as to what news bulletins could cover.

The result was disadvantageous for opposition parties since the coverage of governmental and presidential activities was still possible, although such coverage was to be limited to official activities. In order to mitigate this imbalance, the CEC adopted a decision on 10 February which prohibited the physical appearance of government officials running as candidates on TV news, except for special cases. This decision was widely interpreted as applying to all candidates and not only to those holding public office, and did not result in a more balanced coverage of contestants’ activities, but further reduced the amount of political information made available to the electorate.

The manner in which violations of the Concept by foreign media broadcasting in Moldova should be addressed remained uncertain. The resolution of two instances of speeches on foreign media raises a question of implementation of the regulation¹⁸.

During the first three weeks of February, the news broadcast on *Moldova 1* dedicated 37 percent of time to cover the Government, and 33 percent to the President, either in positive or neutral contexts. Additionally, PCRM received almost nine percent, which were largely neutral. BMD received 13 percent largely negative coverage, and PPCD three percent, half of which in a negative context. The PSDM received one percent only.

On 23 February, the CEC radically changed its media policy by taking a decision to oblige public broadcasters to organize 90-minute debates every day, including Sundays, and by clarifying that news bulletins of broadcasters covering the campaign shall air five news stories on electoral events in each newscast. This CEC decision improved the framework for coverage of contestants’ activities, but was made too late to be truly effective.

In the period from 1 February to 4 March, the news bulletins on *Moldova 1* gave some 73 percent of time to cover the ruling party and officials affiliated to it, either in positive or neutral contexts, while BMD received 13 percent, almost half of which was in a negative

was suspended until after the elections. The two editions of this program that the EOM was able to monitor before its suspension showed a clear political bias against BMD and PPCD.

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Article 4 of the Concept states (in unofficial translation): “The equitable, balanced and unbiased principles are binding upon the audiovisual institutions from other countries that have legal access to broadcast in the Republic of Moldova”. On 19 February, in Russian news rebroadcast on *Pervii kanal* covering a congress of Moldovan citizens working in Russia, BMD leader Urechean had the opportunity for direct speech (32 seconds), during which he campaigned. This violated Article 46 of the Concept. PCRM filed a complaint to the CEC, and the CCA recommended to *Pervii kanal* to abstain from broadcasting electoral propaganda, or should otherwise cease broadcasting on Moldova’s territory. The same day, Russian *RTV International*, available to subscribers in Moldova via cable and satellite, broadcast a long interview with President Voronin. In this case, the PSDM filed a complaint with the CEC, which argued that its competence does not extend to foreign TV and radio channels.

context, and PPCD three percent, equally distributed among positive, neutral, and negative contexts. The time dedicated to PSDM also reached three percent¹⁹.

Among the privately owned broadcasters, newscasts on *NIT* dedicated 76 percent of time to the ruling party, the state institutions and persons affiliated with them, mainly in a positive context. BMD and PPCD were given ten percent and six percent, respectively, also in a positive context, mostly due to changes in the coverage during the last week of the campaign. In the news bulletins of *Pervii kanal*, politics received very limited coverage, only 48 minutes, 93 percent of which was dedicated to the ruling party. However, some negative coverage for the president and for PCRM was recorded in the above-mentioned news rebroadcast from the Russian Federation.

The news bulletins of the Chişinău stations *Euro TV* and *Pro TV* showed a more balanced coverage of the airtime dedicated to politics. *Euro TV* news programs dedicated 25 percent of its political news coverage to BMD, either in positive or neutral contexts, 18 percent to PCRM, nine percent to PSDM, and eight percent to PPCD, mainly in neutral contexts. The president received about nine percent, either in negative or neutral contexts. In the *Pro TV* news bulletins, BMD received 20 percent of time, PCRM 19 percent, and PPCD 16 percent of coverage.

D. NEGATIVE CAMPAIGNING

The first instances of negative campaigning appeared in the media after 15 February. The Election Code does not regulate or prohibit negative campaigning, but calls for abiding by vague “ethic norms” (Art. 47.1). On *Moldova 1* and *NIT*, cartoons against BMD and PPCD were shown without any indication of who actually requested airing them and paid for them: The management of *Moldova 1* informed the OSCE/ODIHR EOM that PCRM should be accountable for them. Several spots against PCRM, mainly by BMD, were broadcast as well. On 20 February, *Moldova 1* broadcast a nine-minute film entitled “Stop Extremism!” which portrayed PPCD leader Iurie Roşca in an extremely negative light, comparing him to Osama Bin Laden. The film was broadcast as a free political advertisement of four independent candidates, who had pooled their free airtime for that purpose. PPCD strongly protested against the spot at a press conference the following day, but the CEC did not consider it denigrating, since in their view, it conveyed factual content.

