

INTERIM REPORT
9 – 22 May 2011

27 May 2011

I. EXECUTIVE SUMMARY

- The 5 June local elections will be conducted to elect mayors and members of local councils. They will take place against the background of a persisting political stalemate in which two successive parliaments were dissolved following their failure to elect a new head of state.
- The electoral process will be administered by a four-tiered election administration comprising the Central Election Commission (CEC), 37 Level 2 District Election Commissions (Level 2 DEC), some 900 Level 1 District Election Commissions (Level 1 DEC), and some 1,950 Precinct Election Bureaus (PEBs).
- Contrary to good electoral practice, some substantial amendments were introduced to the Election Code just a few months before election day, and could cause confusion among stakeholders regarding certain aspects of the electoral process.
- The introduction of the centralized electronic voter register expected to be used for the first time in these elections was postponed to 2015. Therefore, as in previous elections, voter lists have been prepared by local authorities. Pending further clarification by the CEC, some degree of confusion exists whether permanent or temporary residence is the decisive criterion for assigning voters to voting precincts.
- Twenty political parties and one electoral bloc were registered by DECs. No particular problems were reported on the registration of electoral contestants.
- The campaign to date remains low key with door-to-door campaigning and small political rallies being the main means for candidates to communicate with voters, as well as the use of billboards particularly in bigger cities.
- The CEC has received 55 complaints and appeals in total, of which 28 were not considered as they were not in compliance with procedural rules. Eighteen were adjudicated and others are pending consideration. Thirty CEC decisions, including on complaints, were appealed to the Chisinau Court of Appeals.
- A coalition of domestic observers is monitoring various aspects of the elections, including the performance of the election administration, campaign finance, media, and voter list compilation.
- As during previous elections, voting is not expected to take place on the territory controlled by the Transnistrian *de facto* authorities.

II. INTRODUCTION

The local elections were called by parliament on 31 March. The OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) received an invitation from the CEC of the Republic of Moldova to observe these elections and conducted a Needs Assessment Mission (NAM) in Moldova from 22 to 24 March.¹ The presence of short-term observers was not deemed necessary as interlocutors of the OSCE/ODIHR NAM concurred that the preceding elections had demonstrated an improvement with regards to voting, counting and tabulation proceedings.

A Limited Election Observation Mission (LEOM) was therefore established on 9 May to observe the elections. The OSCE/ODIHR LEOM, led by Gerald Mitchell, comprises an 11-member core team based in Chisinau and 14 long-term observers (LTOs). LTOs were deployed on 15 May and are based in seven locations throughout the country. Mission members are drawn from 18 OSCE participating States.

III. BACKGROUND AND POLITICAL SITUATION

The 5 June local elections are the fifth local elections held in Moldova since the country gained its independence in 1991. In the last local elections held on 3 June 2007, the Communist Party of the Republic of Moldova (PCRM) won over one-third of mayor and councilor positions.²

The political situation in recent years has been characterized by a prolonged political crisis, stemming from the fact that successive parliaments have not been able to secure the required 3/5 majority (61 votes) to elect the president of the country. Following the April and July 2009 parliamentary elections, the elected parliaments were dissolved after they failed to elect the head of state. Following the November 2010 elections, the Alliance for European Integration (AEI) formed the government.³ Thus far, the new parliament has not attempted to elect the head of state.⁴ At present, and in line with legal provisions, the speaker of parliament is the president *ad interim*.

On the eve of the local elections, a few political parties merged, most significantly the Alliance Our Moldova (AMN) with the Liberal Democratic Party of Moldova (PLDM). Three extra-parliamentary parties (the United Moldova Party, the Republican People's Party (PPR) and the Forta Noua (New Force) Movement) formed a bloc called the "Third Force".

IV. THE ELECTION SYSTEM

The local elections will be conducted to elect 898 mayors of municipalities, towns, communes and villages, as well as 11,740 members of rayon, municipal, town, communal and village councils for a four-year term.⁵ The number of councilors to be elected from party lists or as independent candidates in each administrative territorial unit ranges from 9 in the smallest units to 43 in cities of up to 200,000 inhabitants. The council of the Chisinau municipality shall consist of 51 seats.

¹ The OSCE/ODIHR NAM report is available at www.osce.org/odihr/elections/moldova/76449.

² For detailed results of the 2007 local elections, see www.alegeri.md/en/2007/. Also see the OSCE/ODIHR Final Report, available at www.osce.org/odihr/elections/moldova/66865.

