



Office for Democratic Institutions and Human Rights

# REPUBLIC OF MOLDOVA

## PRESIDENTIAL ELECTION 1 and 15 November 2020

### ODIHR Limited Election Observation Mission Final Report



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**REPUBLIC OF MOLDOVA  
PRESIDENTIAL ELECTION  
1 and 15 November 2020**

**ODIHR Limited Election Observation Mission Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the authorities of the Republic of Moldova and based on the recommendation of a Needs Assessment Mission (NAM) conducted from 17 to 21 August 2020, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Observation Mission for the 1 November 2020 presidential election. However, due to the extraordinary circumstances caused by the COVID-19 pandemic and the resulting travel restrictions throughout the OSCE region, ODIHR decided to change the format of the deployed observation activity to a Limited Election Observation Mission (LEOM). The ODIHR LEOM remained in the country to observe the second round of the election held on 15 November. The electoral process was assessed for compliance with OSCE commitments, other international obligations and standards for democratic elections, and with national legislation.

The Statement of Preliminary Findings and Conclusions issued on 2 November concluded that “the presidential election was organized professionally, despite challenges posed by the COVID-19 pandemic and legislative gaps that undermined the effectiveness of the campaign finance oversight and election-dispute resolution. In a competitive campaign, voters had distinct political alternatives to choose from, although allegations of vote-buying persisted throughout the process. While political polarization and control of media remain of concern, contestants were covered mostly in a balanced manner which helped voters to make an informed choice. On election day, allegations over organized transportation of voters led to road-blockages and tensions which interfered with the voters’ freedom of movement and access to polling stations. In the limited number of polling stations observed, procedures were generally followed, but inadequate voting premises at times led to overcrowding.”

As none of the candidates achieved the required number of votes to be elected in the first round, the second round was held on 15 November between Maia Sandu and the incumbent president Igor Dodon. The Statement of Preliminary Findings and Conclusions issued on 16 November concluded that “voters had a choice between political alternatives and the fundamental freedoms of assembly and expression continued to be respected. However, negative and divisive campaigning and polarizing media coverage marred the campaign environment and degraded the quality of information available to voters. Claims of financial irregularities were left without an adequate response, reiterating the lack of effective campaign finance oversight. In the limited number of polling stations visited, the process was orderly and procedures were largely followed despite queues and occasional overcrowding. Timely information on the voting and its results was provided by the election administration, enhancing transparency of the process.”

The legal framework overall provides an adequate basis for democratic conduct of elections, although frequent changes contributed to the lack of legal certainty. Several electoral components are in need of a more consistent and comprehensive legislative regulation. Specific elements of the legal framework that should be addressed include the provisions on campaign finance, prevention of misuse of administrative resources, the electoral dispute resolution, and addressing the issue of organized transportation of voters in connection with vote-buying. Despite a previous ODIHR recommendation,

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<sup>1</sup> The English version of this report is the only official document. Unofficial translations are available in the State and Russian languages.

the legal framework has few explicit provisions for the second round. This, however, had limited impact on the conduct of this election.

The presidential election was managed by a three-level administration, comprising the CEC, District Electoral Councils, and Precinct Electoral Bureaus. In general, the election administration managed efficiently the technical aspects of the process and complied with the legal deadlines. While the lower-level electoral bodies overall enjoyed confidence among election stakeholders, the trust in the CEC was diminished due to allegations of partiality of some of its decisions. An extensive voter information campaign covered, among other issues, the accessibility of polls for voters with disabilities. The lack of women representation in the CEC remains a concern as it includes only men. Women were well-represented in the lower levels of the election administration.

The centralised voter register is maintained and continuously updated by the CEC, based on the population register. In general, the accuracy of the voter lists was not questioned. Recent improvements in population and voter registration, in particular with regard to voter identification and the prevention of multiple voting were noted by a number of ODIHR LEOM stakeholders. However, the presence of deceased voters in the lists continues to pose a challenge, especially with regard to citizens who resided abroad, due to difficulties with obtaining the documents to remove their records.

Citizens eligible to vote may stand for the presidential office if they are at least 40 years of age by election day and have resided permanently in the country for at least 10 years. The residency requirement runs counter to international obligations and good practice. Prospective candidates had to collect between 15,000 and 25,000 supporting signatures from voters, with a minimum of 600 signatures from the majority of the administrative districts. In view of restrictive conditions of the COVID-19 pandemic, the required minimum of signatures and the prohibition for voters to sign in favour of more than one candidate could have posed an unreasonable barrier to candidacy. In an inclusive process, the CEC registered eight candidates out of nine nominations submitted. Women remain underrepresented in politics and only two candidates in this election were women.

Freedom of peaceful assembly was respected in the campaign and all candidates held meetings with voters, even though COVID-19 restrictions limited participation in public events. Most candidates also campaigned through door-to-door canvassing, leaflets, posters, media, as well as intensively through social network platforms. The campaign was competitive, with messages mainly focused on the economic downturn, emigration, corruption, and on the country's geopolitical orientation. The campaign discourse became distinctly more divisive in the second round and negative campaign materials were broadcast in the media and circulated in social networks. Instances of intolerant rhetoric towards sexual minorities were noted by the ODIHR LEOM.

Campaigns may be funded from private and public sources. The legal framework for campaign financing prescribes donation limits and sets out reporting requirements for candidates. Overly restrictive requirements lead to the impossibility for individuals unknown to the candidates and parties to donate. In addition, important aspects, such as regulation of third-party financing, the limits of political party support to their candidates and valuation of in-kind contributions, are missing. The CEC is responsible for campaign finance oversight but it has no appropriate resources, capacities, or procedures. The CEC's limited review of reports did not amount to an effective campaign finance oversight.

The media landscape is diverse but most media outlets are directly or indirectly sponsored by different political forces and align editorial policies to a certain political agenda. The law provides for equitable conditions and during the campaign the candidates were given free airtime and offered to participate in numerous debates on national television channels. Many political programmes and interviews contributed to informing the voters, although some programmes did not ensure the impartiality and

balance required by law. Significant differences in the tone of coverage were noted in the monitoring carried out by the ODIHR LEOM, reflecting persisting media polarisation. Compared to other broadcasters, the public channel *Moldova 1* provided all the candidates with relatively equal coverage, predominantly in a neutral tone. The Audiovisual Council (AC) conducted media monitoring, but, given the short duration of the campaign, its bi-weekly reporting appeared to be insufficient. The AC's reaction to complaints was inconsistent, leaving some irregularities unaddressed while applying strict sanctions for other violations, or imposing the same sanctions for violations of different scales.

In general, the complaints and appeals framework provides for effective dispute resolution but the existing gaps, contradictions, and complexity of the rules undermined its accessibility. Contrary to international good practice, the CEC and the courts overly formalistically and narrowly interpreted admissibility requirements and avoided substantive consideration of complaints and appeals. The inconsistent handling of complaints undermined the availability of effective legal remedies, at odds with international standards.

The law grants observers access to the entire electoral process both in the country and abroad. The CEC facilitated entry and unrestricted observation opportunities for international observers in spite of the COVID-19 pandemic. The inclusive accreditation of observers contributed to the transparency of the electoral process. At the same time, unprofessional conduct of partisan observers in polling stations at times raised concerns.

In line with the ODIHR observation methodology, the LEOM did not observe election-day proceedings in a systematic and comprehensive manner. At the polling stations visited by the ODIHR LEOM during both rounds, voting was overall orderly and the environment was calm. Key procedures were generally followed and the process was well-organized. Inadequate premises in some instances undermined the secrecy of vote and led to overcrowding. Allegations of organized transportation of voters in connection with vote-buying were made on both election days and the police announced investigations. Accessibility of the process for persons with disabilities remains limited, contrary to international standards. Preliminary results, summarised by districts, were updated live on the CEC website shortly after the closing of polls, providing for transparency of the process.

All candidates accepted the results and on 16 November the incumbent president Dodon extended preliminary congratulations to the president-elect Sandu. There were no appeals against the results of either round or requests for recounts of ballots. Final election results were announced by the CEC on 20 November. On 23 November, the CEC submitted its final protocol and report, including recommendations for legislative amendments, to the Constitutional Court. On 10 December, the Constitutional Court validated the results of the election.

This report offers a number of recommendations to support efforts to bring elections in Moldova further in line with OSCE commitments and other international obligations and standards for democratic elections. Priority recommendations relate to addressing organized transportation of voters in connection with vote buying, preventing the misuse of administrative resources, strengthening campaign finance regulation and oversight, improving election dispute resolution, ensuring voters are able to cast their votes freely, and ensuring better polling premises. ODIHR stands ready to assist the authorities to improve the electoral process and to address the recommendations contained in this and previous reports.

## II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the authorities of the Republic of Moldova to observe the 1 November 2020 presidential election, based on the findings and conclusions of the Needs Assessment Mission deployed from 17 to 21 August 2020, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Observation Mission (EOM) on 22 September 2020. The EOM, headed by Corien Jonker, included 10 experts based in Chisinau and 24 long-term observers who were deployed throughout the country from 30 September. However, the extraordinary circumstances caused by the COVID-19 pandemic and the resulting travel restrictions throughout the OSCE region negatively affected the ability of the OSCE participating States to second short-term observers. Consequently, on 9 October ODIHR decided to change the format of the deployed observation activity from an EOM to a Limited Election Observation Mission (LEOM). The ODIHR LEOM remained in the country to observe the second round of the election held on 15 November and to follow post-election developments until 23 November.

The electoral process was assessed for compliance with OSCE commitments, other international obligations and standards for democratic elections, and with national legislation. In line with ODIHR's methodology for LEOMs, the Mission did not observe election day proceedings in a systematic and comprehensive manner but visited a limited number of polling stations in Chisinau and across the country on both election days. This final report follows two Statements of Preliminary Findings and Conclusions, which were released at press conferences in Chisinau on 2 and 16 November.<sup>2</sup>

The ODIHR LEOM wishes to thank the Central Election Commission (CEC) for the invitation to observe the election and to the Ministry of Foreign Affairs and European Integration (MFAEI) for its assistance. The ODIHR LEOM also expresses its appreciation to other institutions, candidates, political parties, media and civil society organizations for sharing their views, as well as to the resident international community and the OSCE Mission to Moldova for their co-operation.

## III. BACKGROUND

Under the Constitution, the president serves as the head of state, appoints the government, and holds certain powers in foreign relations and national security. The executive power is exercised by the government led by the prime minister. A Constitutional Court ruling in 2016 reintroduced direct presidential elections, reversing constitutional provisions on indirect presidential election in force since 2000. On 21 May, the parliament called the presidential election for 1 November 2020.

The incumbent president, Igor Dodon, then nominated by the Party of Socialists of Moldova (PSRM), won the 2016 presidential election over Maia Sandu, nominated by the Party of Action and Solidarity (PAS). Following the February 2019 parliamentary elections, the 101-member parliament comprised three political parties and one bloc: PSRM, ACUM bloc (comprising PAS and Platform DA), Democratic Party of Moldova (PDM) and Şor Party. Negotiations to form a governing coalition were unsuccessful for several months, while the government continued to be led by Pavel Filip of the PDM.

An ACUM-PSRM coalition was agreed in June 2019 under Prime Minister (PM) Maia Sandu, following the departure from the country of Vladimir Plahotniuc, PDM leader and an influential businessman. Sandu's government was ousted in a motion of non-confidence initiated by PSRM in November 2019 and replaced by a PSRM-PDM coalition under PM Ion Chicu of the PSRM. Due to changed affiliations by parliamentarians, the governing coalition fell short of a formal majority before

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<sup>2</sup> See also prior [ODIHR observation reports in Moldova](#).

this election. Shortly after the first round, on 9 November, PM Chicu replaced five ministers after the PDM had announced withdrawal from the government.