E. VOTER EDUCATION IN THE MEDIA

The amount of time dedicated to voter information on television was limited during the first two weeks of February, and on 18 February, the CCA obliged public broadcasters to transmit more information on voting procedures, and recommended that private broadcasters do the same. Following this request, the time dedicated to voter education in the monitored TV channels increased substantially, both on *Moldova 1* and on *Euro TV*. Regrettably, no voter education was broadcast on the most popular TV station *Pervii kanal*.

¹⁹ The similarity of these figures with those accounting for the period prior to the 23 February CEC decision on media coverage of the campaign, shows how limited this decision’s impact has been.

F. PRINT MEDIA

The print media were able to cover the election campaign extensively. However, their circulation is limited, except for the state-owned dailies *Moldova Suverană* and *Nezavisimaia Moldova*, and the pro-PPCD daily *Flux*. PCRM filed several complaints to the CEC against competitors for not having marked their electoral materials published in newspapers as electoral advertisement. In most of the cases, the CEC met the PCRM request but imposed no sanctions, asking instead that competitors and the media respect the legal provisions.

The premises of the opposition newspaper *Moldavskie Vedemosti*, which is linked to the Peasants' Christian Democratic Party of Moldova (PȚCDM), were visited by police officers towards the end of the campaign. Reportedly, the police confiscated PȚCDM campaign material at the newspaper's premises. Together with the opposition newspaper *Timpul*, *Moldavskie Vedemosti* is currently facing several libel suits initiated in 2004 against them by persons and institutions close to the current leadership.

VIII. COMPLAINTS AND APPEALS

Moldova has a three-tiered judicial system consisting of district courts, courts of appeal²⁰, and the Supreme Court of Justice in Chișinău.

Any voter or electoral competitor may contest actions and decisions of PSEBs and DEC's at the respective higher level of the election administration, and in the courts, within three days after discovering the action or issuing the decision. The appeal has to be examined within three days of filing, but no later than election day. Appeals submitted to courts on election day must be considered on the same day.

A. COMPLAINTS ADJUDICATED BY COURTS

A controversy over the announcement of the elections and the consequent opening of electoral contestants' registration developed in the first days of 2005. On 4 January 2005, the PPCD lodged a complaint before the Constitutional Court, challenging the legality of Parliament's Decision N 444 of 24 December 2004, which set the date for the elections. A few days later, PPCD and PSDM filed a complaint with the Chișinău Court of Appeal requesting that CEC decisions on the opening of electoral contestants' registration, adopted on 26 and 27 December, be annulled. The issue was that the Parliament's Decision N 444 was adopted on 24 December and was due to enter into force on the same day, while it was published in the Official Gazette only on 27 December. The complaints were turned down by the Constitutional Court and the Supreme Court of Justice. The legality of the CEC decisions adopted before the decision's official publication raised concern.

The OSCE/ODIHR EOM had access to over a dozen complaints against CEC decisions filed at the Chișinău Court of Appeal and before the Supreme Court of Justice in the second instance. Almost all of these complaints were lodged by electoral competitors. Overall, both institutions' rulings appeared to be reached in accordance with the Law²¹.

²⁰ In Chișinău, Bălți, Bender, Comrat and Cahul.

²¹ In particular, these included a confirmation of the right of private broadcasts not to cover the election campaign at all and to refuse to air electoral competitors' campaign spots; a confirmation of the

Upon a complaint submitted by the PCRM, the Supreme Court decided to remove Mr. Vitalie Nagacevschi from the position of PPCD representative on the CEC because he was also a PPCD candidate in the elections, despite the fact that the Election Code introduces no such incompatibility. The court argued that eventual media coverage of this candidate's work at CEC sessions would violate the principle of contestants' equality in favor of the PPCD. Interlocutors had serious concerns regarding the integrity of this ruling.

In a considerable number of cases, adjudicating courts failed to respect the deadlines provided by the Election Code, which are five days for complaints against CEC decisions and actions, and three days for complaints against decisions and actions of DEC's, see Annex 2.

B. COMPLAINTS ADJUDICATED BY THE CEC

From the beginning of the election period, the CEC issued over 50 decisions on complaints submitted by electoral contestants, mainly regarding violations of campaign regulations and coverage by TV stations. The overwhelming majority of these decisions were taken in accordance with the law. With few exceptions, the CEC did not show any particular bias. The dismissal of a significant number of complaints appears to have been due to inadequate legal argumentation or lack of evidence.