³ The AEI government includes the PDM, PL and PLDM.

⁴ Article 78 of the Constitution stipulates that if the parliament is not able to elect the president in two rounds of voting, parliament has to be dissolved and new elections to be called.

⁵ Under the Law on the Territorial Administrative Division, the territory of the Republic is subdivided into 898 first-level units, which include towns, villages and communes, and 38 second-level units, which include 32 districts (*rayons*), 5 municipalities (Chisinau, Balti, Bender, Cahul, Comrat) and the Autonomic Territorial Unit of Gagauzia.

While members of councils are elected under a proportional representation system without a threshold, mayors are elected under a two-round majoritarian system. If no candidate wins the absolute majority of valid votes cast in the first round, a runoff between the two candidates with the highest number of votes will take place two weeks after the first round. The candidate that receives the highest number of votes in the second round wins. At least 25 per cent of registered voters must participate for the elections to be valid. There is no turnout requirement for the second round.

V. LEGAL FRAMEWORK

The Constitution and the Election Code compose the principal legislation regulating the conduct of local elections. The legal framework is supplemented by a range of other laws,⁶ as well as CEC resolutions and regulations.

The Election Code has undergone numerous amendments since its adoption in 1997. Many of these amendments addressed previous recommendations of the OSCE/ODIHR and the Venice Commission of the Council of Europe (VC). The amendments to the Election Code introduced after 18 June 2010 have not yet been reviewed by OSCE/ODIHR and the VC.⁷

The most recent amendments to the Election Code were adopted just two months before the elections, in March and April 2011. Amending legislation so close to the election period is not in line with good electoral practice, and could cause confusion among stakeholders regarding certain aspects of the electoral process.⁸ While most of the amendments were of a technical character, some of them were substantial. According to the April 2011 amendments, voters can now request changes to voter lists from PEBs and the CEC (as well as file a complaint regarding mistakes, non-inclusion or exclusion in VLs) up until one day prior to election day instead of five days as previously stipulated. In addition, legislation now expressly provides that decisions of electoral bodies can be appealed directly to the court on election day. Other significant changes include the abolishment of the provision granting candidates in local elections free 5-minute television broadcasts and 10-minute radio broadcasts; postponement of the launch of the centralized electronic voter register to 2015; the extension of the timeframe for the creation of constituencies⁹ and Level 2 DECs; and the removal of the restriction on the right to vote for all prisoners without exception.

The March 2011 amendments reviewed the system of remuneration for members of electoral bodies. As the new rules will lead to reduced incomes, some interlocutors expressed concern that this provision will affect the quality and professional background of members of electoral bodies.

VI. ELECTION ADMINISTRATION

Local elections are administered by a four-tiered election administration comprising the CEC, 37 Level 2 DECs,¹⁰ some 900 Level 1 DECs,¹¹ and some 1,950 PEBs. Political parties have the right to

⁶ The legal framework also includes the Law on Local Public Administration, Law on the Territorial Administrative Division, Law on Decentralization, Law on Political Parties, Law on Assembly, organic laws on the courts, relevant provisions of the Criminal Code and Code on Offences.

⁷ OSCE/ODIHR and the Venice Commission of the Council of Europe provided the last Joint Opinion on the working text amending the Election Code of Moldova on 7 June 2010; available at www.osce.org/odihr/elections/moldova/68713.

⁸ See the Code of Good Practice in Electoral Matters. Guidelines and Explanatory Report, adopted by the Venice Commission at its 52nd session (Venice, 18-19 October 2002), CDL-AD(2002)023rev.

⁹ Not later than 45 days before election day instead of 55 days.

¹⁰ The legislation envisages that Level 2 DECs be established in 32 *rayons*, the municipalities of Chisinau, Balti and Bender, in Autonomous Territorial Unit of Gagauzia with the municipality of Comrat and the "Localities on the Left Bank of the River Nistru/Dniestr", i.e. Transdnestrria, with the municipality of Tiraspol.

¹¹ Level 1 DECs are established by Level 2 DECs in towns, communes and villages.

nominate members to commissions of all levels proportionally to their parliamentary representation. The majority of parties did not question the procedures for the establishment of election administration bodies and their composition.

The CEC holds regular meetings twice a week, with additional sessions on an ad-hoc basis as required. The CEC meetings, which are generally conducted in a collegial manner, are open to the public and the media. The CEC decisions, as well as other election-related documentation and information, are posted on the CEC website.