In the first round held on 1 November, none of the eight candidates obtained the necessary majority of votes to be elected. The two candidates who received the highest number of votes were Maia Sandu, nominated by PAS, with 36.2 per cent, and the incumbent President Igor Dodon, self-nominated, with 32.6 per cent. While Mr. Dodon won the largest share of vote in the country, Ms. Sandu was buoyed to the first place by securing over 70 per cent of the out-of-country vote. On 4 November, the CEC announced the first-round results and the run-off for 15 November between Mr. Dodon and Ms. Sandu.

In addition to the issues which have been and continue to be present in the political discourse, such as the country's identity, geopolitical orientation, and the Transnistrian conflict, the COVID-19 pandemic and its consequences took significant space in the political and electoral environment.

#### IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The president is elected for a four-year term through a single nationwide constituency. For the election to be valid, participation is required from at least one third of registered voters.<sup>3</sup> A candidate who obtains at least half of the votes cast is considered elected. If no candidate obtains the required number of votes, a second round is held two weeks later between the two winning candidates. In the second round, the candidate who obtains the higher number of votes is considered elected, regardless of the voter turnout.

Moldova is party to major international and regional instruments related to the holding of democratic elections.<sup>4</sup> Presidential elections are primarily regulated by the 1994 Constitution, the 1997 Election Code, other relevant laws, and CEC's decisions.<sup>5</sup> The electoral legal framework underwent numerous changes since the last presidential election. Amendments to the Election Code in 2019 reintroduced a campaign silence period ahead of the election day, allowed campaign donations by Moldovan citizens from incomes abroad, lowered donation limits from individuals and legal entities and established a ceiling for a contestant's campaign fund. In July 2020, the Election Code was amended to give the CEC more responsibilities in organizing voting abroad. Other amendments initiated before this election are pending in parliament.<sup>6</sup>

Some of the recent amendments, including on reintroducing a campaign silence period, allowing private donations from citizens' incomes from abroad and establishing a ceiling for a campaign fund, addressed prior ODIHR recommendations. Unaddressed recommendations remain, including those related to the effectiveness of oversight of campaign finance, insufficient regulation of post-election

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<sup>3</sup> In case of insufficient turnout, repeat voting should be conducted within two weeks from the declaration by the CEC that the required turnout was not reached, with the same candidates, voter lists, and election bodies.

<sup>4</sup> These include the [1966 International Covenant on Civil and Political Rights](#) (ICCPR), [1979 Convention for the Elimination of All Forms of Discrimination against Women](#), the [2003 Convention Against Corruption](#), [2006 Convention on the Rights of Persons with Disabilities \(CRPD\)](#), and [1950 European Convention for the Protection of Human Rights and Fundamental Freedoms](#) (ECHR). Moldova has not ratified the Optional Protocol to the CPRD which enables individual complaints regarding violations of the Convention.

<sup>5</sup> Other relevant laws include the 2007 Law on Political Parties, the 2008 Law on Assemblies, the 2018 Audiovisual Code, the 2002 Criminal Code, the 2018 Administrative Code, and the 2008 Code on Contraventions.

<sup>6</sup> In July 2020, the parliament adopted in the first reading a draft Law on amending the Election Code, the Administrative Code and the Audiovisual Code. In their [Urgent Joint Opinion](#), ODIHR and the European Commission for Democracy through Law (Venice Commission) concluded that "the draft includes some improvements and addresses several prior ODIHR, PACE and Venice Commission recommendations", but also noted concerns about the hasty drafting procedure and the transparency of the process.

complaints and appeals, the ban on the use of state and foreign symbols and the involvement of foreign citizens in the campaign, extending ownership transparency requirements to online and print media, and on candidates' residence and language proficiency requirements.

The legal framework overall provides an adequate basis for democratic conduct of elections, although frequent changes detracted from stability of electoral law. A number of ODIHR LEOM interlocutors pointed out that parliamentary majorities often change the laws for political reasons.<sup>7</sup> Several aspects of the process are in need of more consistent and comprehensive legislative regulation. These include, among others, the provisions on campaign finance related to the donation rules and oversight scope and procedures (see *Campaign Finance* section), prevention of misuse of administrative resources, particularly vote buying and transportation of voters (see *Campaign* section), and electoral dispute resolution, particularly in the part of the complaint admissibility, (see *Complaints and Appeals* section). Despite a previous ODIHR recommendation to address legislative gaps related to the holding of run-offs, the legal framework has few explicit provisions for the second round.<sup>8</sup> This, however, did not raise stakeholders' concerns, nor did it impede the process for this election.

*As previously recommended the authorities should consider a comprehensive review of the electoral legal framework to eliminate remaining gaps and inconsistencies and ambiguities, and to address ODIHR and Council of Europe recommendations.*

## V. ELECTION ADMINISTRATION

The presidential election was managed by a three-level administration, comprising the CEC, 36 District Electoral Councils (DECs) and 2,143 Precinct Electoral Bureaus (PEBs).<sup>9</sup>

The CEC is a permanent electoral authority with a five-year mandate that comprises nine members, one nominated by the president and the others by the parliamentary factions proportionally to their representation. The current CEC was appointed in June 2016 but three new members were appointed and new leadership was elected after resignations in July 2019.

The lower-level electoral bodies, appointed for each election, were established within the legal deadlines.<sup>10</sup> Some DECs reported difficulties in assignments of the polling staff and identification of adequate premises for polling stations (PS) which would comply with the requirements put in place due to the COVID-19 pandemic. The ODIHR LEOM observed that in several cases temporary

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<sup>7</sup> Since 2015 the Election Code was amended by 21 different laws. For example, campaign silence before the election day was abolished in 2018 and reintroduced in 2019.

<sup>8</sup> While the date and the validity of observer accreditations are regulated, other issues, including campaign coverage in the media and financing of the campaign before the announcement of the second round, as well as the management of voter lists, are not.

<sup>9</sup> There are 37 administrative districts. However, as previously, voting did not take place in the Bender and Tiraspol districts on the left bank of Nistru (Transnistria), which are not under the control of the constitutional authorities of the Republic of Moldova. To administer polling for registered voters from these two districts, a designated DEC located in Chisinau was established. Voters abroad and from Transnistria had the possibility to express their interest in participating by pre-registering online or by mail for an extensive period of time before the election. According to the CEC, 59,921 voters abroad and 161 voters from Transnistria used this opportunity.

<sup>10</sup> Most DECs had nine members, only two DECs located in Chisinau had 11 members. For each DEC local court and local council nominate two members each. DECs established the PEBs consisting of five to 11 members, including 3 nominated by local councils. The five parliamentary political parties nominated their members to DECs and PEBs. In cases of shortage in nominations, the remaining members were appointed from the CEC Register of Election Officials.



locations of PEBs were not displayed and PEB members were not always present during the specified office hours, thus hampering voters' access to the PEBs.<sup>11</sup>

The lack of women representation in the CEC remains a concern as it includes only men. Women were well-represented in the lower levels of the election administration. The vast majority of lower-level bodies were composed of female members, including in decision-making positions. Out of 36 DECAs, 17 were chaired by women. In PEBs, 84 per cent of chairpersons, 78 per cent of deputy chairpersons, and 96 per cent of secretaries were women.

The CEC opened 42 specifically designated PSs for voters from the localities on the left bank of Nistru (Transnistria).<sup>12</sup> In four districts, local councils refused to provide the premises and nominate PEB members for 10 of these PSs, alleging health and security concerns. After consultations with upper level local authorities, the CEC secured the opening of all PSs.

Following amendments to the Election Code in 2019 and 2020, the CEC is the main authority for the establishment of PSs abroad. In co-operation with the MFAEI, the CEC established 139 PSs in 36 countries.<sup>13</sup> Many ODIHR LEOM interlocutors expressed concerns over the lack of clarity of the provisions for establishment of polling stations abroad and their implementation.<sup>14</sup> Ahead of the second round, in anticipation of a higher turnout, additional resources were provided and the CEC increased the numbers of ballots provided to the PSs abroad.<sup>15</sup>

In general, the election administration managed efficiently the technical aspects of the electoral preparations and complied with the legal deadlines. The majority of DECAs and PEBs were provided with adequate resources and logistical support from the local authorities. However, some preparations by the lower-level election bodies, such as the initial distribution of election materials, the allocation of PS premises and the re-distribution of voter lists and other electoral documents for the run-off, were late.<sup>16</sup> While the lower-level electoral bodies enjoyed confidence among election stakeholders in their overall performance and impartiality, the trust in the CEC was diminished due to allegations of partiality of its decisions related to candidate registration, campaign finance, and its involvement in the establishment of PSs abroad and for voters from Transnistria. However, the CEC members were generally in agreement on these decisions.

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<sup>11</sup> The PEBs for PSs located in educational institutions had to use alternative premises for meetings before the election day. Instances of absent PEBs during the office hours were observed in 21 districts. Before election day, voters may approach PEBs to request information, verify data in voter lists and request updates, and apply for absentee voting certificates and mobile voting.

<sup>12</sup> By law, decision on the PSs are made based on the voter turnout in the previous elections, the number of pre-registered voters, and the number of registered voters from Transnistria. According to the CEC, the highest importance was attributed to the last criterion.

<sup>13</sup> The Election Code prescribes three criteria for the establishment of PSs abroad: 1) voter turnout in the last election in a given country; 2) number of pre-registered voters; 3) number of resident Moldovan citizens according to the MFAEI and the Diaspora Relations Office. All three criteria have an equal weight. For both rounds of the election, 92 PSs were opened in the European Union countries, 16 in North America, 17 in the Russian Federation, and 14 in other countries.

<sup>14</sup> These concerns primarily related to the increase of PSs opened in the Russian Federation (17 compared to 11 in 2019) and significant numbers of pre-registration of voters, especially via paper forms, compared to the pre-registration and turnout in the 2019 elections.

<sup>15</sup> The CEC provided 30 additional computers and contracted 30 new operators for the PSs abroad that had long queues during the first round. Additional ballot boxes and polling booths were provided for some of these stations. Most PSs abroad were allotted the established maximum of 5,000 ballots.

<sup>16</sup> Observed by the ODIHR LEOM in Chisinau, Cantemir, Cahul, Nisporeni, and in areas with the PSs for voters from Transnistria.

The CEC held regular sessions that were open to the accredited observers and media and live-streamed online. Due to COVID-19 pandemic, CEC members could participate in sessions via an online conference platform. The sessions and their agendas were announced in advance, albeit not always reasonably ahead of time. Views of the candidates' representatives were not always heard during sessions as prescribed by the CEC's regulation.<sup>17</sup> After the first round, the collegiality of the commission's work deteriorated and was at times undermined by acrimonious exchanges.<sup>18</sup>

Before the first round, the decisions adopted and most minutes from the sessions were published on the CEC website in a timely manner, but this practice was not uniform in the second round, detracting from transparency and the availability of information regarding rejected proposals. Sessions of the DEC's were mostly not announced in advance and only some of their decisions were published on the CEC website, which limited public access to the election information.

*In order to increase transparency and access to information of public interest, election administration bodies of all levels should publish decisions and minutes of sessions in a timely and consistent manner.*

The National Extraordinary Commission for Public Health issued instructions on the preventive measures against COVID-19 pandemic during the electoral period.<sup>19</sup> Despite initial concerns about the relatively short time for raising voters' awareness of the procedures, on election day voters were mostly familiar with the established rules, although compliance varied.