A BMD complaint about the TV coverage of governmental officials, who were also PCRM candidates, at the beginning of the campaign, was turned down by the CEC on grounds that at that time there was no legal prohibition to air reports on the activities of public officials running in the elections. The CEC decision appeared appropriate.

The PPCD complained about a *NIT* TV report which allegedly defamed the party. The CEC ordered *NIT* to allocate two minutes to PPCD Chairman Iurie Roșca to reply on the issue raised by the report.

PPCD candidates filed a request invoking the inapplicability for pre-electoral campaigning of the Law on Assemblies, which contains restrictive provisions on the conduct of mass gatherings. The CEC decided to turn down the complaint, as there was no legal basis for the suspension of this law during the election period.

The CEC forwarded the cases filed by BMD and PSDM on alleged police intimidation to the competent prosecutor. While such a decision was appropriate, the swiftness of the investigation procedure, its findings, and the possibility that the judicial review of the case would be delayed until after the elections, raised concerns.

C. COMPLAINTS ADJUDICATED BY DEC'S

DEC's also issued many decisions on complaints submitted by electoral contestants²², mostly concerning: instances of pressure by local authorities on the electorate²³; obstruction of

registration of an electoral contestant who fulfilled all requirements (case of Labor Union "Patria-Rodina" against the Electoral Bloc "Patria-Rodina"); the appointment of the nine-member DEC in Chișinău, in accordance with Art. 27.1 and 27.4 of the Election Code, where the CEC used its discretion not to appoint to the DEC all members proposed by the Chișinău Municipal Council.

campaign by local authorities²⁴; illegal display of electoral posters²⁵; the composition of PSEBs²⁶; obstruction of campaign activities by police²⁷.

Observers reported that several parties preferred to lodge their complaints directly with the CEC due to mistrust of the respective DEC's and noted that several DEC's delayed the issuance of decisions on complaints submitted to them²⁸. Undue delays in resolving election disputes amounts to depriving complainants of their right to an effective legal remedy.

IX. CIVIL SOCIETY

A. DOMESTIC CIVIL-SOCIETY ORGANIZATIONS

Civil society organizations were active in monitoring the electoral process. The main domestic non-partisan organization to observe the 2005 elections was the Civic Coalition for Free and Fair Elections "Coalition 2005", which was created on 12 May 2004 and included almost 200 civil society groups. The Coalition undertook comprehensive monitoring of the electoral process, deploying 39 long-term and 2,184 short-term observers who monitored around 94 percent of polling stations throughout Moldova on election day. The coalition published five reports on its findings during the campaign period, as well as a number of reports on election day and a preliminary statement on the day after the elections. On election day, the Coalition conducted a parallel vote tabulation and a quick count, both of which proved to be very close to the official results.

Within the framework of the Coalition, the Independent Journalism Centre (IJC) together with the Centre for Sociological, Political, and Psychological Investigations (CIVIS) and the Association of Independent Press (API) carried out a media monitoring project and issued three reports before election day. A similar exercise was conducted by the Association of Electronic Press in Moldova (APEL), which monitored the public broadcast media.

On 9 February, PCRM Secretary Victor Stepaniuc published an open letter accusing Coalition 2005 of supporting one electoral contestant and questioning the coalition's political neutrality. Mr. Stepaniuc warned that funds given to the coalition by international donors could be confiscated should this accusation be substantiated. President Voronin made similar accusations at a press conference. The coalition immediately rejected these claims, while representatives of the international community in Chişinău, including embassies, issued a statement in support of the coalition. This incident highlights the need for more understanding of the role of civil society in elections, and for a better communication between non-governmental organizations, governmental entities, and political parties.

²³ For instance, the mayor of Gura Camencii commune, Floreşti district, reportedly took a direct partisan part in the electoral campaign by pushing local councilors to ensure attendance of the local population at PCRM rallies.

²⁴ In Comrat and Vulcăneşti.

²⁵ In Ialoveni.

²⁶ In Criuleni.

²⁷ In Cioc Maidan, Comrat; in Ghindeşti, Floreşti district, against BMD for alleged violation of rules on posters placement.

²⁸ For example, the Drochia and Bălţi DEC's reportedly failed to examine complaints filed by PSDM and BMD, respectively.