The CEC has increased the capacity of the State Automated Information System ‘Elections’ prior to the elections. For the first time, the system was used for electronic candidate registration and is envisaged to automatically generate ballots.

The CEC informed the OSCE/ODIHR LEOM that Level 2 and Level 1 DEC’s were established within the legal deadlines.¹² Some had their composition changed, mainly due to recalls from the nominating parties, mostly in cases where members were also registered as candidates or were close relatives of candidates. OSCE/ODIHR observers noted that visited Level 2 DEC’s appeared to be well organized, and conducted most election preparations on schedule. The PEB’s were due to be established by 10 May. However, as of 18 May, some of them were not operational yet.¹³

The CEC has organized a system of “cascade” trainings for DEC’s at both levels and PEB’s. For this purpose the CEC has developed three training manuals.¹⁴ During the period between 16 and 21 May, the CEC and Level 2 DEC’s conducted trainings for the Level 1 DEC’s and PEB’s. OSCE/ODIHR observers evaluated these as well organized and well attended, but lacking comprehensiveness and training methodology.

As during previous elections, voting is not expected to take place on the territory controlled by the Transdnestrian *de facto* authorities. Since the electoral process will not be taking place on the territory of Transdnestria, the OSCE/ODIHR LEOM will not deploy its observers there. Nevertheless, the mission will be interested in receiving information about and reporting on any arrangements that will be put in place by the Moldovan authorities and the election administration in order to enable voters from Transdnestria to exercise their right to vote.

VII. VOTER REGISTRATION

The establishment of a centralized electronic voter register was postponed to 2015 although it was initially due to be operational for the local elections. For this reason, voter lists (VLs) were prepared by local authorities on the basis of lists used during the November 2010 early parliamentary elections. Local authorities were obliged to submit electronic copies of updated VLs to the CEC by 1 March; some submitted copies with delay. Electronic copies were used by the CEC to carry out cross-checks for errors and multiple records. The CEC found that around 10 per cent of entries were incorrect due to multiple records, misspellings and incorrect ID numbers. The CEC subsequently made this information public, and provided a CD with all identified errors to the respective local administrations for further correction of VLs.

¹² Level 2 DEC’s must be established not later than 50 days before elections and Level 1 DEC’s – not later than 40 days before elections.

¹³ For example, PEB’s in Level 2 District 16 (Edinet).

¹⁴ One for members of each of the DEC levels and one for PEB members.

As of 15 May, VLs had to be publicly available in the premises of polling stations. With some exceptions,¹⁵ VLs were posted for public scrutiny as required by law in the precincts visited by OSCE/ODIHR observers.

Article 123 Paragraph 2 of the Election Code provides special restrictions on voting rights based on residency requirements during local elections. The unclear definition of these residency requirements led to various interpretations by election stakeholders, and resulted in a degree of confusion as to whether permanent or temporary residency is to be regarded as decisive in establishing where a voter is entitled to vote. The CEC Regulation “On drawing up, management, circulation and updating the voter lists” does not contain provisions necessary to clarify the issue.

On 15 April, the CEC announced the total number of citizens eligible to vote in the upcoming local elections to be 2,646,279. As in previous elections, supplementary voter lists will be compiled by PEBs on election day for certain categories of voters.¹⁶

VIII. CANDIDATE REGISTRATION

The right to nominate candidates in local elections is granted to political parties and electoral blocs, as well as to citizens through self-nomination upon submission of voter support signatures. Self-nominated candidates for local councils have to be supported by two per cent of voters in the respective district, divided by the number of available councilor positions, but not less than 50 persons. The mayoral independent candidates have to be supported by 5 per cent of voters in the respective district, but not less than 150 and not more than 10,000 voters.

Both levels of DEC registered candidates from 21 April to 12 May. Twenty political parties and one electoral bloc were registered. The parliamentary political parties reportedly registered their candidates in 80-90 per cent of localities. There are 14 candidates registered for mayor of Chisinau. The political contestants did not voice any major concerns regarding the registration process. The Election Code provides that parties may introduce amendments to registered lists of candidates as late as seven days before the elections.

Neither the Election Code nor CEC regulations provide guidelines on the language in which candidate registration documents should be prepared. Also, there are no clear provisions determining what language/s ballot papers should be printed in and on how many should be printed in each language for different territories. This led to varying practices by DECs in preparing the ballot papers, and at times, arguments between the DECs and contestants.