The training programme for election officials and other stakeholders developed by the CEC and its Centre for Continuous Electoral Training (CICDE) comprised mostly online training activities. All PEBs were required to receive training online via live-streamed video; however, only around a quarter of all PEB members completed this training. The in-person training sessions observed by the ODIHR LEOM were interactive, informative and mostly well-organized, but they included only PEB leadership and those without previous experience. Training for the remaining PEB members was available by the DEC's or PEB leadership upon request, contrary to international good practice.<sup>20</sup> Lack of experience and training at times reflected in different understanding of procedures and caused irregularities on election day. While no additional training sessions were foreseen after the first round, the CEC held a meeting with DEC chairpersons to discuss identified problematic issues.<sup>21</sup>

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<sup>17</sup> For example, proposals regarding the organization of PSs abroad and procedures for voters with incorrect assignments to PSs by the representative of Ms. Sandu were repeatedly not discussed. The CEC's regulation on the contestants' representatives with the right of a consultative vote prescribes the right "to make proposals and [...] to require voting on them."

<sup>18</sup> For example, on 4 November, following a sharp exchange on the non-inclusion of the candidate representative's proposals, some CEC members walked out of the session. On 10 November, one CEC member expressed his discontent by posting a written statement on his screen during the online session that he regretted voting for the current CEC leadership.

<sup>19</sup> The first instruction was issued on 12 August. According to the updates from 13 October, voters with acute respiratory symptoms who arrived in the PS before 15:00 were not allowed to vote in the PS and had to request voting with a mobile ballot box, without the otherwise required medical certificate. If such voters arrived in the PS after 15:00, they were allowed to vote in the PS, under strict safety measures. Protective masks were provided to all voters free of charge on election day.

<sup>20</sup> Section II.3.1(84) of the [Venice Commission's Code of Good Practice in Electoral Matters](#) (Code of Good Practice) states that "members of electoral commissions have to receive standardised training at all levels of the election administration. Such training should also be made available to the members of commissions appointed by political parties."

<sup>21</sup> The meeting focused on the opening procedures in the PSs and sealing of ballot boxes, compliance with protective measures against COVID-19, provisions for the use of the mobile ballot box, and procedures for closing, counting and tabulation, and the filling in of election documents.

*To ensure professionalism of the election administration, consideration could be given to providing all members of lower-level electoral bodies with standardised training.*

The CEC and CICDE prepared an extensive voter information campaign with printed and audio-visual materials, covering election procedures in-country and abroad, accessibility of polls for voters with disabilities, and preventive measures against COVID-19. Voter education was carried out mostly in the broadcast media and online, and materials were available in the state language, supported by sign-language and subtitles in Russian. Printed voter education materials were available in five languages.<sup>22</sup>

## VI. VOTER REGISTRATION

Voter registration is passive and based on information extracted from the State Population Register (SPR). Citizens aged 18 or older by election day are eligible to vote. While the Election Code retains the provision on a possible deprivation of voting rights by a court decision, other legislation in effect excludes such possibility.<sup>23</sup>

The centralised State Register of Voters (SRV) is maintained and updated by the CEC continuously. As of 8 October 2020, the SRV included 3,287,140 eligible voters. Voters are included in the main voter list based on their domicile or residence. In total, 2,793,322 voters were included in the main voter lists for the first round and 2,789,010 for the run-off.<sup>24</sup> Voter lists do not include voters without registered domicile in the country, voters who requested absentee voting certificates (AVC) and voters from Transnistria.<sup>25</sup> These voters, as well as those who voted abroad, were added to supplementary voter lists on election day.<sup>26</sup> Certain categories of voters were entitled to request a mobile ballot box.<sup>27</sup> Several election stakeholders noted improvements in voter identification and the prevention of multiple voting owing to the State Automated Information System “Elections” (SAISE).<sup>28</sup> The August 2019 legislative amendments permitted to use IDs and expired passports for voter identification abroad on election day.

Between 12 and 31 October, voter lists were submitted to the PEBs for public scrutiny and voters had the opportunity to request changes and amendments. The ODIHR LEOM observed that in most cases, the voter lists were not displayed in the premises of the PEBs, but were available upon request. In view

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<sup>22</sup> Gagauz, Romani, Romanian, Russian, and Ukrainian.

<sup>23</sup> Since 2017, persons with intellectual and psychosocial disability have full legal capacity including voting rights.

<sup>24</sup> The difference in registered voters between the rounds results from the changes requested by voters and a higher number of issued absentee voting certificates issued for the second round. According to the CEC, some inaccuracy in total numbers of registered voters in the main voter lists per PS might have also been caused by incorrect reporting by some PEBs.

<sup>25</sup> According to the CEC, as of 8 October, the SRV included 232,631 voters without domicile and 256,203 voters from Transnistria; the latter constitutes an increase of some 26,000 since the 2019 parliamentary elections. According to the Public Services Agency, between 1 January 2019 and 30 September 2020, 8,533 Transnistrian residents acquired Moldovan citizenship and 3,234 voters from Transnistria turned 18.

<sup>26</sup> In the first round, 202,569 voters were added to the supplementary lists. During the second round, this number increased to 346,646.

<sup>27</sup> Elderly or homebound voters, voters with disabilities, and those in medical and penitentiary facilities. During two weeks before the election day and on election day until 15:00, voters could request a mobile ballot box due to health and other justifiable reasons. Such voters were recorded in a separate list.

<sup>28</sup> Continuously developed since 2014 as a core informational system for election management, the SAISE currently contains 13 modules covering most aspects of the electoral process, including the pre-registration of voters, candidate registration, and administration of political party and campaign finance reports. On election day, prior to receiving a ballot, each incoming voter at any polling station is checked against the nationwide database to determine whether (s)he had already voted. In addition, the SAISE serves for tabulation and the announcement of preliminary results.

of limited access to these premises and limited availability of PEB members, possibilities to inspect the voter lists in person were reduced. Some PEBs justified non-displaying of the voter lists on the grounds of personal data protection. However, following amendments in 2019, the Election Code provides for two versions of voter lists to be available at PSs for verification, one of which contains only full names and the year of birth. These simplified voter lists per polling station were also available online for public scrutiny and voters could verify their own data via the CEC website.

In order to be able to vote outside their precinct of registration in the second round, voters had to re-apply for AVCs in person at the respective PEB.<sup>29</sup> Voters also had to re-apply for voting with a mobile ballot box. However, the voter lists and AVC templates were available in some PEBs only after 9 November, limiting the time for voters to make use of these voting methods.<sup>30</sup> Voters' data can be accessed via the SAISE by any lower-level electoral body but the verification of voters' requests was mostly done at the PEB of the registration. Furthermore, as in the first round, several PEBs were not present in their offices during the official working hours.<sup>31</sup>

There are no legal requirements to update the voter lists between the rounds to reflect requested changes prior to the first round and on election day, and to add voters who came of age or exclude those deceased between the rounds.<sup>32</sup> The same printed main voter lists and voter allocations to PSs were used for the second round. Positively, the SRV was updated to reflect changed residences and the newly eligible voters, enabling their addition to supplementary lists on election day. A CEC regulation requires the PEBs to submit all requests for changes in the SRV to the CEC immediately or latest by the day before the election day, and for these changes to be entered into the SRV. However, the CEC informed the ODIHR LEOM that these changes will only be processed after the end of the electoral period.

*To further enhance accuracy of voter registration, final voter lists reflecting all changes after the public scrutiny and potential decisions on appeals should be compiled and used on election day. Sufficient time should be allowed to update the voter lists between the two rounds of election.*

In general, the accuracy of the voter lists was not questioned. In the recent years, the CEC and other relevant authorities worked on increasing the accuracy in the voter register by restructuring the SPR and the address register and improving the quality of data. However, a number of ODIHR LEOM interlocutors pointed to the existing administrative intricacies in obtaining documentation for the removal of records of deceased voters, especially for voters from Transnistria as well as those abroad. In some localities, alterations in assignments of voters to PSs in comparison to previous elections caused confusion and voters had to travel to more distant PSs; however, in certain places, voters with erroneous assignment to the PS were allowed to vote while being added to the supplementary lists.<sup>33</sup> According to the CEC, errors in assigning voters to polling stations resulted from lasting deficiencies in the address system in rural areas.

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<sup>29</sup> The absentee voting certificates were requested by 34,931 voters in the first round and 37,654 in the second round of the election.

<sup>30</sup> According to the Election Code, voters can request voting with a mobile ballot box in the two-week period until the last day before the election day. Voters could submit the applications for mobile voting as well as requests for the AVCs until 14 November.

<sup>31</sup> This was observed by the ODIHR LEOM in 18 districts.

<sup>32</sup> According to the Public Services Agency, 1,456 citizens turned 18 between the rounds and 6,342 changed their domicile or residence between 6 October and 1 November, after closure of the voter lists for updates. After the first round, some 3,000 citizens changed their registered addresses.

<sup>33</sup> The ODIHR LEOM directly observed or were informed of such situations in the districts of Drochia, Hincesti, and Strasenii.

## VII. CANDIDATE REGISTRATION

Citizens eligible to vote may stand for the presidential office if they are at least 40 years of age by election day, have resided permanently in the country for at least 10 years, and are proficient in the state language.<sup>34</sup> The residency requirement runs counter to OSCE commitments and other international obligations and good practice.<sup>35</sup> The procedure and criteria for establishment of language proficiency are not regulated and candidates only declare their command of the state language in nomination documents.

*The residency and language proficiency requirements for presidential candidates should be reconsidered in line with international standards and good practice.*

Presidential candidates may be nominated by political parties and electoral blocs or run independently. As required by law, in the period between 1 September and 1 October, the registered initiative groups for prospective candidates had to collect a minimum of 15,000 and maximum of 25,000 supporting signatures from voters, with a minimum of 600 signatures from at least 18 out of 35 administrative districts. Contrary to previous ODIHR recommendations and international good practice, voters could sign in support of only one candidate.<sup>36</sup> In view of restrictive conditions of the COVID-19 pandemic, the required minimum of signatures from each district and the prohibition for voters to sign in favour of more than one candidate could have posed an unreasonable barrier for prospective candidates.

*Consideration could be given to amending the law to allow voters to sign in support of more than one candidate.*

In line with previous ODIHR recommendations, procedures of signature collection and verification were further specified over the last years.<sup>37</sup> During verification, the data of voters who provided supporting signatures were examined against the voter register and potential irregularities were flagged for further checks. According to the CEC, after the validation of entries with minor errors, the signature collection lists of all initiative groups still contained various irregularities, including records of deceased voters, incorrect identity document numbers, duplicate entries, and signatures of those who signed for other candidates.<sup>38</sup>

Positively, the CEC informed the initiative groups of their own preliminary verification results and provided them with the possibility to scrutinize and discuss the invalidated entries during CEC working group sessions. However, some ODIHR LEOM interlocutors voiced allegations about inconsistent application of rules for signature verification, as well as transparency of this process. The procedures

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<sup>34</sup> The Election Code sets additional restrictions, prohibiting candidacies of active military personnel, those sentenced to imprisonment or with active criminal records for intentional crimes, and persons deprived of the right to hold positions of responsibility by a court decision.

<sup>35</sup> Paragraph 7.5 of the [1990 OSCE Copenhagen Document](#) states that the participating States should “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.” See also paragraph 15 of the [UN Human Rights Committee General Comment No. 25](#): “persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation.” See also paragraph I.1.1.1c of the [Code of Good Practice in Electoral Matters](#).

<sup>36</sup> Paragraph 96 of the [2020 ODIHR and Venice Commission Guidelines on Political Party Regulation](#) recommends that “it should be possible to support the registration of more than one party, and legislation should not limit a citizen or other individual to signing a supporting list for only one party. Any limitation of this right is too easily abused and can lead to the disqualification of parties that in good faith believed that they had fulfilled the requirements for sufficient signatures.”