B. INTERNATIONAL CIVIL-SOCIETY ORGANIZATIONS

Four foreign organizations²⁹ intended to observe the 6 March election and appeared to have contacted the Ministry for Foreign Affairs with requests for accreditation. It seems that all four were unable to receive accreditation to observe. Nevertheless, IAHRP and CIS-EMO attempted to arrive in Moldova ahead of receiving assurances that they would be accredited.³⁰ As a result, the IAHRP were deported, while the CIS-EMO were not allowed entry in Moldova.

X. PARTICIPATION OF NATIONAL MINORITIES

According to the 1989 census, national minorities account for some 30 percent of Moldova's population. The largest minorities are the Ukrainians, Russians, Roma, Gagauz, Bulgarians and Jews. The relevant figures of the latest population census, held in October 2004, have yet to be released. Under the Moldovan Constitution and the Election Code, national minorities have equal rights and may not be discriminated against.

In Moldova, most national minorities tend to be regionally based and to live in communities. While minorities often uphold their traditions and use their respective languages within their communities, most minorities also communicate in Russian, and to a lesser extent in the state language. In the Autonomous Territorial Unit of Gagauzia, the Gagauz language can be used in public administration and education. In addition, the Gagauz community enjoys some other specific rights, such as the right to elect its leadership, including the *Bashkan* or governor.

Two bodies are responsible for minority issues: the Department for Inter-Ethnic Relations is a Governmental Agency, while the Human Rights and National Minorities Commission is a standing parliamentary committee. The Moldovan authorities have elaborated a state policy concept for national minorities, which is the basic document for further decisions, strategies and actions related to minorities. It appears that the Department for Inter-Ethnic Relations is mainly focusing on cultural events and cooperation with national minorities' civil society. This Department organizes festivals, concerts and other events, and it has established a consultative body with more than 80 non-governmental organizations representing national minorities. State radio and television have special broadcasts for each of the larger minorities.

While the Election Code does not impede on the participation in elections of minority candidates or voters, registration requirements in the Law on Political Parties and Socio-Political Organizations, combined with legal thresholds for eligibility to participate in allocation of parliamentary seats, have proven disadvantageous for the formation of parties representing minority communities and regionally based parties.

Minority related issues were not a very evident topic for discussion during the course of these elections. Some parties and independent candidates, including PCRM and PPCD, addressed

²⁹ "Asar" party from Kazakhstan, Parliamentary Assembly of the Russian-Belarusian Union, and two NGOs based in the Russian Federation, International Assembly for Human Rights Protection (IAHRP) and the CIS Elections Monitoring Organization (CIS-EMO). The first two organizations were seeking to accredit some 10 observers each, the latter two intended to accredit more than 200 observers.

³⁰ Prior to the elections, members of IAHRP, who had not submitted their accreditation request, but claimed they had come to observe the elections, were deported from Moldova.

such issues in a general manner. BMD broadcast a spot on the main TV channels, where minority representatives voiced support for the bloc's electoral platform. PPCD translated its electoral platform in five languages³¹, in a specific effort to target minority voters. Some contestants³² were perceived as representing the Russian minority's interests. The issues of the Ukrainian minority, the largest one according to the 1989 census, were not part of the public debate, apart from the right to use Ukrainian language in education and public administration.

Most interlocutors from political parties said that their membership and their candidate lists included representatives of registered minorities. However, the Roma minority in particular was underrepresented in these elections, as only two Roma candidates were included on the lists of mainstream parties, both in positions that made them unlikely to be elected. This is a reflection of the general lack of representation of Roma in politics and in the public administration.

XI. PARTICIPATION OF WOMEN

The objective of equal treatment of men and women is reflected in the Moldovan Constitution, as well as in the Election Code. In addition, Article 9 of the Law on Political Parties and Socio-Political Organizations states that equality between men and women should be promoted in decision making bodies at all levels. A law on equal rights of men and women, which would introduce a 30-percent quota for women in parties, has been drafted but is yet to be adopted by Parliament.

Women remain under-represented in Moldovan political life. In the parliament elected in 2001, only ten out of 101 members were women (9.8 percent). During the Parliament's term, this number increased to 16, or 15.8 percent, as parliamentarians elected in 2001 gave up their seats and were replaced with lower ranked candidates. The Speaker of Parliament was a woman, as were two ministers in the Government.

For the 2005 parliamentary elections, the share of women running in eligible positions increased and the number of women elected more than doubled, from ten to 21, 20.8 percent. Of these, 11 were elected from the list of the PCRM, 19.6 percent of the 56 member PCRM parliamentary group. Five women were elected from each the BMD and the PPCD lists, 14.7 percent and 45.4 percent of elected MPs, respectively. The PPCD contested the elections with a balanced list in which men and women were ranked in alternation.