IX. ELECTORAL CAMPAIGN

While 21 political entities registered their candidates for the local elections, the main competition is expected to take place between the four parliamentary parties: the Communist Party of the Republic of Moldova (PCRM), the Democratic Party of Moldova (PDM), the Liberal Party (PL) and the Liberal Democratic Party of Moldova (PLDM). So far the campaign has been low-key. Door-to-door campaigning and small rallies have been the primary means for candidates to reach out to voters. Bigger events are apparently being planned by some parties for later stages of the campaign.

The PLDM, PDM and PCRM are running the most visible campaigns at this point. Billboards and posters of these parties are noticeable in the country, especially in bigger cities. The majority of

¹⁵ For example PEBs in the Level 2 Districts 2(Balti), 16(Edinet), 17(Falesti), 18(Floresti), 27(Riscani).

¹⁶ The following categories of voters can be included in the supplementary voter lists during local elections: voters with documented residence in a precinct, but not included in VLs, PEB members with an Absentee Vote Certificate, citizens under arrest.

parties developed campaign platforms around issues of national significance and supplemented them with local issues applicable for specific localities.

Some cases of negative and misleading campaigning were noted in Chisinau,¹⁷ and at the local level pamphlets appeared with defamatory content against some candidates. A few isolated cases of violence and intimidation have been reported by political contenders, and the prosecutor's office is examining whether they qualify as incidents related to the electoral campaign.

X. CAMPAIGN FINANCE

The Election Code obliges electoral contestants to open a special bank account for all campaign expenses, to which contestants transfer their own funds and donations from natural and legal entities in Moldova. The ceiling for campaign spending was approved by the CEC to be MDL 22.2 million (approximately 1.3 million Euro) based on a calculation of 0.50 Euro per voter¹⁸ for each political party, electoral bloc or socio-political organization. For independent candidates, the campaign limit is to be calculated based on the number of voters located in their electoral district, with spending not to exceed 0.50 Euro per voter. The Election Code obliges political parties competing in elections to submit bi-weekly reports to the CEC detailing campaign-related expenditures.¹⁹ The CEC started receiving the financial reports on income and expenses of electoral contestants on 6 May. So far, seven political contestants were officially warned by the CEC for missing the deadline for the submission of their reports.²⁰

XI. MEDIA

Moldova has a wide range of media outlets and a vibrant media environment. Significant improvements have been noted since 2009 by international and domestic organizations dealing with freedom of expression. Media legislation has improved and new media outlets have been established. Nevertheless, most media outlets have some political affiliation.

The main source of information in the country is television, with three TV stations broadcasting nationwide²¹ and several with regional and local coverage. Among the regional broadcasters, new outlets established in 2010 included the news channel Publika TV and Jurnal TV. The radio sector is mainly focused on entertainment, while print media have a low readership and are suffering from the emerging role of online news portals.

Based on the 2011 amendments to the Election Code, Articles 64 and 64¹ provide the basic framework for the campaign in the media. The media have to provide equitable coverage to all contestants when reporting on the activities of candidates. On 8 April, the CEC adopted the "Regulation on the Coverage of the Election Campaign during Local Elections of 5 June 2011 by media outlets in the Republic of Moldova" (hereafter Media Regulation), which provides specific regulations on the principles of media conduct during the electoral campaign. Following the

¹⁷ Posters presenting the mayor of Chisinau in a derogatory manner and counterfeited newspapers "Timpul Chisinaului" and "Ziarul de Chisinau" containing offensive material about the PLDM and the mayor of Chisinau respectively appeared in the capital.

¹⁸ Calculated on the basis of 2,650,191 eligible voters.

¹⁹ On 5 August 2010, the CEC amended its Regulation on Financing Election Campaigns and Political Parties to oblige political parties participating in the campaign to submit bi-weekly financial reports instead of weekly reports.

²⁰ "Patriots of Moldova", People's Democratic Party of Moldova, and the "Third Force" electoral bloc were warned on 10 May, "Our home-Moldova" Party, Social Democratic Party (PSD), Social-political Movement "Ravnopravie (Equality)" and Law and Justice Party were warned on 20 May.

²¹ Public TV Moldova 1 and private channels Prime TV and NIT.

publication of the Media Regulation and in line with legal requirements, 82 television and radio broadcasters informed the Audiovisual Co-ordinating Council (CCA) that they would cover the electoral campaign and outlined their editorial policy.

According to the Election Code and the CEC Media Regulation, local and regional broadcasters are obliged, whereas the national ones are entitled, to organize public debates. Paid advertisement on broadcast media cannot exceed 2 minutes a day for each contestant. There is no limitation for paid material in print media, but it has to be clearly identified with the notice “Paid from the electoral fund”. Electoral and civic education materials approved by the CEC should be published free of charge by media outlets. Opinion poll results can be published up to 5 days before the election day, and the silence period applies to the day before the elections and election day. It is prohibited to publish any material, including information regarding election results or interviews with voters, before the closure of polls.

The national public TV Moldova 1 started to broadcast public debates on 16 April 2011, and hosts a one-hour daily debate open to political party representatives and mayoral candidates for Chisinau, Comrat and Balti.

On 12 May 2011, the OSCE/ODIHR LEOM commenced media monitoring of a number of media outlets²² with quantitative and qualitative analysis of their coverage.

XII. COMPLAINTS AND APPEALS

Voters and election contestants may submit complaints regarding actions, inactions and decisions of PEBs, DECAs, the CEC, election contestants and media. An initial complaint is filed with the respective electoral commission. Exceptions to this rule are complaints related to the coverage of the campaign by broadcasters, which are examined by the CCA, and complaints related to the printed media that are filed with territorial courts.

Decisions of electoral bodies must first be appealed to a hierarchically superior electoral body before a complainant can go to court. However, the Election Code envisages several instances when appeals can be made to court directly. These are appeals against decisions of electoral bodies filed on election day, appeals against decisions of electoral bodies concerning actions/inaction of election contestants and appeals regarding VLs. Decisions of territorial courts can be appealed to higher instance courts.

As of 22 May, the CEC has received 55 complaints, the vast majority of which were related to candidate registration. The CEC adopted 18 decisions; 3 complaints are still under consideration. Twenty-eight complaints and appeals submitted were found to be non-compliant with procedural rules and were thus not reviewed by the CEC. The CEC issued letters to complainants in such cases. There were at least eight cases when the CEC exceeded the timeframe established by law for the consideration of complaints and appeals. Thirty CEC decisions, including on complaints, were appealed to the Chisinau Court of Appeal. The Court adopted 19 decisions, out of which 17 appeals were rejected as groundless, 1 was satisfied and 1 forwarded to a competent body as not in the competence of the court.

²² The media sample includes 6 TV stations and 5 newspapers. TV stations: Moldova 1, Prime TV, NIT, PRO TV, Publika TV, Jurnal TV. All of them except PRO TV broadcast in state and Russian language. PRO TV broadcasts only in state language. Newspapers: Jurnal du Chisinau, Timpul, Moldova Suverana, Adevarul and Moldavskie Vedomosti. All of them in state language, except Moldavskie Vedomosti - in Russian language.

XIII. PARTICIPATION OF WOMEN

Generally, political parties do not specifically address issues concerning the participation of women. After the 2007 local elections, women constituted 26.5 per cent of members in lower-level local councils and 13.2 per cent in *rayon* councils, and there were 18 per cent of female mayors. In the upcoming elections, some parties are trying to meet a self-imposed quota of 30 per cent of women candidates for councilor positions. Still, women appear to take lower positions on parties' candidate lists, with very few women in top ten positions. Three out of 14 candidates for mayor of Chisinau are women.

XIV. DOMESTIC AND INTERNATIONAL OBSERVATION

The Election Code provides for the observation of the election process by international and domestic civic organizations, representatives of foreign governments and agents of electoral contestants. By 22 May, the CEC had accredited some 700 domestic and 35 international observers. The Association Promo-LEX, which accredited the largest number of domestic observers and has a nation-wide structure, is conducting long-term observation and issued two observation reports to date. Several other domestic organizations, such as the Institute for Human Rights in Moldova (IDOM) and the Association for Participatory Democracy (ADEPT) monitor specific aspects of the elections, including campaign financing, the media, and VL compilation.²³

XV. OSCE/ODIHR LEOM ACTIVITIES

The OSCE/ODIHR opened its office in Chisinau on 9 May. The Head of the OSCE/ODIHR LEOM met with representatives of the Ministry of Foreign Affairs and European Integration and the chairperson of the CEC. Regular working contacts have been established with the election administration and other state officials, political parties, media and civil society organizations. Mission staff also met with representatives of the resident diplomatic community, including the OSCE Mission to Moldova. For election day, the mission will be joined by a delegation of the Congress of Regional and Local Authorities of the Council of Europe.

²³

The majority of domestic civil society organizations undertaking election observation are members of the Coalition for Free and Fair Elections.