<sup>37</sup> A CEC regulation on signature collection and verification was adopted in 2018 and amended in 2019. A CEC regulation on registration of presidential candidates from 2016 was amended in August 2020.

<sup>38</sup> Considerable numbers of disputable records, according to some ODIHR LEOM interlocutors, raised questions as to whether old data from previous electoral periods have been used by some initiative groups.

for scrutiny of the verification results by candidates are neither prescribed by law nor regulated by the CEC. The CEC regulation on signature verification does not specify what types of errors detected can be accepted by the working group and how the invited candidates could address the deficiencies identified. While the CEC allowed for the correction of errors in other nomination documents, they did not allow this in signature lists, even when candidate registration was still open.

*In order to ensure consistency, transparency and legal certainty of the candidate registration, all signature verification procedures should be adequately regulated.*

The CEC received and considered the nomination documents within the legal deadlines. In an inclusive process, eight candidates out of nine nominations submitted were registered. Women remain underrepresented in politics and only two candidates in this election were women. Seven candidates were nominated by political parties and blocs: Dorin Chirtoacă (Electoral Bloc UNIREA), Tudor Deliu (Liberal Democratic Party), Violeta Ivanov (Șor Party), Andrei Năstase (Platform DA), Maia Sandu (PAS), Octavian Țicu (National Unity Party), and Renato Usatîi (Our Party). The incumbent president Igor Dodon stood as an independent candidate. One candidate nomination was rejected for not meeting the required number of supporting signatures.<sup>39</sup>

*Consideration could be given to further advancing mechanisms and affirmative measures aiming at increased participation of women as candidates, including women from minority communities and underrepresented groups.*

## VIII. ELECTION CAMPAIGN

Candidates can start campaigning after their registration, but not earlier than 30 days before election day. Two candidates submitted documents closer to the registration deadline and could only start their campaign three days after the other six candidates. Campaign silence is prescribed on the day before and on election day, but the law is not clear on the start of the campaign for the second round, leaving a prior ODIHR recommendation unaddressed. This resulted in a different understanding of rules by stakeholders, to the detriment of legal certainty.<sup>40</sup>

The law generally provides for equitable opportunities for contestants during the campaign. High-ranking officials registered as candidates are required to suspend their official activities.<sup>41</sup> The participation of state officials in the campaign is regulated, but the implementation of legal provisions was inconsistent.<sup>42</sup> Ahead of the second round, allegations of pressure from Mr. Dodon's campaign staff on public officials and voters have been voiced by his opponents, with several credible reports

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<sup>39</sup> After the verification process, the CEC ascertained that the initiative group in support of Andrian Candu achieved the required numbers of signatures in only 12 administrative districts. His appeals to courts were unsuccessful and his subsequent request to the CEC for the re-examination of its decision was also rejected.

<sup>40</sup> Candidates resumed campaigning immediately after the election day, but their electoral funds were frozen until the declaration of the first-round results by the CEC, and the broadcasters waited for this CEC decision to air campaign advertisements.

<sup>41</sup> Suspension procedures for the president and MPs are not prescribed in the law. Mr. Dodon announced that he was taking an unpaid leave during the campaign period, while Ms. Ivanov, an MP, did not inform of any measures to suspend her official activities.

<sup>42</sup> While some ODIHR LEOM interlocutors insisted that officials should be on leave if supporting a candidate, most explained that they could campaign on weekends or after office hours. Local or state officials took part in half of the 67 campaign events observed by the ODIHR LEOM before the first round.

received by the ODIHR LEOM.<sup>43</sup> Use of public assets and property by candidates in the campaign is prohibited but other aspects of preventing misuse of administrative resources are not spelled out.<sup>44</sup>

*Provisions on preventing the misuse of administrative resources, including on ensuring neutrality of the civil service, participation of officials in campaigns, and safeguarding public-sector employees from any undue influence, should be clearly provided in the law and properly enforced.*

Freedom of assembly was respected in the campaign and all candidates held meetings with voters, even though restrictions due to the COVID-19 pandemic limited participation in public events, both indoors and outdoors, to 50 participants. Most candidates also campaigned through door-to-door canvassing, leaflets, posters, media, as well as intensively through social network platforms.<sup>45</sup> Candidates' campaign opportunities were challenged by a CEC circular which restricted the possibility of parties to financially contribute to the campaign of their candidates.<sup>46</sup> Although the national legislation prohibits the participation of religious institutions in the campaign, dignitaries of the Orthodox church were observed taking active part in several rallies in favour of Mr. Dodon.<sup>47</sup>

The campaign was competitive, with messages mainly focused on the economic downturn, the COVID-19 pandemic, emigration, corruption, and on the country's geopolitical orientation.<sup>48</sup> Accusations about foreign influence featured prominently in the campaign, at times overshadowing programmatic ideas.<sup>49</sup> The role of the diaspora gained more attention during the second round, especially following Mr. Dodon's reference to the "parallel electorate" abroad.<sup>50</sup> Political realignments and positioning in relation to potential early parliamentary elections also became prominent, in part because Mr. Usatîi, who came third in the first round, promoted the immediate dissolution of parliament.

Several candidates and other electoral stakeholders repeatedly voiced concerns about transportation of voters and vote-buying, particularly targeting voters from Transnistria. Vote-buying is prohibited and criminalized. On 20 October, the CEC adopted a decision which effectively equated organized transportation of voters with vote-buying and prohibited the transportation of people during election

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<sup>43</sup> In a Gagauz village, constituents who did not vote in the first round have reportedly been identified and pressured to vote for Mr. Dodon. A similar pattern with regard to public sector workers was reported to the ODIHR LEOM in Edinet. On 9 November, a PSRM statement claimed that Mr. Dodon was endorsed by some 400 mayors and 20 regional councils.

<sup>44</sup> See the 2016 ODIHR and the Venice Commission's [Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources During Electoral Processes](#), paragraphs A.1.3-1.4, A 4.1-4.2, and B.3.2-3.3.

<sup>45</sup> Mr. Năstase, Ms. Sandu and Mr. Usatîi made active use of advertising on Facebook.

<sup>46</sup> Four candidates told the ODIHR LEOM that the CEC interpretation of the law left their campaign funds drastically reduced. Some candidates relied on a different interpretation of the Election Code and used party funds for their campaign. PSRM party structures and staff were active in Mr. Dodon's campaign. (See *Campaign Finance* section).

<sup>47</sup> Observed by the ODIHR LEOM in Vulcanesti and Cismichioi (Gagauzia).

<sup>48</sup> For Octavian Țicu and Dorin Chirtoacă, unification with Romania was a central campaign message. While the importance of good relations to both Russia and the EU were underlined by most candidates, Ms. Sandu, Mr. Năstase and Mr. Deliu were perceived as favouring stronger ties with the EU, while Mr. Dodon and Ms. Ivanov were associated with closer links to Russia.

<sup>49</sup> Mr. Dodon was endorsed by Vladimir Putin on 22 October. Ms. Sandu was endorsed by Donald Tusk and the German party CDU on 31 August and 12 October, respectively.

<sup>50</sup> On 2 November, Mr. Dodon commented on Ms. Sandu's success with voters abroad and stated that the diaspora's vision and political preferences were "in dissonance" with those of the voters in Moldova. His opponents claimed that these remarks insulted the diaspora. Mr. Dodon gave conciliatory explanations and particularly encouraged voters in Russia to support him, including by hinting that those who vote would be given priority in having their irregular migrant status legalised by the Russian authorities.

day in vehicles with the capacity of more than eight seats.<sup>51</sup> This *ad hoc* solution was welcomed by many stakeholders and it was not challenged in courts.<sup>52</sup> On the election days, allegations over organized transportation of voters led to road-blockages and tensions that interfered with the voters' freedom of movement and access to polling stations.

*The law should be revised to address the issue of organized transportation of voters in connection with vote-buying while duly safeguarding the freedom of movement.*

Freedom of expression was generally respected in both rounds. Campaign discourse became distinctly more negative and divisive during the second round, as the candidates attacked each other's prior record in public service and personal credentials. Scaremongering messages, mostly targeting Ms. Sandu, were distributed in printed campaign materials and circulated in the media and in social network platforms.<sup>53</sup> Few candidates signed the CEC's Code of Conduct that promoted good-faith campaign practices.<sup>54</sup> Intolerant rhetoric towards sexual minorities occurred.<sup>55</sup>

*The authorities should introduce an effective mechanism to monitor and react to incitements of hatred and discrimination during the campaign.*

Gender stereotyping was frequent in the incumbent's campaign, as he emphasized traditional family values.<sup>56</sup> In the campaign events observed by the ODIHR LEOM, female speakers frequently appeared with the female candidates, while the male candidates had few or no female speakers.

About a quarter of the population identify as members of a national minority, among which Romanians, Ukrainians, Gagauz, Russians, and Bulgarians are the most sizable.<sup>57</sup> Most candidates addressed voters and provided campaign materials in the state language and in Russian. Mr. Dodon stressed the importance of Russian as the language of inter-ethnic communication and accused Ms. Sandu of neglecting Russian speakers. During the campaign, neither candidate advocated for specific rights or needs of national minorities.

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<sup>51</sup> In 2016, the Constitutional Court noted that "organized transportation [of voters] does not in itself constitute an electoral violation, unless it can be proven that pressure was exerted to influence the choice of voters."

<sup>52</sup> While the Election Code entitles the CEC to issue decisions on organising and conducting elections, the introduction of rules and restrictions not contained in the law is beyond its competence.

<sup>53</sup> Among other claims, these messages alleged that Ms. Sandu's election would bring about closure of schools and hospitals, sale of agricultural lands to foreigners, bankruptcy of Moldovan producers, attacks on the Orthodox church, promotion of an LGBTQ ideology, and a war in Transnistria. According to Ms. Sandu's team, these messages included defamatory content and distorted her views.

<sup>54</sup> Among other issues, this Code committed candidates to refrain from: publishing false and denigrating material about other competitors, buying votes, alleging falsification of the election without proof, involving religious entities in the campaign, abusing administrative resources, and organising bussing of voters. Only Mr. Chirtoacă, Mr. Dodon, Ms. Ivanov, and Mr. Țicu signed the Code.

<sup>55</sup> Mr. Dodon and public figures associated with his campaign repeatedly made disparaging and intolerant comments about sexual minorities. Paragraph 2 of the [Recommendation CM/Rec\(2010\)5 of the Council of Europe's Committee of Ministers on measures to combat discrimination on grounds of sexual orientation or gender identity](#) calls for "legislative and other measures [to be] adopted and effectively implemented to combat discrimination on grounds of sexual orientation or gender identity, to ensure respect for the human rights of lesbian, gay, bisexual and transgender persons and to promote tolerance towards them".

<sup>56</sup> Mr. Dodon repeatedly stated that Ms. Sandu was unfit to be president because she was not married and did not have children. Ms. Sandu did not emphasize gender equality issues in her campaign.

<sup>57</sup> According to the 2014 census, 7.0 per cent identified as Romanian, 6.6 per cent as Ukrainian, 4.6 per cent as Gagauz, 4.1 per cent as Russian, and 1.9 per cent as Bulgarian.



## IX. CAMPAIGN FINANCE

Campaign finance regulations apply to initiative groups and electoral competitors. Campaigns are funded from private and public sources. Public support is provided through free airtime in broadcast media, places for meetings, and a possibility to take interest-free loans from the state budget.<sup>58</sup> Private donations may come from individuals and legal entities.<sup>59</sup> Anonymous donations and donations from foreign, public, non-commercial, trade-union, charitable and religious organizations are prohibited. By law, donations are permitted only from financial resources derived from labour, entrepreneurial, scientific or creative activities. In practice, the implementation of this requirement leads to the impossibility to accept donations from individuals unknown to the candidates and their parties.<sup>60</sup> Donations to most campaigns were made in cash by party supporters.<sup>61</sup> Third-party financing of campaigns is not regulated at odds with international good practice.<sup>62</sup>

A candidate's campaign spending limit is 0.05 per cent of the state budget for the election year (for this election MDL 18.92 million), which was perceived by some ODIHR LEOM interlocutors as too high.<sup>63</sup> The law prescribes this limit only for financial donations; however, the CEC applied it to include in-kind contributions.<sup>64</sup> The lack of regulation regarding the valuation of in-kind contributions is a shortcoming that could be used to circumvent existing donation limits.<sup>65</sup>

The law does not prescribe the limits of candidates' own contributions and by their nominating political parties.<sup>66</sup> The CEC adopted a 'circular' explaining that political parties were bound by the same donation limits as other legal entities, but was criticized by several stakeholders.<sup>67</sup> Some contestants followed this interpretation, while others did not, which created legal uncertainty and had potential

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<sup>58</sup> The loan may amount up to MDL 50,000 (1 EUR is approximately 21 MDL) and should be cleared by the contestant in proportion to the number of votes received. None of the candidates have taken such loans for this election.

<sup>59</sup> Annually individuals may donate up to 6 average monthly salaries (MDL 47,718 in total); individuals with income from abroad – up to 3 average salaries (MDL 23,859); legal entities may donate up to 12 average salaries (MDL 95,436).

<sup>60</sup> To ensure compliance, the CEC required candidates to report not only the identity but also the occupation and the source of income of individual donors. The absence of declared income excludes retired people from donating.

<sup>61</sup> The majority of the candidates noted that they did not seek to attract new donors. Ms. Sandu used the electronic financial system *Paynet* for fundraising. The CEC advised another candidate that this system was not prescribed by the legislation for campaign donations.

<sup>62</sup> The European Court of Human Rights has held that such expenditures may not be banned but may be subject to reasonable limitations (see [Bowman v. The United Kingdom](#), application No. 24839/94). See also Paragraph 256 of the [2020 ODIHR and Venice Commission Guidelines on Political Party Regulation](#) which states that " , it is important that some forms of regulation, with comparable obligations and restrictions as apply to parties and party candidates, be extended to third parties that are involved in the campaign, to ensure transparency and accountability. Third parties should be subjected to similar rules on donations and spending as political parties to avoid situations where third parties can be used to circumvent campaign finance regulations."

<sup>63</sup> For candidates who advanced to the second round, the CEC applied this limit for both rounds cumulatively.

<sup>64</sup> See paragraph 248 of the [2020 ODIHR and Venice Commission Guidelines on Political Party Regulation](#) which states that "Legislation on the inspection of expenditure should likewise be precise, clear and foreseeable; political parties need to be provided with "a reasonable indication as to how those provisions will be interpreted and applied".

<sup>65</sup> Candidates did not report on campaign volunteers and use of parties' offices around the country. In the 2011 [Evaluation Report on Moldova Transparency of Party Funding](#), the Council of Europe's Group of States Against Corruption (GRECO) recommended "to ensure that all donations and services provided to parties or candidates in kind or on advantageous terms are properly identified and recorded in full, at their market value."

<sup>66</sup> See paragraph 224 of the [2020 ODIHR and Venice Commission Guidelines on Political Party Regulation](#) which states that "legislation should ensure that total spending for an electoral contest, including funds allocated by different party branches, is in compliance with relevant spending limits".

<sup>67</sup> According to the CEC's interpretation, since political parties do not have the status of a contestant in presidential elections, the Election Code limits their financial support to the amount applicable to legal entities.

impact on the level playing field.<sup>68</sup> The CEC claimed that its circular was not legally binding, which hindered the judicial review of this act.<sup>69</sup> The legal framework for campaign finance is overall insufficient and its interpretations resulted in inconsistent application.

*The legal framework for campaign financing should be further strengthened and regulate candidates' own contributions and the limits of donations from political parties, valuation of in-kind contributions and the involvement of third-parties in the election campaigns. To protect political pluralism, consideration could also be given to simplify the regulations related to eligibility for donations by individuals.*

All campaign expenses are to be incurred via dedicated campaign fund accounts.<sup>70</sup> The law requires contestants to submit financial reports on all transactions to the CEC within three days from the moment the account is opened and then every week. Candidates who do not open an account are not obliged to submit reports unless they have in-kind donations, which may compromise transparency and accountability of campaign financing. Final reports are due 48 hours before election day, which raises questions about their completeness.<sup>71</sup> With isolated exceptions, reports were presented by candidates in time and published on the CEC website within 48 hours, as prescribed by law. The reporting form allows for detailed campaign expenses, but the candidates provided varying degrees of details.<sup>72</sup> Reports are not accompanied by supporting financial documents, such as contracts and receipts.

*To enhance transparency and the effectiveness of disclosure, final reports should be detailed and accompanied by the supporting financial documents. Consideration could be given to allowing more time for the submission of a complete final report.*

The CEC is responsible for campaign finance oversight but it has no requisite resources and capacities and lacks procedures for audits, leaving room for inconsistent and biased decisions. The CEC's review was limited to crosschecking the data of the reports with information from banks and requesting donors' income declarations from tax authorities. Such scope of review falls short of effective oversight and does not enable the verification of completeness and accuracy of financial reports.

The CEC reviewed campaign finance reports and adopted five decisions, including one on initiative groups. No violations were detected and the CEC stated that it lacked tools to effectively investigate the sources of donations, including in-kind, and refrained from evaluating the legality of support

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<sup>68</sup> During the campaign period, Ms. Sandu received over MDL 1.5 million from PAS. Mr. Năstase received some MDL 560,000 from his political party, *Platforma DA*. Paragraph 7.6 of the [1990 OSCE Copenhagen Document](#) commits participating states to "respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities."

<sup>69</sup> The Liberal and the Liberal Democratic parties challenged the circular in the Chisinau Court of Appeals (CCA), which found the complaint inadmissible because it did not affect the subjective interests of these parties. After the Supreme Court returned the case to the CCA, the court again found the complaint inadmissible because the 'circular' was not a binding document. This decision was again appealed to the Supreme Court, which agreed with the CCA and rejected the case as inadmissible.

<sup>70</sup> Due to criminal proceedings against the Șor party leader, candidate Violeta Ivanov was rejected by banks and could not open an account during the first three weeks of the campaign.

<sup>71</sup> Paragraph 259 of the [2020 ODIHR and Venice Commission's Guidelines on Political Party Regulation](#) recommend that "reports on campaign financing should be submitted to the proper authorities after elections in a timely manner. but with a reasonable deadline that allows parties to compile data, invoices, information on reimbursements of loans, etc."

<sup>72</sup> For example, reports of Mr. Dodon contained a general line of "payment for internet advertisement", while reports of Ms. Sandu provided specific amounts for advertisement on different social network platforms.

coming from the political parties. Few complaints on undeclared expenditures made to the CEC were rejected as inadmissible on formalistic grounds and the CEC did not investigate the alleged violations on its own initiative. The ineffectiveness of the CEC's oversight highlighted the lack of implementation of prior ODIHR's recommendations in this area.<sup>73</sup>

*The framework for campaign finance oversight should be revised to provide for an effective mechanism of monitoring incomes and expenditures and verifying the completeness and accuracy of reporting. The CEC should be equipped with adequate resources and capacities including rules and procedures for meaningful oversight.*

## X. MEDIA

### A. ENVIRONMENT

The media landscape is overall diverse, comprising at least 62 television channels, 55 radio stations, 90 newspapers, 77 magazines and 180 online news portals. Most media outlets are directly or indirectly sponsored and dependent on different political forces and align editorial policies to a certain political agenda. The limited advertising market further undermines independence and impartiality of media.<sup>74</sup> While the legislation provides for transparency of the ownership of broadcasters, despite prior ODIHR recommendations, there are no such requirements for online media outlets.

Television remains the primary source of political information. Media are using mostly either the state or Russian language, or both.<sup>75</sup> News programmes are often accompanied with subtitles and sign language. The print media are losing popularity and are also disadvantaged by limited opportunities for circulation due to high distribution costs.<sup>76</sup> The role of online media and social networks as platforms for political discourse is growing.<sup>77</sup>

### B. LEGAL FRAMEWORK AND CAMPAIGN

Provisions essential to freedom of media and expression and the requirements for accurate, impartial and balanced reporting, are enshrined in the 1994 Constitution, the 2018 Audiovisual Code and the 1994 Press Law. However, some media-related legal provisions, including the definitions of political advertisement and public interest, as well as deadlines for media requests for information, require

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<sup>73</sup> See paragraph 268 of the [2020 ODIHR and Venice Commission Guidelines on Political Party Regulation](#) which states that “legislation should grant oversight agencies the ability to investigate and pursue potential violations. Without such investigative powers, agencies are unlikely to have the ability to effectively implement their mandate. Adequate financing and resources are also necessary to ensure the proper functioning and operation of the oversight body”.

<sup>74</sup> Most of the advertisement market is divided between the agencies affiliated with the former PDM leader Vladimir Plahotniuc and the PSRM.

<sup>75</sup> The national public broadcaster has programmes in Bulgarian, Romani and Ukrainian. By law, media in the regions, where an ethnic minority represents a majority, must broadcast at least 25 per cent of local programmes in the state language, as well as programmes produced by the broadcasters in the language of that minority.

<sup>76</sup> There are two print distributors, the state-owned *Posta Moldovei* and a private company *Moldpressa*.

<sup>77</sup> See page 177 of the [2019 IREX Media Sustainability Index](#).

more clarity and a number of relevant legislative drafts are pending.<sup>78</sup> A number of ODIHR LEOM interlocutors noted a general lack of political will to improve the media legislation.

The Election Code and CEC regulations prescribe equitable conditions for contestants in media and balanced coverage of the campaign. Each candidate in each round was allocated free airtime (five minutes on TV and ten minutes on the radio) on all broadcasters with national coverage. Additionally, each candidate was entitled to one minute a day for free advertising on the public broadcasters, and up to two minutes of paid advertising in the broadcasters that covered the campaign.<sup>79</sup> Leaving a prior ODIHR recommendation unaddressed, the law still requires all broadcasters with national coverage (13 TV channels and one radio) to organize debates between candidates or their representatives in prime-time.<sup>80</sup> Igor Dodon did not participate in any debates in the first round, while his challenger Maia Sandu declined to debate with him in the second round, which decreased the amount of information available to voters.<sup>81</sup>

*To respect the editorial freedom of the media, the obligation on private broadcasters with national coverage to organize debates could be revised.*

The Audiovisual Council (AC) is the regulatory body for broadcast media and oversees compliance with the law. While the Audiovisual Code introduced requirements for professionalisation of the AC, several AC members are partisan nominees with insufficient professional experience in the media field.<sup>82</sup>

The AC has the authority to impose sanctions, based on its monitoring or upon complaints. Of the 80 broadcasters registered to cover the election campaign, the AC conducted media monitoring during primetime newscasts of 14 television channels and one radio during the campaign period due to limited resources. While the AC is obliged to provide reports to the CEC on a bi-weekly basis and present the final report two days before the election day, the reports were approved in public sessions over one week after each monitoring period, which did not ensure timely oversight of the campaign coverage.<sup>83</sup> Given the short duration of the campaign, bi-weekly reporting appeared to be insufficient.

*To ensure comprehensive oversight and prevent non-compliance, the AC could consider extending its monitoring capacity beyond the official campaign and publish monitoring reports in a timely manner.*

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<sup>78</sup> Following a Constitutional Court ruling in favour of non-commercial organizations on 9 October, an NGO-founded TV8 was allowed to provide paid slots for the candidates, which was forbidden by the 2020 Non-Commercial Organizations Law. In 2018, a draft Law on Advertising, which also defines political advertising, passed the first reading in the parliament, but its further consideration is pending. The pending draft of Law on Access to Information stipulates *inter alia* the deadlines for responding to journalists' requests and provides a definition of the information of public interest.

<sup>79</sup> The Audiovisual Council (AC) publicly opined that the public broadcaster should not have paid slots during the campaign. However, a price of EUR 900 per minute on *Moldova 1* was seen as too high by some ODIHR LEOM interlocutors.

<sup>80</sup> The candidates could be represented in the debates by their proxies. Due to COVID-19 pandemic, the broadcasters were also allowed to re-broadcast live debates from the public national broadcaster, instead of organizing their own.

<sup>81</sup> In some debates only one participant was present. Civil society representatives urged the candidates to participate in the debates in order to provide more information for voters.

<sup>82</sup> By the Code, the Council's nine members are proposed by the parliament, president, government and civil society, and the parliament approves the composition. The current AC composition was appointed before the adoption of the Code.

<sup>83</sup> The report of 2-15 October was approved on 22 October, the report of 16 October-1 November on 13 November, and the report of 4-13 November on 23 November.

The Audiovisual Code provides for a gradual sanctioning mechanism, starting from a public warning up to suspension of broadcasts or a license.<sup>84</sup> The AC imposed fines on 13 television channels after the first round and 7 television channels after the second round for “not respecting the principles of fairness, accountability, balance and impartiality while covering the elections.”<sup>85</sup>

*The Audiovisual Code should be revised to provide for gradual and proportionate sanctions specific to the offence committed and subject to judicial appeal.*

In its public sessions, the AC considered 37 notifications concerning the campaign coverage, of which 22 were rejected on formal grounds and the rest were admitted with sanctions prescribed or partially admitted for further examination.<sup>86</sup> The AC’s reaction to complaints was inconsistent, leaving some irregularities unaddressed while applying strict sanctions for other violations, or imposing the same sanctions for violations of different scale.<sup>87</sup> Print and online media are self-regulated through the Press Council.



### C. ODIHR MEDIA MONITORING [Click Here to Read Media Monitoring Resluts](#)

The ODIHR LEOM media monitoring findings showed that during the month preceding the first round, overall, most of the news programmes of the monitored broadcasters covered the campaign in a balanced and impartial manner.<sup>88</sup> Numerous political programmes and interviews contributed to informing the voters. However, some programmes did not ensure the impartiality and balance as required by law. In the news and current affairs coverage of all but two monitored channels, Mr. Dodon was covered the most, followed by Ms. Sandu.<sup>89</sup> In its news coverage the public channel *Moldova 1* provided all the candidates with relatively equal coverage, predominantly in a neutral tone.

<sup>84</sup> Decisions become enforceable from the date of publication. The sanctioned media can appeal decisions to court. If no further violation is committed within 12 months, the sanction is annulled.

<sup>85</sup> The sanctions were imposed for the breach of a general provision of Article 69 of the Election Code, which does not entail specific sanctions. In the first monitoring period, similar monitoring data were regarded by the AC to be compliant with legal requirements, and no public warning followed. According to the AC monitoring, different channels were unbalanced in tone and time allocation to a different degree, but the same fine of MDL 5,000 was imposed on all but one channel after the first round, and MDL 10,000 on 7 channels after the second round. This fine may be substantial for smaller outlets but it is not dissuasive for the larger channels even in comparison with their revenues from the paid electoral advertising.

<sup>86</sup> Three channels were verbally warned for violating the rules of publishing polls, four channels received a verbal warning for discriminatory rhetoric towards LGBTQ persons. *TV8* and *NTV Moldova* were fined with MDL 7,000 for not providing pluralism of opinions in their political programmes (*TV8* challenged this decision in court and the fine was annulled). Most of the rejected complaints were submitted by civil society organizations against *Accent TV*, *NTV Moldova* and *Primul in Moldova*. One campaign-related complaint was submitted by a citizen through an online platform, established by a media monitoring NGO, and was rejected.

<sup>87</sup> On 26 October the AC publicly warned four TV channels for violation of the requirement “to avoid any form of discrimination” in connection with the rhetoric towards LGBTQI; in one case it was a live interview, while the others were news reports. Upon a complaint it also fined *TV8* MDL 7,000 for a first-time violation, but rejected one of two notifications about a similar violation by *NTV Moldova* on 13 November.

<sup>88</sup> On 1 October ODIHR LEOM launched the monitoring of prime time coverage on *Moldova 1* (national public television), *Jurnal TV*, *NTV*, *Prime TV*, *Pro TV*, and *TV8*; as well as newspapers: *Argumenty i Fakte*, *Gazeta de Chisinau*, *Komsomolskaya Pravda*, *Moldova Suverana*, and *Ziarul de Garda*; and politics-related releases in online outlets: esp.md, newsmaker.md, nokta.md, and unimedia.info.

<sup>89</sup> Mr. Dodon and Ms. Sandu were covered mostly in neutral tone on *Moldova 1* with 19 and 15 per cent, on *Prime TV* with 26 and 18 per cent, on *Pro TV* with 24 and 14 per cent and on *TV8* with 26 and 32 per cent, respectively. On *Jurnal TV*, Mr. Dodon received 56 per cent of the coverage, mostly in negative tone and Ms. Sandu received 5 per cent, mostly in neutral tone. On *NTV* Mr. Dodon received 34 per cent of the coverage, mostly in positive tone, and Ms. Sandu 35 per cent, mostly in negative tone. All other candidates, were covered in mostly neutral tone. Mr. Deliu received between 2 and 8 per cent of the coverage on all channels, Mr. Țicu between 3 and 11 per cent, Ms. Ivanov between 5 and 16 per cent, Mr. Năstase between 6 and 13 per cent, Mr. Chirtoacă between 3 and 15 per cent and Mr. Usatfi between 3 and 12 per cent.

In the second round of the election the majority of monitored media gave more coverage to Mr. Dodon, including on the public *Moldova 1*.<sup>90</sup> The wide differences in the tone of coverage reflected persisting media polarisation and demonstrated political preferences of the channels. *Moldova 1* covered Mr. Dodon more favourably than Ms. Sandu with 25 per cent of coverage dedicated to him in positive tone, compared to 10 per cent for Ms. Sandu). *NTV Moldova* covered Ms. Sandu almost exclusively in negative tone (81 per cent of coverage), including allegations about her activities in the past governmental positions, while Mr. Dodon's coverage was in neutral or positive tone (55 and 44 per cent). Mr. Dodon received predominantly negative tone of coverage in *Pro TV* (70 per cent) and negative or neutral tone of coverage in *Jurnal TV* (53 and 46 per cent). Of all monitored TV channels, *Moldova 1*, *Prime TV* and *TV8* provided the most neutral tone of coverage to both candidates (73, 81 and 81 per cent for Mr. Dodon, and 78, 89 and 81 per cent to Ms. Sandu, respectively). Ms. Sandu received more coverage in positive tone on *TV8* (19 per cent compared to Mr. Dodon's 4 per cent).

The monitoring revealed extreme bias of most of the monitored newspapers. *Argumenty i Fakty in Moldova*, *Komsomolskaya Pravda* and *Moldova Suverana* covered Mr. Dodon positively, and Ms. Sandu exclusively negatively in both rounds.<sup>91</sup> Mr. Dodon was mostly criticised in *Gazeta de Chisinau* and *Ziarul de Garda* (40 and 60 per cent of coverage in negative tone, respectively). In the online outlets followed by the ODIHR LEOM, during the second round both candidates were covered mostly in neutral tone.

## XI. COMPLAINTS AND APPEALS

Election dispute resolution is primarily regulated by the 1997 Election Code and the 2018 Administrative Code.<sup>92</sup> While, in general, the complaints and appeals framework provides avenues for dispute resolution, there are some gaps and contradictions. Several ODIHR LEOM interlocutors opined that the complexity of the rules undermines the accessibility of dispute resolution for election participants.

According to the Election Code, voters and candidates can challenge actions, inaction and decisions of election bodies, other candidates, and media.<sup>93</sup> Complaints must be filed with the election body or a court within three days and resolved within five days, but no later than the election day.<sup>94</sup> However, no expedited deadlines are prescribed for the CEC to resolve complaints on campaign financing and for complaints made after the election day.<sup>95</sup> Decisions of election bodies should be first appealed to the higher-level body and then to court. Complaints on campaign coverage in broadcast media are

<sup>90</sup> Mr. Dodon and Ms. Sandu received 54 and 46 per cent of coverage in *Moldova 1*, 63 and 37 per cent in *NTV Moldova*, 51 and 49 per cent in *Prime TV*, 56 and 44 per cent in *Pro TV*, 56 and 44 per cent in *TV8*, and 49 and 51 per cent in *Jurnal TV*, respectively.

<sup>91</sup> In the first round *Argumenty i Fakty*, *Komsomolskaya Pravda* and *Moldova Suverana* covered Mr. Dodon mostly positively with 48, 51 and 67 per cent of its coverage, respectively, and 33, 38 and 13 per cent of mostly negative coverage to Ms. Sandu. In the second round, Mr. Dodon's coverage was overwhelmingly positive with 97, 42 and 50 per cent, respectively, while Ms. Sandu was covered exclusively in negative tone (98, 80 and 87 per cent, respectively). These newspapers also extensively used negative rhetoric against the LGBTQ community.

<sup>92</sup> In 2010, the CEC has adopted a resolution on complaints to election administration (last amended in 2018).

<sup>93</sup> The CEC resolution on the accreditation of observers also allows national observers to lodge complaints with the election administration bodies.

<sup>94</sup> Complaints against PEBs and DEC's should be considered within three days. Appeals against court decisions must be filed within one day and decided by appeal courts within three days. Complaints submitted on election day should be considered the same day.

<sup>95</sup> The general term of 30 days is prescribed by the Administrative Code.

submitted to the AC, whose decisions may be appealed in court.<sup>96</sup> According to the Election Code, complaints against printed media and the candidates may be filed directly to courts, however, the Administrative Code requires an initial decision by an administrative body. Similarly, the Election Code provides that the CEC may apply to court to de-register a candidate, while the Administrative Code in effect excludes such possibility without a prior CEC decision.

*The relevant provisions of the Election and the Administrative Code should be harmonized to provide for clear avenues and appropriate deadlines for timely resolution of all election-related disputes by the election administration and courts.*

Throughout the electoral period, various ‘communications’ addressed to the CEC were handled inconsistently, due to lack of clarity of admissibility criteria, and, at times, non-transparently.<sup>97</sup> Some of them were registered and posted with the incoming correspondence, while others appeared at the complaints registry, and some were not posted at all. Of the 19 complaints registered in the complaints registry, only one was considered at a session and others were dealt with by letters, mostly citing the lack of legal standing or insufficient evidence. Contrary to international good practice, the CEC formalistically interpreted admissibility requirements and avoided substantive consideration of complaints.<sup>98</sup> The inconsistent handling of complaints by the CEC undermined the transparency, timeliness of complaint resolution, and availability of effective legal remedies, at odds with international standards.<sup>99</sup>

Courts considered complaints in an open and transparent manner, generally within the legal deadlines, and decisions were promptly published online. A total of 16 appeals against CEC acts were made to the Chisinau Court of Appeals (CCA), which dismissed all but two appeals as inadmissible.<sup>100</sup> The Supreme Court reviewed 14 appeals against CCA decisions and upheld these decisions in all but four cases.<sup>101</sup> For appeals to be considered admissible, the Administrative Code requires that the appellant’s rights are violated. At odds with international good practice, while deciding on the admissibility of appeals, the courts often interpreted the legal standing of the

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<sup>96</sup> There are no short terms for the courts to consider such appeals. The general term of 30 days applies.

<sup>97</sup> While the publication of the “communications”, including the complaints, on the CEC web-site is not legally binding, some 400 ‘communications’ were posted online together with some 220 answers from the start of the election period until the first round. Reportedly, due to technical problems, communications were not posted between the two rounds.

<sup>98</sup> For example, complaints of the candidates who did not advance to the second round were rejected citing the lack of legal standing. Ms. Sandu’s complaint against Mr. Dodon was rejected citing non-compliance with formal requirements as a declaration on responsibility for the veracity of presented evidence was not submitted. Paragraph II.3.3.b of the [Code of Good Practice](#) states that “[t]he procedure must be simple and devoid of formalism, in particular concerning the admissibility of appeals.”

<sup>99</sup> Paragraph 5.11 of the [1990 OSCE Copenhagen Document](#) prescribes that “administrative decisions against a person must be fully justifiable and must as a rule indicate the usual remedies available.”

<sup>100</sup> The CCA admitted and reviewed the appeal of a rejected prospective candidate, and by Mr. Țicu on an alleged misuse of administrative resources. Both appeals were rejected as unsubstantiated. The reasons for inadmissibility in other cases included missing the legal deadline, appeal of a non-binding document, and the absence of violation of the appellant’s rights by the appealed administrative act.

<sup>101</sup> The Supreme Court returned to the CCA for a new consideration the appeal against the CEC campaign finance “circular”, the appeal which challenged the CEC’s opening of 9 polling stations in the embassy building in Moscow, and the appeal against the CEC’s decision to set up polling stations for voters from Transnistria. The CCA further found one appeal unsubstantiated while two other complaints were again found to be inadmissible.

complainant very narrowly.<sup>102</sup> While a wide range of the electoral stakeholders may file complaints, they have to indicate how their interest was affected, as there is no legal possibility to bring complaints in the public interest. Direct complaints to courts against candidates on campaign-related violations were found inadmissible because they were not first reviewed by an administrative authority.<sup>103</sup> These conflicting rules, in conjunction with the courts' formalistic approach to admissibility, undermined the availability of effective remedies in election disputes, contrary to international standards.<sup>104</sup>

*To ensure effective election dispute resolution, election and judicial authorities should refrain from overly formalistic approach to complaint admissibility and assure substantive consideration of complaints. Consideration should be given to provide all electoral stakeholders with the right to complaint in the public interest.*

## XII. CITIZEN AND INTERNATIONAL OBSERVATION

The Election Code provides for observation by citizen and international observers, as well as representatives of the candidates. It grants access for observers to the entire electoral process both in the country and abroad and ensures their rights, including the right to attend sessions of election bodies at all levels, request documents, and notify electoral bodies of irregularities. Election observers may be accredited by the CEC, with the right to observe in any polling station in the country or abroad, or by the DEC's for a specific polling station. While the observers accredited by the CEC were listed on the CEC website, the DEC's decisions on accreditation of observers, including partisan representatives, were not publicly available, diminishing the transparency of the accreditation process.

For the first round, the CEC accredited 1,910 national and 310 international observers. Out of these, 278 observers, national and international, were accredited to observe in out-of-country PSs. Observer accreditations issued for the first round remained valid for the run-off and the CEC launched a new accreditation period after the announcement of the second round.<sup>105</sup> For the run-off, the CEC additionally accredited 162 national observers, including 41 for PSs abroad, and 23 international observers.

Civil society organizations associated with the Civic Coalition for Free and Fair Elections conducted long-term and short-term observation activities, including assessment of election preparations and participation of persons with disabilities, media monitoring, as well as parallel vote tabulation. They released several reports before and after the election. The inclusive accreditation of observers and their

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<sup>102</sup> Political parties were considered lacking legal standing since they were not contestants in a presidential election. After the first round, the CCA found one appeal inadmissible because it was submitted by a candidate who did not proceed to the second round, and, in the CCA's view, thus no longer had the legal standing to make an appeal. At least in two appeals the CCA's decisions on inadmissibility were overruled by the Supreme Court. See paragraph II.3.3.b of the [Code of Good Practice](#) which states that "the procedure must be simple and devoid of formalism, in particular concerning the admissibility of appeals."

<sup>103</sup> The Administrative Code provides for an administrative review before an appeal can be made to court. Mr. Țicu's complaint against Mr. Dodon on the use of administrative resources was found inadmissible by a territorial court due to the absence of a prior administrative decision on this issue. The CEC initially also refused the complaint because the Election Code provides that such complaints should be made directly to court but then admitted it after Mr. Țicu went through all judicial appeals.

<sup>104</sup> According to the European Court of Human Rights (ECtHR), "the existence of a domestic system for effective examination of individual complaints and appeals in matters concerning electoral rights is one of the essential guarantees of free and fair elections" (see [Namat Aliyev v. Azerbaijan](#), application No.18705/06, paragraph 81).

<sup>105</sup> The CEC did not reach a decision on the request for accreditation of additional observers from an NGO *Forța Veteranilor* in light of reported offences by some of their observers on the first election day.



considerable presence in polling stations on election days contributed to the transparency of the electoral process.

At the same time, unprofessional conduct of some partisan observers in polling stations raised concerns. During both election days, some partisan observers were seen by the ODIHR LEOM interfering in the process and keeping track of voters, including marking down their personal data. In connection with this, the ODIHR LEOM received reports that voters who did not turn up in the first round were, in some localities, visited by activists who had lists of people who had voted. Such actions are contrary to the national legislation on personal data protection and may have had an intimidating impact or other undue influence on voters.<sup>106</sup>

*The authorities should ensure adequate protection of voters' personal data throughout the whole electoral period and ensure that voters are able to cast their votes free of any undue influence.*

### **XIII. ELECTION DAY**

Voting took place in 2,143 PS, including 139 PSs abroad. In line with the ODIHR observation methodology, the ODIHR LEOM did not observe election day proceedings in a systematic and comprehensive manner. On both election days, the mission members visited a limited number of PSs throughout the country, including in Chisinau as well as in 31 (1 November) and in 35 (15 November) administrative districts.

At the polling stations visited by the ODIHR LEOM during both rounds, voting was overall orderly and the environment was calm. Key procedures were generally followed and the process was well-organized. At the same time, the ODIHR LEOM observers noted instances of procedural omissions, such as voter identification without requesting the removal of protective masks, non-adherence to public health measures, and incorrect inclusion of voters into the main voter lists instead of supplementary lists. In several PSs visited, limited space contributed to longer queues and overcrowding. Secrecy of the vote was at times compromised due to PS layout and the fact that voters were not always instructed by the PEBs to fold their ballots.

*To ensure secrecy of the vote further efforts should be made to allocate adequate premises for polling stations which meet the established minimum standards.*

Despite previous ODIHR recommendations, accessibility of the electoral process for persons with disabilities remained limited, contrary to international standards.<sup>107</sup> Over the past years, civil society organizations completed several projects to raise awareness and promote special arrangements and the election administration took steps towards accommodating voters with certain categories of disabilities by equipping the PS with special voting booths, magnifying lenses and tactile ballots. However,

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<sup>106</sup> The 2011 Law No. 133 on personal data protection stipulates that personal data shall be “collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes”. Paragraph 19 of the [1996 UN Human Rights Committee General Comment No. 25 to the ICCPR](#) states that “[p]ersons entitled to vote must be free to vote [...] without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector’s will”. Paragraph 7.7 of the [1990 OSCE Copenhagen Document](#) commits Participating states to ensure that voters are able to cast their vote “free of fear of retribution”.

<sup>107</sup> Article 29(a)i. of the [CRPD](#) states that “parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to... Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use.”

independent physical access to the vast majority of PS was hindered by inadequate infrastructure as well as layout inside the polling stations.<sup>108</sup>

*As previously recommended, the authorities should continue to undertake measures to make voting fully accessible to voters with disabilities.*

Significantly long queues were reported by the CEC primarily from the PSs abroad. Some out-of-country PSs had to process up to 5,000 voters during election days, unlike in the in-country PSs for which the Election Code provides for a maximum of 3,000 registered voters. Seven PSs abroad had to close early, having run out of the ballot papers.<sup>109</sup> Several ODIHR LEOM interlocutors advocated for a more even distribution of voters among the PSs abroad, to prevent voters being turned away.

Observers were present in all PSs visited, contributing to transparency of the process. Wide-spread allegations of vote-buying and organized transportation of voters, amplified by supporters and some contestants, led to road-blockades and tensions which interfered with voters' freedom of movement and access to PSs in several areas.

At the polling stations observed by the ODIHR LEOM, counting was mostly carried out efficiently and accurately. Transparency of the process was sometimes undermined by non-adherence to the required sequence of counting procedures and omitting some important procedural steps, such as establishing the number of voters who received the ballot before opening the ballot box, the announcement and display of results at each step of the process, crosschecking the figures, and consistent determination of the validity of votes.

In general, election administration bodies managed the tabulation of voting results in an effective and timely manner.<sup>110</sup> However, in several DECAs visited during both rounds, overcrowding was noted, violating public health measures and limiting the possibilities for observation. Mistakes and discrepancies in the results protocols were either resolved by DECAs on the spot or the PEBs were required to reconvene and correct the errors, highlighting the lack of uniform guidance on this stage of the process.

*To assure consistency and transparency in the result tabulation process, clear procedures for rectifying errors and discrepancies in voting result protocols, including criteria for recounts of votes, should be established.*

During both election days, the CEC published turnout, disaggregated by gender and age, on its website and held regular press-conferences to provide information on election day developments and incidents in the country and abroad. According to the CEC, its IT system came under cyber-attacks during the second-round election day, however, these were successfully repelled and did not affect the process.<sup>111</sup> In the first round, the preliminary turnout published on election night on the CEC website of 42.76 per cent was corrected the following morning to 48.54 per cent, to reflect voting abroad and data from

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<sup>108</sup> In 2019, a [study](#) undertaken with support of the United Nations Development Programme in Moldova revealed that less than one per cent of the assessed PS were fully accessible to voters with disabilities, while some 28 per cent were accessible with assistance. According to this study, the number of Moldovan voters with disabilities was estimated at around 170,000.

<sup>109</sup> Three polling stations in the United Kingdom, two in Germany, one in France and one in Italy. In total, the CEC sent abroad 556,000 ballots in the first round and 671,500 for the run-off.

<sup>110</sup> The DECAs were required to finalize the voting results and submit their documents within 48 hours after the closing of the polling stations. The CEC had five days to tabulate the final results.

<sup>111</sup> According to the CEC the attacks targeted its servers and information systems, including the website with preliminary results. The attacks lasted for some 5 hours but, reportedly, did not affect functioning of the systems.

supplementary voter lists.<sup>112</sup> During the second round, the turnout published on election night was 52.78 per cent, eventually reaching 58.22 per cent after processing of the protocols. Preliminary results, summarised by districts, were available on the CEC website shortly after the closing of polls and were updated as the count was completed in the PSs. The results data disaggregated by polling station were published for both rounds only one week after the second election day.

The police reported over 300 incidents during the first election day and another 325 during the second.<sup>113</sup> Most of the reported incidents were related to allegations of organized transportation in connection with vote buying. Out of more than 200 reports, in around 10 cases the police found evidence of organized transportation in breach of the CEC regulations.<sup>114</sup>

#### XIV. POST-ELECTION DEVELOPMENTS

All candidates accepted the results and on 16 November Mr. Dodon extended preliminary congratulations to Ms. Sandu. Ms. Sandu declared her intention to seek dissolution of parliament and early parliamentary elections as soon as possible, while Mr. Dodon advocated that these should not take place until the summer or autumn of 2021.

The deadlines for resolving post-election complaints are not prescribed in the Election Code. Additionally, since DEC's terminate their activities 48 hours after the election day, while the deadline for complaint submission is up to three days, complainants may only be able to address the CEC.<sup>115</sup> After the second round, the CEC received one complaint which it decided not to consider and forwarded it to the Constitutional Court.<sup>116</sup> There were no appeals against the results of the first or second round or requests for recounts. While the right to request a recount is prescribed by the Election Code and should be submitted to the Constitutional Court, the right to challenge election results is not explicitly prescribed.<sup>117</sup> Final election results are not enacted by the CEC but proclaimed by the Constitutional Court, which effectively leaves no possibility for an appeal against final results at odds with international good practice.<sup>118</sup>

*The deadlines and procedures for post-election complaints should be clearly prescribed. Consideration could be given to enacting election results by a CEC decision, with a possibility of judicial review.*

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<sup>112</sup> Citizen observers pointed out that the CEC's calculation also did not take into account that most voters included into the supplementary lists were already registered in the main voter lists.

<sup>113</sup> Criminal investigations were launched in seven cases: three related to suspected double voting, one related to 200 missing ballots from a PS in Soroca district, one related to hooliganism, one related to a road-blockage, and one related to blocking entry to a PS in Varnita.

<sup>114</sup> During the first round, six people were fined for non-fulfilment of a decision of an electoral body and two for carrying out road transportation of persons without holding a permit or specific transport documents.

<sup>115</sup> According to the CEC's report, after the first round DEC's received 24 complaints (11 complaints in Chisinau and 6 in Gagauzia) and after second round – 32 complaints (14 complaints in Chisinau and 14 in Gagauzia). There is no aggregated information on complaints submitted to PEBs.

<sup>116</sup> In the complaint Mr. Dodon alleged that Ms. Sandu printed campaign materials in breach of campaign finance rules.

<sup>117</sup> The Election Code does not explicitly provide for appeals against the results. According to the Administrative Code, any administrative act, such as the CEC protocol on results, could be challenged. To request a recount, a contestant has to address the Constitutional Court; however, there is no obligation for the Constitutional Court to react to such requests after the first round.

<sup>118</sup> Paragraph II.3.3.f of the [Code of Good Practice](#) states that “all candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections.”

Upon receipt of the original protocols from precincts, the CEC published their scanned copies for each polling station per district on its website, several days after each round of election. Final election results were announced by the CEC on 20 November. On 23 November, the CEC submitted its final protocol and report, including recommendations for changes in electoral practice and for amendments to the Election Code, to the Constitutional Court. On 10 December, the Constitutional Court validated the results of the election, stating that the complaints submitted to courts were inadmissible or unfounded, and that no violations that could influence the election results were found.

## XV. RECOMMENDATIONS

These recommendations, as contained throughout the text, are offered with a view to further enhance the conduct of elections in Moldova and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with past ODIHR recommendations.<sup>119</sup> ODIHR stands ready to assist the authorities of Moldova to further improve the electoral process and address the recommendations contained in this and previous reports.

### A. PRIORITY RECOMMENDATIONS

1. As previously recommended the authorities should consider a comprehensive review of the electoral legal framework to eliminate remaining gaps and inconsistencies and ambiguities, and to address ODIHR and Council of Europe recommendations.
2. The law should be revised to address the issue of organized transportation of voters in connection with vote-buying while duly safeguarding the freedom of movement.
3. Provisions on preventing the misuse of administrative resources, including on ensuring neutrality of the civil service, participation of officials in campaigns, and safeguarding public-sector employees from any undue influence, should be clearly provided in the law and properly enforced.
4. The legal framework for campaign financing should be further strengthened and regulate candidates' own contributions and the limits of donations from political parties, valuation of in-kind contributions and the involvement of third-parties in the election campaigns. To protect political pluralism, consideration could also be given to simplify the regulations related to eligibility for donations by individuals.
5. The framework for campaign finance oversight should be revised to provide for an effective mechanism of monitoring incomes and expenditures and verifying the completeness and accuracy of reporting. The CEC should be equipped with adequate resources and capacities including rules and procedures for meaningful oversight.

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<sup>119</sup> In paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”. The follow-up of prior recommendations is assessed by the ODIHR LEOM as follows: recommendations 9, 10, 13, 19, 21, 22 and 27 from the [ODIHR final report on the 2015 local elections](#) (2015 Final Report), recommendation 9 from the [ODIHR final report on the 2016 presidential election](#), and recommendations 2, 4, 11, 12, 15 and 32 from the [ODIHR final report on the 2019 parliamentary elections](#) (2019 Final Report) are fully implemented. Recommendations 3, 8, 11, 12 and 14 from the 2015 Final Report, recommendations 5, 6, 7, 12, 21, 26 and 27 from the 2016 Final Report, and recommendations 10, 14 and 29 from the 2019 Final Report are mostly implemented. Recommendations 1, 2, 6, 7, 16, 17, 23, 25 and 28 from the 2015 Final Report, recommendations 1, 2, 3, 8, 11, 14, 18, 22, 24 and 25 from the 2016 Final Report, and recommendations 1, 3, 5, 9, 17, 23 and 31 from the 2019 Final Report are partially implemented. See also the ODIHR [electoral recommendations database](#).

6. The relevant provisions of the Election and the Administrative Code should be harmonized to provide for clear avenues and appropriate deadlines for timely resolution of all election-related disputes by the election administration and courts.
7. The authorities should ensure adequate protection of voters' personal data throughout the whole electoral period and ensure that voters are able to cast their votes free of any undue influence.
8. To ensure secrecy of the vote further efforts should be made to allocate adequate premises for polling stations which meet the established minimum standards.

## **B. OTHER RECOMMENDATIONS**

### **Election Administration**

9. In order to increase transparency and access to information of public interest, election administration bodies of all levels should publish decisions and minutes of sessions in a timely and consistent manner.
10. To ensure professionalism of the election administration, consideration could be given to providing all members of lower-level electoral bodies with standardised training.

### **Voter Registration**

11. To further enhance accuracy of voter registration, final voter lists reflecting all changes after the public scrutiny and potential decisions on appeals should be compiled and used on election day. Sufficient time should be allowed to update the voter lists between the two rounds of election.

### **Candidate Registration**

12. The residency and language proficiency requirements for presidential candidates should be reconsidered in line with international standards and good practice.
13. Consideration could be given to amending the law to allow voters to sign in support of more than one candidate.
14. In order to ensure consistency, transparency and legal certainty of the candidate registration, all signature verification procedures should be adequately regulated.
15. Consideration could be given to further advancing mechanisms and affirmative measures aiming at increased participation of women as candidates, including women from minority communities and underrepresented groups.

### **Election Campaign**

16. The authorities should introduce an effective mechanism to monitor and react to incitements of hatred and discrimination during the campaign.

## **Campaign Finance**

17. To enhance transparency and the effectiveness of disclosure, final reports should be detailed and accompanied by the supporting financial documents. Consideration could be given to allowing more time for the submission of a complete final report.

## **Media**

18. To respect the editorial freedom of the media, the obligation on private broadcasters with national coverage to organize debates could be revised.
19. To ensure comprehensive oversight and prevent non-compliance, the AC could consider extending its monitoring capacity beyond the official campaign and publish monitoring reports in a timely manner.
20. The Audiovisual Code should be revised to provide for gradual and proportionate sanctions specific to the offence committed and subject to judicial appeal.

## **Complaints and Appeals**

21. To ensure effective election dispute resolution, election and judicial authorities should refrain from overly formalistic approach to complaint admissibility and assure substantive consideration of complaints. Consideration should be given to provide all electoral stakeholders with the right to complain in the public interest.

## **Election Day**

22. As previously recommended, the authorities should continue to undertake measures to make voting fully accessible to voters with disabilities.
23. To assure consistency and transparency in the result tabulation process, clear procedures for rectifying errors and discrepancies in voting result protocols, including criteria for recounts of votes, should be established.
24. The deadlines and procedures for post-election complaints should be clearly prescribed. Consideration could be given to enacting election results by a CEC decision, with a possibility of judicial review.

## ANNEX I. FINAL RESULTS<sup>120</sup>

### First round

Number of voters in the main voter lists	2,793,322
Number of voters in the supplementary lists	202,569
Number of voters in the supplementary lists not included in the main lists	26,127
Number of votes	1,368,516
Number of votes from Transnistria	14,711
Number of votes abroad	150,022
Final voter turnout (percentage)	48.54
Number of valid votes	1,348,719
Number of invalid votes	19,797

Candidate (nominating entity)	Number of votes	Percentage
Renato Usatîi (Our Party)	227,939	16.90
Andrei Năstase (Platform DA)	43,924	3.26
Tudor Deliu (Liberal Democratic Party of Moldova)	18,486	1.37
Igor Dodon (Independent candidate)	439,866	32.61
Violeta Ivanov (Șor Party)	87,542	6.49
Maia Sandu (Party of Action and Solidarity)	487,635	36.16
Octavian Țicu (National Unity Party)	27,170	2.01
Dorin Chirtoacă (Electoral Bloc UNIREA)	16,157	1.20

### Second round

Number of voters in the main voter lists	2,789,010
Number of voters in the supplementary lists	346,464
Number of voters in the supplementary lists not included in the main lists	52,234
Number of votes	1,654,150
Number of votes from Transnistria	31,783
Number of votes abroad	263,177
Final voter turnout (percentage)	58.22
Number of valid votes	1,633,621
Number of invalid votes	20,529

<sup>120</sup> According to CEC decisions no. 4466 of 4 November 2020, no. 4507 of 20 November 2020, and no. 4519 of 23 November 2020.

<b>Candidate (nominating entity)</b>	<b>Number of votes</b>	<b>Percentage</b>
Maia Sandu (Party of Action and Solidarity)	943,006	57.72
Igor Dodon (Independent candidate)	690,615	42.28



## ANNEX II. LIST OF OBSERVERS

### ODIHR LEOM Core Team

Corien Jonker	Head of Mission	Netherlands
Vasil Vashchanka		Belarus
Enira Bronitskaya		Belarus
Marcela Mašková		Czech Republic
Martin Kunze		Germany
Kira Kalinina		Russian Federation
Ruslan Ovezdurdyev		Russian Federation
Karolina Semina		Russian Federation
Tomasz Rzymiski		Poland
Saša Pokrajac		Serbia
Chris Taylor		United Kingdom

### ODIHR LEOM Long-Term Observers

Josef Orisko	Czech Republic
Ales Jakubec	Czech Republic
Stig Skovbo	Denmark
Mikko Lainejoki	Finland
Sami Rantamaki	Finland
Sabrina Rouigui	France
Skander Ben Mami	France
Gerd Gersbeck	Germany
Rebecca Wagner	Germany
Michaela Sechi	Italy
Rocco Giovanni Dibiasi	Italy
Tonje Viken	Norway
Gent Ramadani	Norway
Nina Wessel	Norway
Maria Magdalena Budkus	Poland
Krzysztof Kolanowski	Poland
Paulina Czarnecka	Poland
Marc Morar	Romania
Vladimir Epaneshnikov	Russian Federation
Iurii Shapovalov	Russian Federation
Iliia Uvarov	Russian Federation
Paul Wesson	United Kingdom
Bujar Adjari	United States of America
Mara Hanna Mahassan	United States of America
Sherry Suzanne Murphy	United States of America
Steven Young	United States of America
Ann Merrill	United States of America

## ABOUT ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is 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 Summit Document). This is referred to as the OSCE human dimension.

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 150 staff.

ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE commitments, other international obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights and fundamental freedoms** consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked people, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. 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.

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.

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](http://www.osce.org/odihhr)).