The party with the highest share of women candidates and a female list leader was the Republican Party of Moldova. This party remained marginal in the elections, winning less than 600 votes. Two of the 12 independent candidates were women, but like their male competitors, all failed to get elected.

Within the context of the election campaign, women candidates did not play a prominent role. Several female candidates from opposition parties complained to the OSCE/ODIHR EOM

³¹ Russian, Ukrainian, Gagauzian, Romani and Bulgarian.

³² The Republican Socio-Political Movement "Ravnopravie" and, to a lesser extent, the Electoral Bloc "Patria-Rodina" and the Labour Union "Patria-Rodina"; their platforms focused heavily on the status of Russian language in Moldova and on cooperation with the Russian Federation and other CIS states.

that police controls and pressure exerted by the authorities hindered their campaigns. However, it would not appear that female candidates were specifically targeted. Female politicians were also marginal in the representation of politics in the media during the campaign, although the amount of time given to female politicians increased substantially during the course of the campaign as a result of their participation in electoral debates on *Moldova 1*.

Although most competitors included social and family issues in their platforms, specific topics related to women were not evident in the campaign discourse and there was little effort by parties to specifically target women voters.

Women were well represented in the election administration, and many women were also acting as election observers for political parties and non-partisan domestic organizations. IEOM observers reported that on election day, around three quarters of PSEB members in polling stations visited were women. In the DEC's visited on election night, 42 percent of members were women.

XII. ELECTION DAY

A. VOTING

Election day was generally calm and peaceful. The CEC reported that 64.84 percent of voters turned out to vote. During the course of voting, IEOM observers visited some 1,400 polling stations, out of a total of 1,970 established for these elections. Observers assessed the conduct of polling as good or very good in 80.4 percent of polling station visited, and as adequate in 16 percent.

IEOM observers reported several problems which point to inconsistent application of the rules and regulations, as well as other procedural problems. Thus, in 14.6 percent of polling stations visited, not all people who should have been entered on the supplementary voters' list were actually entered, and in 7.1 percent, the Polling Boards did not retain all Absentee Voter Certificates presented. In 12.7 percent of visits, observers noted that the "voted" stamp was not applied to every voter's identity document, thus removing a safeguard introduced by the CEC to prevent possible multiple voting. This was observed in particular in Briceni and Ocnîța districts and in Gagauzia. Several Polling Board officials told observers that they had either been instructed by their DEC not to apply this stamp, or that it had been left to their discretion. These problems could have a negative impact on the voting process and would have required clear CEC instructions to ensure a uniform application of the rules.

IEOM observers also reported instances of unauthorized persons assisting the work of the Polling Board or directing it in 10.7 percent of polling stations visited. In most cases, such persons were members of administrative authorities or representatives of parties or coalitions. Police were present in 5.6 percent of polling stations visited, although police officers should only be present if invited by the Polling Board chair in order to restore order.

Other problems noted by IEOM observers included: insufficient safeguards for the secrecy of the vote in 7.7 percent of polling stations visited, and group voting in 14.4 percent of the visits, proxy voting in 6.6 percent of the visits, and campaigning or campaign material inside a polling station or in its immediate vicinity in 8.8 percent of the visits.

Some problems observed on election day appeared to stem from inadequate organization. Reports indicated that a relatively high number of polling stations visited, 15.2 percent, were overcrowded, and observers considered the layout of some 6.3 percent of polling stations visited inadequate for an easy processing of voters. While voters' identity documents were, as a rule, checked properly and diligently, observers noted that in more than half of the polling stations visited, voters were turned away. This was either because they did not have the required identification documents or because they presented themselves at the wrong polling station. This highlights the need for more and better voter information.

According to the official results released by the CEC, some 6.6 percent of voters were added to the supplementary lists on election day. In the polling stations visited by IEOM observers, the average figure was 8.5 percent. In polling stations observed on 6 March, some 0.9 percent of voters had used AVCs. However, since the official results protocols did not include an entry for the number of AVCs issued or retained by a PSEB, the relevant figure is not included in the official results released by the CEC. The relatively high number of voters added to supplementary voter lists on election day indicates that further efforts are required to improve the accuracy of voter lists.

A little over 30 percent of ballots available at polling stations had been printed in Russian. However, it appears that they were not always distributed in sufficient numbers to individual polling stations, as 8.7 percent of observer reports indicate that voters were not handed ballots in the language of their choice.

IEOM observers met domestic non-partisan observers in over half of the polling stations visited, and international observers, mostly from the Romanian NGO "Pro Democracy Association", in 20 percent of polling stations visited. Representatives of the contestants were present in over 99 percent of polling stations visited, most of them representing PCRM, BMD, PPCD, or PSDM. Observers noted isolated cases when domestic observers or representatives of contestants were prevented from carrying out their duties, and instances where party representatives tried to influence voters.

Approximately 8,200 voters residing in Transnistria turned out on election day. In most of the nine polling stations they were assigned to on government controlled territory, few problems were noted. However, one polling station in Varnița, dedicated to voters from Transnistria, became extremely overcrowded as over 4,200 voters came to vote there. A similar case of overcrowding was reported from Rezina, where around 1,500 voters from Transnistria voted. In the polling station in Varnița, IEOM observers also noted the presence of a group of unidentified men who had no apparent role in the electoral process, as well as the expulsion of a domestic non-partisan observer without any apparent legitimate reason.

B. COUNTING

IEOM observers followed the counting process in over 140 polling stations. Some 77.9 percent of them assessed the vote count as good or very good and another 16 percent rated it as adequate.

IEOM observers noted that in some 80 percent of polling stations observed, voters waiting in line when the polls closed at 21:00 were not allowed to vote. While the Election Code is silent

on whether voters waiting in line when polling stations close are entitled to vote, it would have been appreciated, in line with practice in many countries, if the CEC had issued an instruction obliging PSEBs to allow such voters to cast their ballots.

During the vote count, unused ballots were not voided in 11 percent of polling stations visited, and in 13 percent, the voting and control stamps were not collected and safely stored before the ballot boxes were opened. In many cases, control mechanisms such as counting the number of signatures on the voter lists before counting the votes, in 19.1 percent of observations, or counting the total number of ballots before counting the votes cast for individual contestants, in 16.8 percent of observations, were not followed. Observers also reported that in a high 21 percent of counts, unauthorized persons were assisting or directing the work of the PSEBs at the time of counting; in most cases, these persons were representatives of contestants, although representatives of administrative authorities were also involved. Disagreements over how a ballot should be counted were noted by 27.2 percent of observers; these were generally resolved by a vote of the PSEB or decision of the chairperson.

Some 27 percent of PSEBs had problems filling in the result protocols, which were mostly resolved by recounting ballots or signatures. Some 7.3 percent of PSEBs did not use a pen to fill in the protocol in a manner that would prevent subsequent changes. In 10.4 percent of polling stations observed, candidate representatives and observers were not given a copy of the protocol. Domestic observers were present in about two thirds of polling stations where the count was observed, and candidate representatives - in 96.5 percent.

C. TABULATION AND ANNOUNCEMENT OF RESULTS

IEOM observers' at the DEC's reported that procedures were mostly followed, although in a number of cases, the Polling Board chairperson was not present when the polling station results were entered or did not verify their accuracy. Representatives of contestants were present in all but one of the DEC's visited, and domestic non-partisan observers were present in over half of such DEC's.

While the CEC published the final results within the deadline foreseen by the Election Code, it did not make them public at an earlier stage. Throughout election night, the CEC announced partial results to the media, and on the morning of 7 March, it published on its website partial results based on some 70 percent of polling stations. Although announcing the same day that all polling stations had been processed, the CEC did not make new data available until 11 March, the day it adopted the decision on the final results. Also on 11 March and as part of the official results, the CEC released election results by district. However, the CEC never made available to the public the results at the polling station level, although it demonstrated to members of the IEOM on election night that it had the technical means to access detailed results per polling station.

XIII. RECOMMENDATIONS

The following recommendations are offered to the authorities of the Republic of Moldova, with a view to support the stated goal of the Moldovan authorities, political parties and civil society to conduct elections in line with OSCE Commitments, Council of Europe and other international standards for democratic elections.

A. LEGAL FRAMEWORK

1. The OSCE/ODIHR takes this opportunity to call once again on the authorities of the Republic of Moldova to consider prompt implementation of the Joint Recommendations issued in July 2004 by the Council of Europe's Venice Commission and the OSCE/ODIHR. The benefits of implementing the Joint Recommendations were recognised by the CEC, and relevant amendments to the legislation should be considered for adoption, in the course of a broadly inclusive process, well in advance of the 2007 local elections. Review of thresholds for eligibility for parties, blocks and independent candidates to participate in seat allocation merits particular consideration. Provisions for accreditation of international observers should also be clarified.

B. ELECTION ADMINISTRATION

2. Consideration should be given to ensure for an inclusive composition of the CEC, regardless of any specific incumbency.
3. In order to ensure full transparency and raise the overall confidence in the process, the CEC should publish all its decisions in the Official Gazette and on its website immediately after adoption.
4. The CEC should provide detailed election results, by polling stations, available on its website as soon as they have been processed in the DEC's.
5. Although the CEC addressed a number of problems during the pre-election period, many of these could have been solved at an earlier stage, since the CEC is a permanent body. For future elections, an earlier start to election preparations by the CEC would be most desirable.
6. Mechanisms should be introduced to ensure that DEC members drawn from the judiciary are not serving as sitting judges during their terms as DEC members.
7. A central voter register should be established for future elections, and a unified way of maintaining voter lists at local level should be introduced, based on a clear sharing of responsibilities between the central and local level actors. Voter lists should preferably be based on the civil registers rather than door-to-door inquiries.
8. The Election Code should be amended in order to allow voters who are waiting in line, at the time of closure of polling stations, to cast their ballots.
9. In order to avoid long lines and improve possibilities for voters to be able to cast their ballots, the maximum number of registered voters per polling station, 3,000 under the current Election Code, should be reduced, and numbers of polling stations correspondingly increased.
10. Substantial voter information campaigns are needed to ensure voters' understanding of the process and allow them to make a fully informed choice.
11. The communication of CEC decisions to lower level electoral bodies and other entities involved in the process should be streamlined to ensure that such bodies are fully informed, in a timely manner, and guarantee a uniform application of the law and CEC decisions.
12. The Election Code should be amended to make completely clear that logistic support of electoral bodies by public authorities does not entitle or authorize the permanent or long term presence of local administration officials at the premises of polling stations or other electoral bodies.
13. A special shorter deadline for the establishment of DEC's and other electoral bodies, in case of early elections following dissolution of Parliament, should be introduced, since the existing deadlines are conflicting.

14. The authorities could consider possibilities to open additional polling stations abroad, in a clearly regulated, timely and transparent manner, under the auspices of those embassies where there is a history of high turnout, so that citizens wishing to vote are able to cast a ballot.

C. COMPLAINTS AND APPEALS

15. Consideration should be given to ensure that the law clearly defines the powers and responsibilities of the various bodies responsible for review of complaints and appeals, to avoid conflicts of jurisdiction, and should not grant the appellants or the authorities the right to choose the appeal body.
16. The courts should comply with the deadlines introduced by the Election Code (Art. 67).
17. The CEC and DEC's should be obliged by law to decide upon complaints within short deadlines. Indeed, while the Law foresees a three days deadline for CEC and DEC's to start examining complaints, it does not provide any as regards to their adjudication. The current 30 days deadline stipulated by the Law on Petitions, as a general rule applicable to administrative bodies, is not adequate for the resolution of election disputes.

D. ELECTION CAMPAIGN AND THE MEDIA

18. Measures should be taken to ensure that all contestants have free and equal access to voters and can campaign without any impediments. The authorities must ensure that local government and police do not unduly interfere in campaign activities.
19. Further steps should be taken to prevent the abuse of administrative resources for campaign purposes at all levels.
20. The Law on Running and Organization of Assemblies has proven too inflexible for the special conditions of an election campaign. The requirement for organizers of a rally to submit the respective request 15 days in advance to municipal authorities constitutes a restriction to a free campaign. Flexible regulations for timely and fair provision of locations for electoral rallies and meetings with electors, both in-door and out-of-door, are necessary.
21. Provisions in the Election Code regarding the allocation of space for campaign posters should be amended to the benefit of electoral contestants. The Election Code should ensure "sufficient" rather than "minimum" space for electoral posters, and the provision that such space must be allocated within five days of a contestant's registration should be enforced.
22. Legal provisions restricting the right of broadcasters to cover electoral activities in news and current affairs programs should be removed.
23. Broadcasters should be obliged to respect the plurality of political views, especially in the news coverage. When covering governmental activities during an election campaign, broadcasters should present viewers with opposition views as well.
24. The time dedicated to voter information and voter education should be increased in order to inform voters about their rights and voting procedures.

E. CIVIL SOCIETY AND ELECTION OBSERVATION

25. The Election Code should be amended to include clear criteria, procedures, and deadlines for the accreditation of international observers.
26. The grounds for refusal to accredit observers, whether domestic or international, should be communicated to the applicant in writing and in a timely manner.

F. PARTICIPATION OF NATIONAL MINORITIES

27. Registration criteria in the Law on Political Parties and Socio-Political Organizations should be reviewed in order to encourage and facilitate the effective freedom of association and the political representation of minorities and regional interests.
28. The OSCE Action Plan on Roma and Sinti, in particular the chapters dedicated to participation in decision making, should be implemented.

G. PARTICIPATION OF WOMEN

29. The draft Law on Equal Rights and Opportunities for Men and Women should be adopted by Parliament as soon as possible.
30. The Law on Political Parties and Socio-Political Organizations codifies the advancement of equal co-determination of men and women in political decision making. It would be important to add measures on how to achieve and verify such goals.
31. Moldova, which joined the Convention on the Elimination of all Forms of Discrimination against Women ten years ago, should also sign the Optional Protocol.

ANNEX 1: Election Results³³

Number of voters included on permanent voter lists	2,270,668	
Number of voters included on supplementary voter lists	159,869	
Number of voters who received ballots	1,576,203	
Number of voters who turned out to vote	1,576,079	64.8% of all registered voters
Number of invalid votes	18,251	1.16% of all votes cast
Number of valid votes	1,557,828	
Number of ballots received by Polling Boards	2,451,157	
Number of unused and cancelled ballots	874,992	

Party/Electoral Bloc/Independent Candidate	Votes	Percent of valid votes	Mandates
Party of Communists of the Republic of Moldova (PCRM)	716,336	45.98	56
Christian Democratic People's Party (PPCD)	141,341	9.07	11
Electoral Bloc "Moldova Democrată" (BMD)	444,377	28.53	34
Social Democratic Party of Moldova (PSDM)	45,551	2.92	0
Electoral Bloc "Patria-Rodina"	77,490	4.97	0
Silvia Chirilov (independent candidate)	3,145	0.20	0
Socio-Political Republican Movement "Ravnopravie"	44,129	2.83	0
Centrist Union of Moldova	11,702	0.75	0
Alexandru Bușmachi (independent candidate)	747	0.05	0
Labour Union "Patria-Rodina"	14,399	0.92	0
Maia Laguta (independent candidate)	1,011	0.06	0
Ștefan Matei (independent candidate)	1,934	0.12	0
Christian Democratic Peasants' Party of Moldova	21,365	1.37	0
Andrei Ivanțoc (independent candidate)	1,678	0.11	0
Alexandru Arsenii (independent candidate)	572	0.04	0
Alexei Busuioc (independent candidate)	983	0.06	0
Tudor Tătaru (independent candidate)	2,273	0.15	0
Fiodor Ghelici (independent candidate)	1,102	0.07	0
Victor Slivinschi (independent candidate)	495	0.03	0
Anatolii Soloviov (independent candidate)	452	0.03	0
Republican Party of Moldova	592	0.04	0
Mircea Tiron (independent candidate)	284	0.02	0
Party of Social-Economic Justice of Moldova	25,870	1.66	0
Total	1,557,828	100.00	101

³³

Source: Central Election Commission.

ANNEX 2: Violations of Deadlines by Courts

The following table includes a sample of court decisions of all instances which were analyzed by the OSCE/ODIHR EOM.

Applicant	Issue	Case No.	Court's incoming date	Date of decision	No. of days	Delay
PSDM	Cancellation of several CEC rulings which found the PSDM in breach of rules on printed electoral materials	Chişinău Court of Appeals 3-932/05	7 February 2005 (by mail)	18 February 2005	11	6
Valeri Efremov	Revocation of registration of the Republican Party of Moldova as an electoral contestant by the CEC	Chişinău Court of Appeals (Case No. not communicated to the EOM)	18 February 2005	25 February 2005	7	2
PSDM	Refusal by several private media companies to sign contracts with PSDM regarding broadcasting of its electoral spots (Art.32 of the CEC's media Concept)	Supreme Court of Justice 3r-429/05	31 January 2005	10 February 2005	10	5
PPCD	Legality of the CEC's first decisions due to lack of official publication of a previous Parliament decision on the establishment of the election date	Supreme Court of Justice 3r-338/05	17 January 2005	3 February 2005	17	12

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It co-ordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, civil society, freedom of movement, and gender equality. The ODIHR implements a number of targeted assistance programmes annually, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

Within the field of **tolerance** and **non-discrimination**, the ODIHR provides support to the participating States in implementing their OSCE commitments and in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihhr).