



Office for Democratic Institutions and Human Rights

# REPUBLIC OF MOLDOVA

PARLIAMENTARY ELECTIONS

24 February 2019

ODIHR Election Observation Mission

Final Report



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**REPUBLIC OF MOLDOVA  
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**ODIHR 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 conducted from 18-22 June 2018, the Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Observation Mission (EOM) to observe the 24 February parliamentary elections. For election day the ODIHR EOM joined efforts with delegations from the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP) to form an International Election Observation Mission (IEOM).

The Statement of Preliminary Findings and Conclusions issued on 25 February concluded that “The 24 February 2019 parliamentary elections were competitive and fundamental rights were generally respected. The campaign took place against the backdrop of disaffection with public institutions and was tainted by allegations pressure on public employees, strong indications of vote buying and the misuse of state resources. Control and ownership of the media by political actors limited the range of viewpoints presented to voters. Most aspects of the elections were administered in a professional and transparent manner. Voting was assessed positively, but the electoral bodies faced difficulties with reconciling result protocols due to the introduction of the new electoral system and the concurrent holding of the referendum.”

Despite a lack of inclusive public debate and meaningful consultation with relevant stakeholders and no broad consensus, the 2017 amendments to the Election Code changed the electoral system from a fully proportional to a mixed one. Under the new system, 50 MPs are elected through proportional representation from closed party lists in one national constituency and 51 MPs in single member constituencies through the first-past-the-post system.

The legal framework generally provides an adequate basis for conducting democratic elections. However, a number of provisions, including regarding the jurisdiction for complaints and appeals and the requirements for collecting and reviewing supporting signatures, lacked clarity, leading to their inconsistent application. Amendments since the last parliamentary elections partially addressed some previous ODIHR and Venice Commission recommendations, including through introduction of measures aimed at enhancing women’s participation. However, important issues remain to be addressed, including unclear provisions on the misuse of administrative resources and on complaints and appeals, in particular for post-election complaints and provisions to review constituencies.

Most technical aspects of the elections were managed professionally and transparently at all levels. However, some Central Election Commission (CEC) decisions and regulations lacked clarity and unduly complicated aspects of the process, particularly concerning the signature collection, as well as verification and handling of complaints.

For the first time, there were polling stations specifically designated for voters residing in Transnistria. The CEC established 123 out-of-country polling stations in 37 countries, increasing their number from previous elections. Several ODIHR EOM interlocutors voiced concerns that the number of polling

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<sup>1</sup> The English version of this report is the only official document. An unofficial translation is available in the State language.

stations in certain countries was unreasonably low and did not correspond to the number of voters residing there. The lack of transparency in the decision-making process on this issue contributed to these perceptions.

The CEC announced that 2,812,409 voters were included in the main voter lists. In line with previous ODIHR recommendations, in 2018 the Constitutional Court declared unconstitutional the blanket denial of voting rights of persons declared incompetent by a court. Contrary to international standards, a court can still deprive an individual of the right to vote, including those with mental disabilities. The accuracy of the voter lists was generally not raised as a specific concern by stakeholders.

In an inclusive process the CEC registered all 14 parties and one bloc that applied. All lists complied with the 40 per cent gender quota requirement. There were 632 candidates on the national lists, including 264 women, but only 49 of them were in top ten positions on the lists. The DEC registered 320 candidates in single member constituencies, including 67 women and 55 independents.

The process of verifying the signatures in the DEC was carried out inconsistently and over 10 per cent of the prospective majoritarian candidates were rejected due to various irregularities in supporting signatures. Many election stakeholders complained the signature requirements were unduly burdensome and formalistic. The final appeals on candidate registration were not decided until the day before elections reducing the ability to campaign effectively, at odds with OSCE commitments and international good practice.

The campaign was competitive and visible throughout the country. Main campaign messages focused on employment, social assistance and pensions, emigration, anti-corruption and the economy. Geopolitical questions and Moldova's foreign policy orientation received less attention in the political discourse. ODIHR EOM received a high number of allegations of vote buying through provision of gifts and goods supplied by candidates or charities associated with them. Allegations of vote buying persisted on election day, especially with regard to voters from Transnistria. Political parties and civil society representatives reported widespread misuse of state resources. Reports also included pressure on public employees to attend campaign events during work hours, as well as government officials campaigning for political parties.

All but one political party complied with campaign finance reporting requirements, but over one third of independent candidates failed to submit reports on time or to inform the CEC about campaigning which does not require spending. Due to limited resources the CEC was not able to effectively oversee the campaign finances, therefore, its role was limited to verifying contestants' reports against their banks' transaction reports or conducting inquiries in response to complaints. The CEC did not conduct any field monitoring of campaign finance and did not impose any sanctions on electoral competitors for non-compliance or other finance violations.

National minorities comprise more than 20 per cent of the population. The Election Code does not provide special measures to assist and facilitate minority political participation. During boundary delimitation, three electoral districts with concentrated population of national minorities were created. In total, 23 out of 101 newly-elected MPs self-identify as a national minority.

Television remains the main source of political information, followed by online media outlets. The influence of political and economic forces through control and ownership of the media reduced the voters' access to diverse viewpoints, limiting their ability to make a truly informed choice. The media provided several platforms for contestants to present their views, including free airtime, debates, talk shows and paid advertisement. All broadcasters monitored by the ODIHR EOM fulfilled their legal obligation to organize debates. The ODIHR EOM media monitoring findings showed that some TV channels failed to comply with the election coverage requirements to provide fair, balanced and

impartial coverage, substantiating allegations of media bias raised by numerous ODIHR EOM interlocutors.

The law provides for citizen and international election observation, as well as by representatives of contestants. The inclusive accreditation of observers contributed to the transparency of the electoral process. The CEC accredited 20 citizen observer organizations with 3,389 observers and 776 international observers.

The electoral dispute resolution process was negatively affected by confusion over which body had jurisdiction to resolve complaints against candidates affecting the right to an effective remedy, at odds with OSCE commitments and other international standards. The CEC and most courts held open sessions or hearings and provided information about complaints and their decisions online, while DEC's practice on complaints consideration varied.

Election day proceeded without major incidents. Large-scale bussing of voters from Transnistria was noted and police initiated an investigation into whether some of them were paid to vote. Opening and voting were generally assessed positively. The counting process was assessed less positively as procedures were not always followed and the PEBs had difficulties reconciling numbers on the protocols. Citizen observers and candidate proxies were present in over 95 per cent of observed polling stations and DEC's and were able to follow all stages of voting, counting, and tabulation without restrictions.

The tabulation was assessed as prompt and transparent, despite some issues with the organization of the process or inadequate facilities. The turnout was reported at 49.2 per cent. The CEC started posting preliminary results from PEBs on its website few hours after the closure of the polling stations, contributing to the transparency of the process.

On 3 March, within the legal deadline, the CEC summarized the results of elections and on 4 March submitted the report on the organization of the elections together with protocols on election results with relevant election documents to the Constitutional Court. On 9 March, the Constitutional Court validated the results. As the Election Code lacks a clear procedure for making post-election complaints, relatively few such complaints were filed.

This report offers recommendations to support efforts to bring the electoral process in Moldova further in line with OSCE commitments and other international obligations and standards for democratic elections. Priority recommendations relate to eliminating gaps and ambiguities in electoral legal framework, enhancing professionalism of mid-level election administration, providing sufficient authority and resources to campaign finance oversight body, ensuring that voters are able to cast their votes free of pressure and undue influence, increasing confidence in the law enforcement, promoting a level playing field among contestants, ensuring the separation of state and party and enhancing transparency of the results tabulation. 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, and based on the recommendation of a Needs Assessment Mission conducted from 18-22 June 2018, the Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Observation Mission (EOM) on 15 January to observe the 24 February parliamentary elections.

The EOM consisted of a 13-member core team based in Chisinau and 28 long-term observers deployed throughout the country on 23 January. The mission assessed the compliance of the electoral process with OSCE commitments, other international obligations and standards for democratic elections, as well as with national legislation. For election day the ODIHR EOM joined efforts with delegations from the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP) to form an International Election Observation Mission (IEOM), and a total of 343 observers from 38 countries were deployed, of whom 39 per cent were women.<sup>2</sup> This included 260 long-term and short-term observers deployed by ODIHR, as well as a 42-member delegation from the OSCE PA, a 29-member delegation from the PACE, and a 11-member delegation from the EP. Each of the institutions involved in this IEOM has endorsed the 2005 Declaration of Principles for International Election Observation.<sup>3</sup> Opening procedures were observed in 134 polling stations and voting was observed in 1,263 polling stations across the country. Counting was observed in 117 polling stations, and the tabulation in 46 District Election Commissions. The ODIHR EOM remained in the country until 6 March to follow post-election day developments.

### III. BACKGROUND AND POLITICAL CONTEXT

The 24 February parliamentary elections were the first elections held under the newly introduced mixed electoral system. The elections took place in an environment characterized by decreased public confidence in state institutions which was aggravated by the annulment of the results of the 2018 early elections for the mayor of Chisinau by the courts, the introduction of the new electoral system without broad political consensus and lack of trust in the judiciary.

Five parties crossed the threshold in the previous parliamentary elections held in November 2014.<sup>4</sup> Since then, the composition of parliament changed significantly due to lawmakers switching party allegiances or becoming independent. This “party migration” resulted in the Democratic Party of Moldova (PDM) becoming the ruling party by increasing its number of members of parliament (MPs) from 19 to 40.<sup>5</sup>

In a controversial move, on 30 November 2018 the PDM called a consultative referendum for the same day as the parliamentary elections. The referendum included two questions: whether the number of MPs should be reduced from 101 to 61 and whether there should be a possibility to recall MPs who do not fulfil their duties accordingly. ODIHR EOM only observed the referendum to the extent it impacted the conduct of the parliamentary elections.

The 24 February elections were the ninth parliamentary elections since independence in 1991 and the fourteenth elections observed by ODIHR.<sup>6</sup>

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<sup>2</sup> Women comprised 46 per cent of experts in the ODIHR EOM core team and 47 per cent of the ODIHR EOM long-term observers.

<sup>3</sup> See the [Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers](#).

<sup>4</sup> Party of Socialists of the Republic of Moldova (PSRM) – 25 seats; Liberal Democratic Party of Moldova (PLDM) – 23 seats; Party of Communists of the Republic of Moldova (PCRM) – 21 seats; Democratic Party of Moldova (PDM) – 19 seats; and Liberal Party (PL) – 13 seats.

<sup>5</sup> Other seats were distributed as follows: PSRM – 24, PL – 9, European People’s Party of Moldova (PPEM) – 9, PCRM – 8, PLDM – 5, non-affiliated MPs – 6.

<sup>6</sup> See [previous ODIHR election reports on Moldova](#).

#### IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The unicameral parliament has 101 MPs serving a four year term. In 2017, amendments to the Election Code changed the electoral system from a fully proportional to a mixed one. Under the new system, 50 MPs are elected through proportional representation from closed party lists in one national constituency and 51 MPs in single member constituencies through the first-past-the-post system. In order to win seats in the national constituency a party must receive at least six per cent of the valid votes, and an electoral bloc – eight per cent. The thresholds remain high despite consistent recommendations by ODIHR and the European Commission for Democracy through Law (Venice Commission) to consider lowering them, and produced a significant number of “wasted votes” for parties that did not cross the threshold.<sup>7</sup>

In reviewing the proposed amendments, subsequently enacted, ODIHR and the Venice Commission concluded that, although the choice of electoral system is a sovereign decision of a State, the change of electoral system “is not advisable at this time” due to significant concerns regarding the political context at the time and because the introduction of a majoritarian component could allow for undue influence over and manipulation of election stakeholders by well-resourced local businesspeople or other actors who follow their own separate interests. In addition, there was a lack of inclusive public debate and meaningful consultation with relevant stakeholders and no broad consensus on the change in electoral system.<sup>8</sup> Several ODIHR EOM interlocutors voiced concerns that many voters did not understand the mixed system and how their votes would translate into parliamentary seats.

The parliamentary elections are primarily regulated by the Constitution, the Election Code and Central Election Commission (CEC) regulations and decisions.<sup>9</sup> The legal framework generally provides an adequate basis for conducting democratic elections. However, a number of provisions, including regarding the jurisdiction for complaints and appeals and the requirements for collecting and reviewing supporting signatures, lacked clarity, leading to their inconsistent application.

Amendments since the last parliamentary elections partially addressed some previous ODIHR and Venice Commission recommendations, including through improvements of party and campaign finance regulations and introduction of measures to enhance women’s participation. The latter measures were of limited effectiveness as there is no obligation to place women candidates in winnable positions on the list.

As demonstrated in these elections, important issues remain to be addressed, including unclear provisions on the misuse of administrative resources, the lack of clear provisions on complaints and appeals, in particular for post-election complaints, high thresholds to take up seats, provision for review at least every ten years of constituency boundaries and clarification of the criteria for delimiting constituencies.

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<sup>7</sup> A total of 142,669 votes (10 per cent of the votes cast) were for parties that did not cross the threshold.

<sup>8</sup> The ODIHR and Venice Commission Joint Opinion of [June 2017](#) focused on the draft changes to the law, subsequent opinions of [December 2017](#) and [March 2018](#) focused on the enacted amendments. See also paragraph 4 of the [European Parliament resolution from 14 November 2018 on the implementation of the EU Association Agreement with Moldova](#). See paragraph 5.8 of the 1990 OSCE Copenhagen Document, which requires “legislation, adopted at the end of a public procedure.” See also paragraph 18.1 of the 1991 OSCE Moscow Document provides that “[l]egislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives.”

<sup>9</sup> Other laws include the Law on Political Parties, the Law on Assembly, the Audiovisual Code, and relevant sections of the Criminal, Civil and Administrative Offences Codes.

In addition, the legal framework contains contradictory provisions, some of which resulted from hastily-made late changes to the law. The inconsistencies include different campaign periods for the parliamentary elections and the referendum, prohibiting campaigning on election day through the Code of Administrative Offences while the Election Code permits it and unclear provisions on the jurisdiction for complaints against candidates in the Election Code.

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

A constituency boundary commission formed in September 2017 delineated the 51 single member constituencies created under the new electoral system. Most opposition parties and some civil society organizations boycotted its work stating that most of its members were affiliated with the main governing party. Contrary to the international good practice, the law is silent on periodic review of the boundaries.<sup>10</sup> Concerns were raised on the principle of equality of the vote given the substantial difference in the ratios of voters per seat in the three overseas, two Transnistria and other constituencies.

*To ensure the principle of equality of the vote the criteria for creation of the constituencies, including for voters in Transnistria and abroad, should be re-considered.*

## V. ELECTION ADMINISTRATION

The elections were managed by three levels of administration: the CEC, 51 District Electoral Councils (DECs) and 2,141 Precinct Electoral Bureaus (PEBs). The CEC is a permanent authority with a five-year mandate that comprises nine members, one appointed by the President and the others by the parliament with proportional representation of the majority and the opposition.

The CEC appointed DECs for each single member constituency. Each DEC had from 7 to 11 members with courts and local councils nominating two members each.<sup>11</sup> DECs established PEBs consisting of 5 to 11 members, including 3 nominated by local councils. Each parliamentary party had the right to nominate one member to each DEC and PEB. The members of DECs and PEBs elected the chairperson, deputy chairperson and secretary from among themselves.<sup>12</sup> Both DECs and PEBs were formed within the legal deadlines. As a positive step, the CEC created the DECs on 21 December 2018, five days prior to the legal deadline in order to mitigate possible delay in candidate registration in the single member constituencies.

The 2017 amendments to the Election Code changed the status of the DECs, which previously were mostly technical bodies, giving them responsibility to register candidates and establish results in single member constituencies. However, due to the current legal timeframe, the CEC had limited opportunities to train DECs before they started operations, which led to numerous procedural shortcomings during the candidate registration.<sup>13</sup>

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<sup>10</sup> Guideline I 2.2(v) of the [2002 Venice Commission Code of Good Practice in Electoral Matters](#) states that constituency boundaries should be reviewed at least every 10 years.

<sup>11</sup> In cases, where the CEC found the number of DEC members insufficient, it appointed members from the Registry of Election Officials.

<sup>12</sup> The PEB Chairpersons abroad are appointed by the head of the diplomatic or consular mission or by the staff of the diplomatic unit.

<sup>13</sup> Guideline II 3.1 (g) of the [2002 Venice Commission Code of Good Practice in Electoral Matters](#) states that members of electoral commissions must receive standard training.



*To improve professionalism and effectiveness of DEC members and to allow for more extensive training consideration could be given to revising the timeframe of their appointment.*

Women were well-represented in the election administration, including in decision-making positions. The CEC chairperson and her deputy are women. More than half of the DEC members were women and 21 of 51 DEC members were chaired by women.<sup>14</sup> Women were also well represented in PEBs, constituting 80 per cent of chairpersons, 75 per cent of deputy chairpersons and 95 per cent of secretaries.

Most technical aspects of the elections were managed professionally and transparently at all levels. The CEC and DEC members held regular sessions open to accredited observers and media. The CEC sessions were also live-streamed online. The sessions were conducted in a collegial manner, and agendas were published in advance. However, some CEC decisions and regulations lacked clarity and unduly complicated aspects of the process, particularly concerning the signature collection and verification, as well as handling of complaints. While CEC decisions were always posted on its website in a timely manner, decisions of the DEC members were posted less consistently.<sup>15</sup>

*To increase the transparency of the district-level election administration, consideration could be given to requiring the publication of all DEC decisions online.*

For the first time, 47 polling stations were specifically designated for voters residing in Transnistria.<sup>16</sup> On 12 February, based on security concerns raised by the National Police about the allocation of polling stations within the security zone, the CEC changed the location of 31 of the 47 polling stations. PSRM unsuccessfully challenged this decision in the courts claiming it was an attempt by the government to reduce the number of votes from Transnistria.

Based on a proposal from the government, the CEC established 123 out-of-country polling stations in 37 countries, increasing their number from previous elections.<sup>17</sup> The Election Code stipulates four criteria for the establishment of out-of-country polling stations, which are not harmonised with each other and thus provide the ground for different interpretations of the law. Several ODIHR EOM interlocutors voiced concerns that the number of polling stations in certain countries was disproportionate and did not correspond to the number of voters residing there. The lack of transparency in the decision-making process on this issue contributed to these perceptions.<sup>18</sup>

*As previously recommended, decisions on the number and locations for polling stations abroad should be taken transparently and based on clear and consistent criteria. Such decisions should be taken in a broad consultation with relevant stakeholders well in advance of an election.*

The CEC, through its Training Centre, implemented a comprehensive training programme for election officials at all levels. PEB training sessions observed by the ODIHR EOM were informative,

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<sup>14</sup> According to the CEC, women constituted almost 56 per cent of DEC members and 41 per cent of chairpersons.

<sup>15</sup> Explanatory report 68 of the [2002 Venice Commission Code of Good Practice in Electoral Matters](#) states that “only transparency, impartiality and independence from politically motivated manipulation will ensure proper administration of the election process, from the pre-election period to the end of the processing of results.”

<sup>16</sup> In previous elections, voters from Transnistria had the possibility to vote at regular polling stations they were assigned to.

<sup>17</sup> Forty-two were created in Moldovan diplomatic missions and consular offices and 83 in other localities. Opening of two polling stations in Canada had to be cancelled as Canadian law does not allow for the hosting polling station in localities other than embassies. During 2016 presidential election 100 polling stations in 31 countries were established out-of-country.

<sup>18</sup> ACUM and PSRM appealed the CEC’s decision on the location of overseas polling stations. The Constitutional Court rejected these challenges, as did the Supreme Court. The government did not appear at the CEC sessions or court hearings to explain the decision-making process.

interactive, and included practical exercises on voting and counting procedures, in line with previous ODIHR recommendations. The CEC and civil society organizations conducted voter awareness campaigns targeting groups of voters such as women, students, out-of-country voters and persons with disabilities both in the state language and in Russian. The comprehensive voter information campaign with thematic spots focused on the specifics of the new electoral system was conducted by the CEC and included a special web-platform, spots broadcasted on TV and radio, leaflets, brochures, and information banners. Some ODIHR EOM interlocutors, however, noted that the voter education campaign was insufficient.

The CEC took initiatives to facilitate the participation of voters with disabilities, including training of lower-level commissioners on special procedures for providing assistance to such voters on election day. The CEC equipped polling stations with magnifying lenses and tactile templates for ballots. Voter information videos and CEC briefings were available in sign language. In cooperation with the civil society organisations, the CEC produced and disseminated a number of materials in easy to read formats designed for voters with mental disabilities and learning difficulties, containing simplified texts accompanied by explanatory images about elections and voting procedures.

On 14 November 2018, the CEC decided to install video cameras at all polling stations aiming to increase the transparency of the electoral process and to use the recordings as evidence in case of complaints on election day procedures. Cameras had to be installed above the ballot boxes to avoid the recording of the voters and to protect the vote secrecy. Some ODIHR EOM interlocutors raised concerns regarding the effectiveness of these measures and argued that it did little to increase the transparency of the process, but rather contributing to the perception that the secrecy of the ballot was not always being maintained.

## VI. VOTER REGISTRATION

Moldova has a passive voter registration system. Citizens at least 18 years old by election day are eligible to vote. The right to vote is broadly inclusive, covering almost all citizens of voting age including prisoners. In line with previous ODIHR recommendations, in October 2018, the Constitutional Court declared unconstitutional the blanket denial of voting rights of persons declared incompetent by a court. Contrary to international standards, a court can still deprive an individual of the right to vote, including those with mental disabilities.<sup>19</sup>

*The possibility for deprivation of voting rights on the grounds of mental disability should be reconsidered.*

The CEC is responsible for maintaining the centralized State Voter Register based on data from the State Population Register which is updated daily by the Public Service Agency.<sup>20</sup> The accuracy of the voter lists was generally not raised by electoral stakeholders as a specific concern.

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<sup>19</sup> An amendment to the Civil Procedure Code made in December 2018 requires the court to decide whether a person subject to guardianship proceedings should have the right to vote. Even an individualized assessment amounts to disability-based discrimination. See Articles 12 and 29 of the [UN Convention on the Rights of Persons with Disabilities](#) which prescribes the right to equal recognition before law and states that parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, respectively.

<sup>20</sup> Voters are included in the main voter list based on their domicile or residence. The voters who have both domicile and residence are registered based on their residence. There were some 3,276,000 voters included in the State Voter Register, including some 230,200 voters without domicile or residence and some 230,600 voters from Transnistria.

The CEC announced that 2,812,409 voters were included in the main voter lists. ODIHR EOM observed that almost all PEBs received their voter lists within or shortly after the deadline. Voters had an opportunity to check the accuracy of their data at the PEBs and on the CEC website, however, ODIHR EOM noted that a limited number of voters requested corrections. ODIHR EOM observed that some PEBs were not operational during working hours, limiting the opportunities for voters to get acquainted with the voter list.

Voters without domicile or residence are not included in the main voter list but could vote at any polling station within the country, albeit only for the national lists and the referendum. These voters and those from Transnistria are included in the additional voter lists at the polling station. If voters are away from their place of residence on election day they can request an absentee voting certificate (AVC) from their PEB up to the last day before elections, allowing them to vote in a different location. If a voter changes the residence or domicile after printing of main voter list, such voter shall be still assigned to the polling station based on address of residence or domicile indicated at the time of printing the voter list.

At the same time, the Election Code provides that any voter who has residence within the area of the polling station and who is not included in the main voter list, could be included in the additional voter list on the election day by presenting documents confirming the residence. This created the possibility to overcome the legal requirement and change the assignment to a constituency even after printing of main voter list.<sup>21</sup> The numbers of voters included into the additional voter lists were 155,570 and 148,535 for national and single-member constituencies, respectively.<sup>22</sup>

*In line with international good practice, consideration could be given to removing the possibility for voters to register at the polling station on election day to avoid the possibility of switching constituencies which may impact the outcome of election.*

Voters living abroad are still included in the voter lists associated with their former residence or domicile.<sup>23</sup> Although this is consistent with national legislation, it results in voter lists not accurately reflecting the number of eligible voters physically present in the country. ODIHR EOM interlocutors also raised concerns about deceased voters who died abroad as they are not removed from the voter lists unless relevant documents are presented to the authorities.

*The authorities should continue efforts to improve the accuracy of the voter lists, through updating the civil register with current information from various authorities in order to remove persons residing or having died abroad.*

Voters abroad could only vote with valid passports, unlike in-country where they can vote with their national ID.<sup>24</sup> ACUM requested the CEC, as they had done for previous elections, to issue a decision allowing voters abroad to vote with expired passports, arguing that otherwise their constitutional right

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<sup>21</sup> The Guideline 1.2.iv of the Venice Commission's Code of Good Electoral Practice in Electoral Matters, states that "there should be an administrative procedure – subject to judicial control – or a judicial procedure, allowing for the registration of a voter who was not registered; the registration should not take place at the polling station on election day."

<sup>22</sup> Among voters included in the additional voter list for the national constituency there are 76,583 voters abroad and 37,257 voters residing in Transnistria, 12,058 with the AVCs; for the single-member constituencies – 76,642 voters abroad, 36,696 voters residing in Transnistria, and 6,337 with the AVCs. The remaining number is represented by voters without a (current) domicile/residence, voters staying at hospitals and imprisoned voters.

<sup>23</sup> While, according to the Public Service Agency, 90,438 citizens have registered as officially having left the country, the number of citizens living abroad is estimated to be much higher.

<sup>24</sup> There is no reliable data on the number of voters abroad with expired passports as there is no reliable data on the actual number and list of people living abroad. The number of expired passports could not be used for such estimations as some of the holders of expired passports live in Moldova, others – abroad.

to vote would be limited.<sup>25</sup> The CEC refused to adopt such decision, referring to the 14 January Constitutional Court decision, which ruled that requiring a valid passport was a legitimate limitation on the right to vote.<sup>26</sup>

*Voter identification requirements in and out-of-country should be harmonised to facilitate universal suffrage.*

## VII. CANDIDATE REGISTRATION

All eligible voters have the right to stand as candidates, with few exceptions.<sup>27</sup> Candidate registration begins 60 days before the elections and ends 30 days before. For the national constituency, citizens can participate through closed party or electoral bloc lists, but not as independent candidates. In single member constituencies, citizens can run as party-nominated or independent candidates. Candidates are registered by the CEC for the national constituency, and by the DEC's for single member ones. Candidates can run in parallel – in both the national and single member constituencies, with the latter having preference if a candidate is elected in both.

In an inclusive process the CEC registered all 14 parties and one bloc that submitted national lists. All lists complied with the 40 per cent gender quota requirement. There were 632 candidates on the national lists, including 264 women, however, only 49 of them were in top ten positions on the lists. The DEC's registered 320 candidates in single member constituencies, including 67 women and 55 independents. Parties/blocs can replace a candidate on their lists up to 14 days before the election. Several contestants used this opportunity, without major effect on the composition of the lists, including gender breakdown. No replacement of candidates for single-member constituencies is allowed.

*The legal provision that requires a minimum 40 per cent representation share for both sexes in the national constituency lists should be further clarified to ensure the balance of both genders in winnable positions on the lists.*

While prospective male candidates in single member constituencies needed to collect between 500 and 1,000 supporting signatures in their constituency, women needed between 250 and 500.<sup>28</sup> Contrary to international good practice, a voter can sign in support of only one candidate, which is unduly restrictive and may affect voters' privacy as it indicates their political affiliation.<sup>29</sup>

*The law should be amended to allow voters to sign in support of more than one candidate.*

A number of candidates noted to the ODIHR EOM that the signature requirements were unduly burdensome and formalistic. The process of signature verification in the DEC's was carried out

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<sup>25</sup> The CEC announced that in the 2016 presidential election only 175 voters voted with expired passports. On 24 February, 85 complaints were filed by holders of expired passports or national IDs who had not been allowed to vote. All complaints were rejected.

<sup>26</sup> The Ombudsman filed a challenge on this issue with the Constitutional Court, which ruled it inadmissible.

<sup>27</sup> These include active military personnel, prisoners, persons with active criminal records for intentional crimes and persons deprived by a court of the right to hold positions of responsibility.

<sup>28</sup> Candidates standing in Transnistria and overseas constituencies could collect signatures from the whole country.

<sup>29</sup> ACUM alleged that in DEC 10 (Ungheni), local officials circulated online the list of ACUM candidate signatories querying whether they knew what they were doing. Paragraph 3 of the [1990 OSCE Copenhagen Document](#) states that the OSCE participating States "recognize the importance of pluralism with regard to political organizations." See also Paragraph 77 of the ODIHR and Venice Commission [Guidelines on Political Party Regulation](#) which recommends that "in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing a supporting list for only one party."

inconsistently.<sup>30</sup> Thirty-seven majoritarian candidate applications (over 10 per cent of the total) were rejected due to various signature irregularities. DEC's varied in whether or not they invited the applicant to the sessions where they decided on signature validity and whether or not they gave reasons for their decisions.<sup>31</sup> In contrast to other candidate registration requirements, where documents could be re-submitted to correct errors, the law does not allow for re-submission of signatures, even if the period of candidate registration is still open. The challenges that potential candidates faced in satisfying signature requirements amount to unreasonable restrictions on the right to stand as a candidate, contrary to international standards.<sup>32</sup>

*In order to ensure consistency, transparency and legal certainty of the candidate registration process, clear and simplified procedures for the collection and verification of supporting signatures should be set out.*

Of the 23 prospective candidates who appealed their rejection, most were unsuccessful. Five of the eight who were successful on appeal were not registered until over half the campaign period had elapsed. The final appeals on candidate registration were not decided until 23 February, thereby reducing the ability to campaign effectively, at odds with OSCE commitments and international good practice.<sup>33</sup>

*In order to provide a level playing field for all contestants, the registration process, including consideration of any complaints and appeals, should conclude before the start of the campaign.*

Position on the ballot in both the national and district constituencies is determined by the order in which candidates register, giving an advantage to larger, better-resourced parties and candidates, which appear higher on the ballot.<sup>34</sup>

*To further improve confidence in election process, the position of candidates and parties on the ballots should be determined by lottery at the conclusion of the registration process.*

This was the first election where candidates were required to obtain an integrity certificate from the National Integrity Authority.<sup>35</sup> The certificate included details of unjustified wealth, conflicts of interest and any final court decisions that prohibit a person from holding public office. All timely applications for the certificates were satisfied and no candidate was rejected by the CEC or DEC's based on information contained in the certificates. However, many ODIHR EOM interlocutors commented that the certificates brought little to the process.

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<sup>30</sup> The ODIHR EOM observed cases where signatures were invalidated due to minor mistakes that had been corrected, i.e. entries written in Cyrillic and entries where the signature collector had filled in name and address details for the signatory. In other cases, such entries were considered valid. Guideline I.1.3iii of the [Venice Commission Code of Good Practice in Electoral Matters](#) provides that the checking of signatures must be governed by clear rules.

<sup>31</sup> The CEC Circular from 9 January instructed that DEC's should provide reasons for these decisions. However, there was no guidance as to whether all signatures or a sample should be checked, and whether by visual inspection or by checking entries in the electronic system.

<sup>32</sup> See Article 25 of the [International Covenant on Civil and Political Rights \(ICCPR\)](#).

<sup>33</sup> Paragraph 7.6 of the [1990 OSCE Copenhagen Document](#) calls on participating States to ensure that contestants are able to compete with each other on a basis of equal treatment before the law and by the authorities. Guideline I.1.3v of the [Venice Commission Code of Good Practice in Electoral Matters](#) provides that validation of signatures must be completed by the start of the election campaign.

<sup>34</sup> Although there is a lottery to determine position on the ballot paper, it is carried out each day during the candidate registration period, rather than after the end of the registration period.

<sup>35</sup> Despite multiple requests, the National Integrity Authority refused to meet with the ODIHR EOM to discuss their role in candidate registration process.

## VIII. ELECTION CAMPAIGN

The campaign officially started on 25 January, the day after the candidate registration deadline. Several parties accused competitors of early campaigning.<sup>36</sup> The campaign was competitive and visible throughout the country. It became more active as election day approached but, at the same time, the use of negative rhetoric and personal attacks increased.<sup>37</sup> With no official campaign silence period, parties and candidates campaigned actively on election day up until the closure of the polling stations. The campaign for the referendum started before the campaign for the parliamentary elections, and some contestants, especially PDM, gained an advantage in their parliamentary campaign.<sup>38</sup>

Throughout the campaign most contestants opted for smaller meetings with voters.<sup>39</sup> Campaigning at the district level was typically led by majoritarian candidates, although national leaders frequently attended and spoke at these events. Most campaigning was conducted through traditional and online media, social media platforms, billboards, door-to-door canvassing, distribution of leaflets and flyers, and meetings with voters.

Main campaign messages focused on employment, social assistance and pensions, emigration, anti-corruption and the economy. Speakers at campaign events mostly presented national level programs.<sup>40</sup> Geopolitical questions and Moldova's foreign policy orientation received less attention, but remained a key campaign message mainly for PSRM and some smaller parties.<sup>41</sup> The campaigns did not specifically address issues of gender equality or national minorities, with the exception of the issue of the status of the Russian language. Candidates for the two Transnistria districts informed ODIHR EOM that they mostly relied on small meetings with already established contacts and word of mouth in their campaign.

ODIHR EOM received a high number of reports of vote buying through provision of gifts and goods supplied by candidates or charities associated with them. Concerns were raised particular about the so-called "social shops", associated with Ilan Sor and Sor Party, which initially provided discounted groceries to pensioners and the socially vulnerable, but extended the discount to everyone during the election period.<sup>42</sup> Several parties alleged that in order to get the discount card, citizens had to provide personal data and became party members without being aware of such consequences. Allegations of vote buying persisted on election day, especially with regard to voters from Transnistria.<sup>43</sup>

Political parties and civil society representatives alleged widespread misuse of state resources by PDM and, to a lesser extent, by PSRM. Reports included pressure on public employees to attend campaign events during work hours as well as government officials

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<sup>36</sup> PDM filed a complaint against ACUM and PCRM against PSRM. Both complaints were dismissed by the CEC on procedural grounds.

<sup>37</sup> Days before election, ACUM accused PDM of poisoning its leaders. PDM denied these accusations.

<sup>38</sup> The law allows to campaign for referendum immediately following the registration. PDM registered for the referendum on December 28, 2018 and erected billboards featuring its national and single member constituency candidates in early January. In addition, PDM placed ads promoting the party in media.

<sup>39</sup> The ODIHR EOM observed 76 rallies and meetings with voters throughout the country.

<sup>40</sup> Two parties, PDM and ACUM, published constituency-specific programs and promises.

<sup>41</sup> Democracy at Home, Liberal Party, National Liberal Party and Antimafie movement focused on unification with Romania. PSRM promoted strong ties with the Russian Federation.

<sup>42</sup> ODIHR EOM also observed six Sor Party events in Cantemir, Criuleni, Edinet, Hincesti, Rezina and Soroca where gift bags were provided to the attendants. The party informed ODIHR EOM that the bags contained clocks with the party logo and campaign material.

<sup>43</sup> ACUM has requested the Constitutional Court to invalidate results in DEC 47 and 48 due to the bussing of voters and possible vote buying. The Court rejected the request due to lack of evidence.



campaigning.<sup>44</sup> Although parties and civil society organizations alleged that “massive” use of state resources had occurred, only a few complaints were filed with the CEC.<sup>45</sup> Interlocutors cited lack of trust in the complaint resolution process and lack of resources to pursue complaints.

Following a warning issued by the CEC for using the resources and the image of the presidency in the campaign, the PSRM submitted 25 notifications and complaints to the CEC on misuse of administrative resources by PDM. In the absence of clear provisions related to misuse of administrative and vote buying, all of the complaints were dismissed by the CEC.<sup>46</sup>

*To promote a level playing field among contestants and ensure the separation of state and party, consideration should be given to clarifying provisions related to misuse of administrative resources and vote buying and introducing an effective enforcement mechanism to prevent these violations.*

Opposition parties also pointed to the misuse of the incumbency advantage enjoyed by PDM during the electoral period.<sup>47</sup> According to them such activities further blurred the line between the state and the party, which is at odds with OSCE commitments and international good practice.<sup>48</sup>

*To ensure clear separation between the state and party, consideration could be given to amending legislation to limit the promotion of initiation and subsequent implementation of major social assistance and infrastructure projects during the electoral period.*

The campaign was peaceful despite a few isolated violent incidents.<sup>49</sup> Other campaign violations included illegal placement or vandalizing of campaign posters and billboards, unequal access to

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<sup>44</sup> The ODIHR EOM observed 12 campaign events in Soroca, Hincesti, Causeni, Chisinau, Singerei, Floresti, Comrat, Stefan Voda, Vuklanesti and Cahul where public employees campaigned for parties or attended campaign events during working hours. In Soroca several attendants told the ODIHR EOM they were pressured to attend PDM events for the fear of losing their jobs. PDM acknowledged that state secretaries campaigned for the party, noting they were on official leave.

<sup>45</sup> A total of 12 complaints were filed to the CEC alleging use of state resources by parties.

<sup>46</sup> See paragraph 208 of the [ODIHR and Venice Commission Guideliens on Political Party Regulation](#), which specifies that “to allow for the effective regulation of the use of state resources, legislation should clearly define what is considered abuse” and that “legislation must address such abuses”.

<sup>47</sup> For example, after the PDM head promised relief from high prices of medication on 22 January, the government issued an order expanding the list of emergency medicines provided to the citizens free of charge from 1 February, which was also widely promoted in PDM campaign ads. In the last week of campaign Publika TV broadcasted a two-minute clip promoting this decision in both commercial advertisement slots and in the news without indicating who paid for them. Also, shortly before elections, a number of PDM’s campaign promises related to social assistance were turned into draft laws and voted for in the first hearing in Parliament on 7 February. On February 11, the Government allocated MDL 13.5 million for the repair of kindergartens and schools in Straseni district, where Prime Minister Pavel Filip was contesting in the single member constituency.

<sup>48</sup> Paragraph 5.4 of the [1990 OSCE Copenhagen Document](#) provides for “a clear separation between State and political parties”. See also Guidelines II.B.1.3 and II.B.1.1 of the [2016 ODIHR and Venice Commission Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#) which state that “no major announcements by the government aimed at creating a favourable perception towards a given party or candidate during the campaign” and that “the legal framework should provide effective mechanisms for prohibiting public authorities from taking unfair advantage of their positions by holding official public events for electoral campaigning purposes, including charitable events, or events that favour or disfavour any political party or candidate.”

<sup>49</sup> Three perpetrators attacked an ACUM candidate in Edinet on 27 January in front of a police station; a car belonging to the son of PDM’s candidate was set on fire in Balti on 29 January; an independent candidate in Chisinau district 33 Boris Volosatii accused PDM supporters of beating him up on 6 February. On 17 February, gun shots were fired at PCRMR regional office in Soroca. These incidents are being investigated by the police.

public spaces and the use of offensive language.<sup>50</sup> The police started 82 administrative offence proceedings for illegal placement of posters and seven for damage to campaign billboards or posters.<sup>51</sup> In addition, the ODIHR EOM was informed about allegations of threats directed at party supporters to discourage them from attending events organized by other candidates or campaigning for them.<sup>52</sup>

On 13 February, Facebook announced the removal of 168 Facebook accounts, 28 pages and 8 Instagram accounts on the grounds of “coordinated inauthentic behaviour”. Facebook also stated that this contravened the community standards of the platform.<sup>53</sup> The government responded with an official statement, and the CEC rejected a complaint filed by ACUM asking to deregister PDM on jurisdictional grounds, bringing the issue of possible domestic manipulative interference online into public discussion.<sup>54</sup> A week before elections, a Google ad appeared on several Moldovan news websites mocking ACUM bloc. The sponsors of this ad remain unknown.

## IX. CAMPAIGN FINANCE

The Law on Political Parties and the Election Code regulate party and campaign finance.<sup>55</sup> Recent legal amendments regulating party and campaign finance partially addressed some previous recommendations by ODIHR, Venice Commission and the Council of Europe’s Group of States against Corruption (GRECO), including improving the reporting requirements, stipulating the criteria for spending limits, decreasing the donation limit, banning the use of funds except those coming from the campaign fund and introducing reporting on in-kind donations from volunteers. However, a number of other previous recommendations remain unaddressed, including on regulation of the third-party expenses, enhancement of campaign finance oversight, consolidating all political finance regulations in a one law, requiring political finance oversight body to publish the results of the review in a timely manner.

Parties may use part of annual public funding received before the start of the electoral campaign for campaign purposes. Starting from 2019, political parties are entitled to additional state support

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<sup>50</sup> For example, ACUM informed ODIHR EOM that they were denied access to public spaces in Cimislia, Durllesti, Risipeni, Pereseceni, Stefan Voda, Soldanesti, Soroca. On 18 February, during TV debates on ProTV, Elena Gritco, Our Party candidate, called Ilan Sor “a thief and a whenchy”; on many occasions Speaker Candu referred to ACUM as “Party of Unemployed”, Igor Dodon (in a TV programme on 5 February) called Ilan Sor “a clown...” adding that “Sor is politician who does not go to toilet without Plahotniuc’s permission”; on 28 January, Ilan Sor referred to Valeriu Munteanu, ACUM Candidate with “Sorry “Valerica” [diminutive form], but you are a null and Judas” and suggested he “cleans chicken manure.”

<sup>51</sup> Four cases of alleged voter corruption have been sent to Anti-Corruption Prosecutors Office for criminal investigation.

<sup>52</sup> For example, in Singerei, ACUM supporter was pressured to officially withdraw collected support signatures for ACUM candidate; in Straseni the member of DEC informed the ODIHR EOM about PEB members resigning following pressure from the ruling party.

<sup>53</sup> According to [Facebook press release](#) from 13 February, this activity originated in Moldova and some of it was linked to employees of the Moldovan government. See also [Facebook community standards](#).

<sup>54</sup> Paragraph 19 of the [1996 CCPR General Comment 25 to the ICCPR](#) provides that “voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind.”

<sup>55</sup> Laws on Administrative Offences, on the Court of Accounts, and the Criminal Code as well as the 2015 CEC Regulation on financing of electoral campaigns and 2016 CEC Regulation on the funding of initiative groups supplement the campaign finance legal framework.



based on the number of women and youth candidates elected.<sup>56</sup> Contrary to international good practice, independent candidates are not entitled to public funding.<sup>57</sup>

*To ensure that independent candidates are awarded equitable treatment in the allocation of state resources they could be entitled for public funding.*

Campaigns are financed from donations and contestants' own funds. There are no direct public subsidies for campaigning, but contestants may receive interest-free loans from the Ministry of Finance that may be written-off proportionately to the share of votes a candidate receives.<sup>58</sup> Despite a previous ODIHR and Venice Commission recommendation, donations by Moldovan citizens from out-of-country sources of income remain prohibited. While funding from non-profit and charitable organizations is prohibited, some ODIHR EOM interlocutors alleged that, in the absence of clear regulations on the third parties, foundations affiliated with political parties running in the elections were involved in funding through donations and events sponsoring, contrary to international good practice.<sup>59</sup>

*In line with previous recommendations, to enhance the transparency and oversight of campaign finance, previously identified gaps and shortcomings in legislation, including those concerning regulating third-party activities and the ban on donations from out-of-country income, should be addressed.*

Partially addressing previous ODIHR recommendation, in 2017 the donation limits were decreased from MDL 1,010,000 to MDL 348,750 for individuals and from MDL 2,020,000 to MDL 697,500 for legal entities.<sup>60</sup> The CEC established spending limits for national lists and candidates at MDL 86,871,855 and MDL 1,845,000, respectively. None of the competitors exceeded these limits.<sup>61</sup> Most ODIHR EOM interlocutors noted that campaign funding was highly centralized. During the reporting period, PDM, Sor Party and PSRM operated with the largest campaign funds.<sup>62</sup>

Some contestants raised concerns that campaign finance regulations do not permit any spending by parties before the official commencement of the campaign, even if the services for such expenses would be delivered during this time period, causing significant financial challenges to the parties concerned. Expenses incurred during the collection of supporting signatures have to be made through

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<sup>56</sup> For the purpose of these provisions youth is defined as citizens between 18 and 35 years old. The law provides for annual state funding to parties up to 0.2 per cent of the state budget; 40 per cent of public funding will be provided political parties based on the results of parliamentary elections, another 40 per cent – based on the general local elections. Ten per cent will be allocated to political parties that respect the quota of at least 40 per cent of female candidates from the total number of candidates submitted in all uninominal constituencies in parliamentary elections. Five per cent of public funding will be allocated to the parties in proportion to the number of women actually elected in the single-member constituencies; another five – to parties in proportion to the number of young people elected in parliamentary and general local elections.

<sup>57</sup> Guideline 130 of the [ODIHR and Venice Commission Guideline on Political Party Regulation](#) states that „where registered political parties are provided state support...there should be a system of support for independent candidates to ensure they are awarded equitable treatment in the allocation of state resources”.

<sup>58</sup> The CEC established the maximum cap of MDL 50,000 for party and MDL 10,000 and individual candidate for a loan. On 18 January, the Ministry of Finance adopted the rules on receiving and paying back the loans. One individual candidate and one party received a loan.

<sup>59</sup> See Paragraph 205 of the [ODIHR and Venice Commission Guidelines on Political Party Regulation](#). Foundations “Din Souflet” (affiliated with PSRM) and “Edelweiss” (affiliated with PDM) were mentioned in this regard. On 15 January, ACUM filed a complaint against PDM to the CEC arguing that leaflets disseminated by “Edelweiss” promoting the head of the PDM are not accounted for in the party financial report. The CEC rejected the complaint arguing that leaflets were distributed before the official start of the campaign.

<sup>60</sup> EUR 1 is approximately Moldovan Lei (MDL) 19.6.

<sup>61</sup> Independent candidates were campaigning with limited funding.

<sup>62</sup> PDM spent MDL 30.29 million, Sor Party – MDL 19.86 million, PSRM – MDL 5.47 million, Our Party – MDL 3,2 million, ACUM – MDL 1.86 million. In addition PDM spent MDL 28.84 million on the referendum campaign.

dedicated bank accounts opened separately for initiative groups collecting the signatures. Seventy-nine initiative groups declared no expenses, thus raising concerns about financial transparency of signature collection.<sup>63</sup>

While all but one political party complied with reporting requirements, more than one third of independent candidates failed to submit reports on time or to inform the CEC about campaigning which does not require spending.<sup>64</sup> At the same time, the Election Code stipulates only two types of sanctions for such violations, a warning or suspending the public funding which is not applicable for the individual candidates. For using undeclared funds, overspending and using undeclared funds from abroad, the CEC could only request the court to cancel the registration of the contestant, which, contrary to international good practice, appears to be overly restrictive.<sup>65</sup>

During election period, the CEC has not imposed any sanctions on the contestants for non-compliance with campaign finance regulations, and thus indulged the regime of impunity. On 9 April, six weeks after the election day, the CEC found a violation on campaign financing by the Shor party and requested the party return back to the state budget some MDL 2 million of “illegal donations”.<sup>66</sup>

*The law and practice could be reviewed to prescribe gradual, timely and proportionate sanctions for campaign finance violations aimed at increasing transparency of campaign finance and improving accountability.*

The CEC is responsible for party and campaign finance oversight.<sup>67</sup> According to the CEC, its human resources are too limited to effectively oversee the campaign finance, therefore, its role was limited to verifying contestants’ reports against their bank transaction reports or conducting inquiries in response to complaints.<sup>68</sup> The CEC did not conduct any field monitoring of campaign finance.

Contestants submitted their final financial reports to the CEC on 22 February. As required by law, the CEC published information on contestants’ total income and on its website, verified reports against their bank transactions and approved them on the following day, contributing to the transparency of the process. The reports of independent candidates were verified and approved by the CEC on 1 March. Overall, the regulatory framework for the campaign finance oversight and its implementation continues to be insufficient to comprehensively ensure transparency, integrity and accountability of campaign finances, and did not enjoy public confidence.

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<sup>63</sup> The law does not detail sanctions for violation of finance provisions by initiative groups.

<sup>64</sup> According to the 2015 CEC Regulation on financing of electoral campaigns, in case a competitor does not open a bank account, the CEC should be informed. In such case, a competitor shall perform only those activities that do not involve any financial expenses. Political party “Sperantia-Nadejda” failed to submit financial reports in time and further provided information to the CEC on impossibility to open bank account.

<sup>65</sup> Paragraph 2016 of the [ODIHR and Venice Commission Guidelines on Political Party Regulation](#) states that “all sanctions must be proportionate in nature. In the area of finance violations, this should include consideration of the amount of money involved, whether there were attempts to hide the violation, and whether the violation is of a recurring nature”. Article 16 of [Recommendation Rec\(2003\)4 of the Committee of Ministers of Council of Europe](#) to member states on common rules against corruption in the funding of political parties and electoral campaigns prescribes that states should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate and dissuasive sanctions.

<sup>66</sup> The CEC decided that Shor party received MDL 2,090,000 from legal entities, that previously carried out activities financed out of the public funds, which is prohibited by the law. The CEC has notified the General Prosecutor’s Office on the fact that such entities provided false information on their ownership and funding in their statements.

<sup>67</sup> The CEC receives and publishes weekly financial reports from contestants on its website within 48 hours and is required to verify their accuracy and compliance.

<sup>68</sup> The CEC Financial and Economic Department consists of six people responsible for the implementation of the economic-financial policies, accounting, political and campaign finances.

*As previously recommended, should the CEC remain the competent oversight body, it should be given sufficient authority, human and technical resources to conduct effective campaign finance oversight.*

## **X. PARTICIPATION OF NATIONAL MINORITIES**

According to the 2014 population census, national minorities comprise more than 20 per cent of population. The legal framework allows for the participation of national minorities in the elections on an equal basis. However, at odds with international standards, existing regional requirements for the establishment of political parties and the six per cent threshold for entering the parliament pose challenges for the representation of regionally-based minorities and undermine their chances for political representation.<sup>69</sup>

The election legal framework does not provide special measures to assist and facilitate minority representation. During boundary delimitation, three electoral districts with concentrated population of national minorities were created. According to political parties that met with ODIHR EOM, they included a number of representatives of national minorities in their lists.<sup>70</sup> In total, 23 out of 101 newly-elected MPs, including 4 women, have self-identified as national minorities.<sup>71</sup>

*Authorities could consider, upon consultation with national minority groups, the introduction of special mechanisms that would legally encourage greater participation and representation of minorities in public and political life.*

## **XI. MEDIA**

### **A. MEDIA ENVIRONMENT**

A high number of media outlets operate in the country. Television (TV) remains the main source of political information, followed by online media. The influence of political and economic forces through control and ownership of the media reduced the voters' access to diverse viewpoints, limiting their ability to make a truly informed choice. Concerns were raised by several ODIHR EOM interlocutors about risks to the financial autonomy of some media outlets due to the limited advertising market and commercial pressure from the two big advertising firms linked to prominent politicians.<sup>72</sup>

### **B. LEGAL FRAMEWORK**

A number of provisions essential to free speech and press are enshrined in the Constitution, Audiovisual Code and the Press Law, including on freedom of opinion and expression without censorship, definition of hate speech, as well as requirements for accurate, impartial and balanced reporting. A new Audiovisual Code drafted in consideration of international standards on freedom of expression came into force on 1 January 2019. According to ODIHR EOM interlocutors, the

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<sup>69</sup> Article 7 of the [Framework Convention on National Minorities \(FCNM\)](#) states that „freedom of association includes the freedom to establish political parties based on communal identities”; Article 2 of the [UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities](#) states that “persons belonging to minorities have the right to establish and maintain their own associations.”

<sup>70</sup> PSRM - 41 per cent; PCRM - 31 per cent; ACUM - 5 per cent and PDM - 4 per cent.

<sup>71</sup> PSRM 17 out of 35 MPs; ACUM 2 out of 26; Shor Party 2 out of 7; and PDM 1 out of 30.

<sup>72</sup> PDM head is the owner of the advertising agency Casa Media; the advertising agency Exclusive Media SRL is managed by persons affiliated with PSRM. [European Parliament resolution from 14 November 2018](#) noted that “the media is highly monopolised and subordinate to the country’s political and business groups.”

requirements for transparency of media ownership for broadcast media introduced by the new Audiovisual Code could contribute to increase pluralism by disclosing the beneficial owners to the public and regulatory authorities. Contrary to international good practice, these requirements, however, are not extended to other types of media, such as online and print media.<sup>73</sup>

*To enhance genuine media pluralism and transparency further measures, including extending media ownership transparency requirements to online and print media, should be taken.*

Contrary to international standards, the current legal framework does not ensure proper access to public information, with journalists facing substantial delays in receiving information from public sources.<sup>74</sup> Journalists' requests are often rejected on the grounds of the Personal Data Protection Law.<sup>75</sup>

*To improve voter's access to election related information, and to help them make an informed choice, in consultation with relevant stakeholders, the laws on Access to Information and Personal Data Protection could be harmonized to ensure appropriate access to information of public interest.*

The Election Code, the Audiovisual Code and CEC regulations govern the campaign coverage. Parties and blocs running in the national constituency were granted five minutes of free airtime on all national TV channels and ten minutes on radio with nationwide coverage. In addition, they were provided with one minute of free airtime per day to place promotional advertising for the parliamentary elections on the public broadcaster and all broadcasters were required to offer them two minutes per day of paid airtime under equal conditions. The five parties registered for the referendum could also use one minute of free airtime and two minutes of paid airtime per day to campaign for the referendum.

All national broadcasters were required to organize debates among party representatives who were running on the national list and all local broadcasters to organize debates among candidates competing in single member constituencies. Given the high number of candidates running for the single member constituencies, this provision was particularly demanding for regional and local broadcasters.

By law, broadcasters are required to guarantee fair, balanced and impartial campaign coverage within all their programs and the Audiovisual Council (CCA) is the regulatory body for broadcasters. The CCA has the authority to impose sanctions, based on its monitoring or upon complaints. While 113 broadcasters were registered to cover this campaign, the CCA only conducted media monitoring of news programs of 13 TV channels during the campaign period, thus its capacity to oversee compliance of broadcasting media was limited.

The Audiovisual Code stipulates an incremental sanctioning mechanism and decisions become enforceable from the date of publication. However, the sanctioned media can appeal decisions to the court and, if no further violation is committed in a 12-months term, the sanction is annulled. In total,

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<sup>73</sup> Recommendation CM/Rec(2018)1[1] of the [Council of Europe's Committee of Ministers to member States on media pluralism and transparency of media ownership](#) states that "the adoption and effective implementation of media-ownership regulation can play an important role in respect of media pluralism. Such regulation can enhance transparency in media ownership; it can address issues such as cross-media ownership, direct and indirect media ownership and effective control and influence over the media."

<sup>74</sup> Paragraph 9.1 of the [1990 OSCE Copenhagen Document](#) states that "everyone will have the right to freedom of expression including the right to communication. This right will include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers". See also Article 19(2) of the [ICCPR](#).

<sup>75</sup> For example, on 16 January the Association of Investigative Reporters and Editorial Security (RISE Moldova) asked the CEC for a copy of the original revenue statements of the contestant. The request was not satisfied on the grounds of the Personal Data Protection Law, despite that RISE Moldova is registered as an authorized operator of personal data at the National Center for Personal Data Protection.

the CCA warned ten broadcasters and sanctioned nine with a minimum fine for biased coverage.<sup>76</sup> It considered 13 complaints concerning early campaigning and breaches of the impartiality requirement, of which it satisfied two.<sup>77</sup>

In addition, based on the findings of its first two monitoring reports, it first issued public warnings to 8 media TV channels and then sanctioned them for non-compliance with the impartiality requirement. However, the media monitoring reports were only published on 15 and 21 February, therefore most sanctions were only established four days before the end of the campaign period, which reduced their dissuasive function. A third report was only published on 18 March and, despite the identification of repeated violations by the same TV channels, the CCA decided not to apply any further sanction.

*To promote pluralism in broadcast media, the CCA could consider to include debates and other relevant programs in the sample of its media monitoring and to extend it beyond the official campaign period to enable publishing media monitoring report in a timely manner, strengthening its sanction mechanism if repetitive violations of the impartiality requirement are committed.*

### C. MEDIA MONITORING FINDINGS



The media provided several platforms for contestants to present their views, including free airtime, debates, talk shows and paid advertisement. All broadcasters monitored by the ODIHR EOM fulfilled their legal obligation to organize debates among parties running nationwide and for candidates in single member constituencies.<sup>78</sup> A number of contestants, mainly those from PDM, PSRM and SOR, refused to participate in debates, as they already benefitted from extensive visibility in the media through free and paid advertising. PDM was by far the most visible party promoting itself through paid political advertising on all TV channels monitored, as well as in the local press, including with a spot highlighting the achievements of the “Pavel Filip government” that was not identified as political advertisement as required by law.

The ODIHR EOM media monitoring findings showed that some TV channels failed to comply with the requirements to provide fair, balanced and impartial coverage, substantiating allegations of media bias raised by numerous ODIHR EOM interlocutors. While Public TV Moldova 1, TV8 and Pro TV showed a largely neutral approach to coverage of the major parties, Prime TV, *Publika* TV and *Jurnal* TV did not ensure balanced coverage.

Overall, *Publika* TV and Prime TV largely favoured the PDM, granting it, respectively, 50 and 51 per cent of editorial coverage with 66 and 56 per cent of that in a positive tone. These two national channels devoted 19 and 20 per cent of their editorial coverage to ACUM, largely critical in tone (64 per cent and 77 per cent), 8 and 9 per cent of mainly neutral coverage to PSRM, 5 and 6 per cent of mostly neutral coverage to SOR and the remaining time to other parties. In the last 10 days of campaign their coverage became increasingly biased. They frequently aired a two-minutes spot on government’s decision to increase the list of free medications from 1 February 2019, both in the commercial advertisement slot and in the news, and also provided wide coverage to a 10-minute video of the PDM leader, Vladimir Plahotniuc, visiting his family in his childhood home.

*Jurnal* TV displayed a different approach by providing ACUM with 39 per cent of editorial coverage, followed by PDM with 33 per cent, SOR with 14 per cent, PSRM 6 per cent and the remaining 7 per

<sup>76</sup> These sanctions amounted to MDL 5,000 each.

<sup>77</sup> Most of the complaints filed were by PDM against *Jurnal* TV.

<sup>78</sup> During the campaign period the ODIHR EOM monitored public broadcaster Moldova 1, private channels Pro TV, *Jurnal* TV, Prime TV, *Publika* TV and TV8 and the newspapers *Moldova Suverana*, *Komsomolskaya Pravda*, *Timpul*, *Jurnal de Chisinau*, *Moldavskie Vedomosti* and *Argumenti i Fakti*, and conducted qualitative assessment of campaign coverage on the webpages of the monitored newspapers.



cent to other parties. The coverage was mostly neutral towards ACUM (91 per cent), predominantly negative towards PDM (70 per cent) and SOR (58 per cent), somewhat negative towards PSRM (35 per cent). Overall, President Dodon was the most visible public figure on monitored TVs during the campaign period.

Print media monitored by the ODIHR EOM showed a neutral approach towards the majority of contestants. However, PDM was often portrayed negatively by *Moldova Suverana* (75 per cent), *Moldavskie Vedomosti* (43 per cent) and *Komsomolskaia Pravda* (30 per cent of coverage). *Argumenti i Fakti* was positive towards PDM (55 per cent) and critical towards ACUM (58 per cent). PSRM received some positive editorial coverage by *Komsomolskaia Pravda* (44 per cent), *Argumenti i Fakti* (28 per cent) *Moldavskie Vedomosti* (20 per cent) and *Moldova Suverana* (19 per cent). Overall, *Jurnal de Chisinau* offered the most balanced approach. The impact of print media, however, is limited.

## **XII. CITIZEN AND INTERNATIONAL OBSERVERS**

The Election Code provides for observation by citizen observer groups and international organizations, as well as representatives of contestants. It contains detailed provisions on their rights and responsibilities and grants access to all stages of the electoral process, including the right to attend sessions of all electoral bodies and to receive documents, including results protocols. Citizen observer groups and international organizations could register an unlimited number of observers.

The inclusive accreditation of observers contributed to the transparency of the electoral process. The CEC accredited observers for the entire territory of Moldova and to follow out-of-country voting, and the DEC – for single member constituencies. In total, the CEC accredited 20 citizen observer organizations with 3,389 observers (1,360 men and 2,029 women), including 89 observers abroad, and 776 international observers (514 men and 262 women). One of the citizens observer organizations, the Promo-LEX, conducted long-term observation focusing on various aspects of the election process, deployed over 2,000 short-term observers on election day and conducted a parallel vote tabulation, contributing to the transparency of the election.

## **XIII. COMPLAINTS AND APPEALS**

Voters and contestants can complain about actions, inactions and decisions of election bodies, other contestants and the media. Appeals against decisions of election bodies are heard in the hierarchically superior election body before going to court. Appeals of CEC decisions are heard in the Chisinau Court of Appeal. Complaints against candidates must be filed directly to court or, in case of single member constituency candidates, to the DEC and then to court.

Positively, deadlines for resolving complaints are short, three days for election bodies, five days for courts, and all must be decided before election day. The CEC and most courts held open sessions or hearings and provided information about complaints and their decisions online. DEC's practice varied, as some did not publicize information about their upcoming sessions or invite the affected individual to attend, and some delayed in making their decisions public. At odds with international standards,

Supreme Court hearings and Constitutional Court admissibility sessions are not open to the public.<sup>79</sup>

*All election bodies and courts should consider election related cases in open sessions and publish session or hearing dates in advance and reasoned decisions promptly.*

The electoral dispute resolution process was negatively affected by confusion over which body had jurisdiction to resolve complaints against candidates. Before election day the CEC received 35 complaints on alleged campaign violations, rejecting the majority on the grounds of lack of jurisdiction.<sup>80</sup> The jurisdiction to hear complaints concerning misuse of state resources is particularly unclear as six different bodies have jurisdiction over these complaints. Depending on the facts of each complaint it can be filed with the CEC, the DEC, the courts, the police, the Prosecutor's office or the CCA.<sup>81</sup> In some cases, the lack of clarity over jurisdiction for hearing complaints against candidates affected the right to an effective remedy, at odds with the OSCE commitments and other international obligations.<sup>82</sup>

Despite its wide competencies provided by the law, the CEC took a narrow view of its authority in relation to DEC decisions on candidate registration believing that it could not order a DEC to register a candidate (which a court could do), but could only require the DEC to re-examine applications. The only complaint against another candidate or party that succeeded at the CEC was in relation to the president's involvement in the campaign. The CEC sanctioned PSRM with a warning for using the administrative resources of the Presidency, and reminded the president that he should not be involved in the campaign.<sup>83</sup> The fact that the CEC accepted that it had competence in this case stood in contrast to the CEC's decisions in earlier complaints against candidates, including those involving alleged campaign finance violations.

*In order to ensure access to an effective remedy, the jurisdiction for each type of complaint, needs to be clarified. The CEC could consider providing better information to stakeholders about the jurisdiction and procedures for lodging complaints and appeals.*

The police received complaints of over 129 alleged electoral violations during the campaign period. Eight cases alleging the criminal offence of voter corruption were sent to the Anti-Corruption Prosecutor's Office for investigation. The police initiated 102 administrative offence procedures in relation to illegal placement of campaign posters. The police published some information about the

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<sup>79</sup> General [Comment 32 to the ICCPR](#) states that "the publicity of hearings ensures the transparency of proceedings and thus provides an important safeguard for the interest of the individual and of society at large. Courts must make information regarding the time and venue of the oral hearings available to the public". Paragraph 12 of the [1990 OSCE Copenhagen Document](#) states that ...."it is understood that proceedings may only be held *in camera* in the circumstances prescribed by law and consistent with obligations under international law and international commitments."

<sup>80</sup> In total the CEC had received 86 complaints up to 3 March. On 18 January 2019 the Supreme Court issued an advisory opinion in an attempt to clarify the confusion. However, it appeared that some DEC's were not aware of this and continued to reject cases on competence grounds.

<sup>81</sup> For example, if the complaint concerned campaign finance violations, it was for the CEC, if it was against a majoritarian candidate it was for the DEC, if it involved a national list candidate it was for the court, if it involved an administrative or criminal offence it was for the police or in more serious cases the prosecutor's office, and if it concerned broadcast media it was for the CCA. Cases could include several of these elements and it was not clear which jurisdiction should take primacy.

<sup>82</sup> Paragraph 5.10 of the [1990 OSCE Copenhagen Document](#) states that everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity. See also Article 13 of the European Convention on Human Rights and Article 2.3(a) of the [ICCPR](#).

<sup>83</sup> PSRM and the president unsuccessfully appealed this decision in the Chisinau Court of Appeal and the Supreme Court.

progress and outcome of these cases, but the prosecutor's office was not able to provide information about on-going investigations to the ODIHR EOM.

*To increase confidence in elections the law-enforcement bodies should vigorously investigate and prosecute all electoral violations and publish updated statistical and other information on electoral cases on a regular basis and once they are concluded.*

Before election day the Chisinau Court of Appeal heard 31 electoral cases, including 24 on CEC decisions and 3 on CCA decisions. The Supreme Court heard 27 cases, 13 of which were about candidate registration. Hearings were public, other than at the Supreme Court, and parties had an opportunity to present their case. Most cases, with the exception of several on candidate registration, were resolved quickly in line with the short deadlines.

#### **XIV. ELECTION DAY**

On 24 February, voting took place in 2,141 polling stations, including 123 polling stations abroad. The IEOM observed the opening of 134 polling stations, voting in 1,263 polling stations, counting in 111 polling stations and tabulation in 46 of the 51 DECs.

##### **A. OPENING AND VOTING**

Opening procedures were assessed positively in all but 2 of the 134 observed polling stations. There were slight delays in the opening of 29 polling stations observed, and a few PEBs faced difficulties with installing cameras and launching the State Automated Information System "Elections" (SAISE).

Voting was evaluated positively in 95.7 per cent of 1,417 observations. Procedures were generally followed in over 96 per cent of polling stations observed. A few negative assessments were linked to the interference in the work of PEBs by candidate representatives or citizen observers (in 30 cases) and attempts to influence voters (in 30 cases). Series of seemingly identical signatures and group voting were reported in 17 and 44 cases, respectively.

The SAISE functioned effectively in almost all polling stations observed with minor instances where the internet connection or software problems were encountered. Secrecy of the vote was not ensured in 4 per cent of observations mainly due to the layout of the premises and overcrowding.<sup>84</sup> IEOM observers noted that 66 per cent of polling stations were not accessible for persons with physical disabilities.

*Further efforts are needed to allocate adequate premises to ensure the secrecy of the vote. Authorities should consider further measures to make all polling stations fully and independently accessible by disabled voters.*

The introduction of the mixed electoral system in combination with the holding of a referendum on the same day caused confusion among voters. The IEOM observers noted that voters were not aware of the system under which the elections took place in 16 per cent of observations. Voters were also confused as to whether they could refuse to take the referendum ballots. In line with the law, voters without valid IDs and those not in the voter list were not allowed to vote in 58 and 16 cases, respectively. At the same time, voters without proper ID were allowed to vote in 14 cases. IEOM

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<sup>84</sup> Cases of overcrowding were reported in 12 per cent of polling stations observed, mostly in the polling stations specifically created for the voters from Transnistria.



observers noted 8 per cent of voters not knowing where they should vote and thus approaching the wrong polling station.

Large-scale bussing of voters from Transnistria resulted in many voters being present at a polling station at the same time, which prevented the PEBs from managing the voting process smoothly. This created some tension. Several political parties raised concerns with the CEC that the bussing of voters was organized by certain parties and that voters were being paid to vote. The CEC informed the police and an investigation is pending. IEOM received reports throughout election day that substantiated allegations of election related frauds were forwarded to the authorities to investigate, however, to date the ODIHR has received no information that these investigations were concluded and perpetrators were taken to court.

For the first time, contestants were allowed to campaign on election day except at the polling station. Campaign materials and campaigning were noted close to the polling stations by IEOM observers in 15 and 9 per cent of observations, respectively. In some two per cent of observations, campaign material or campaign activity were reported even inside the polling station. Several IEOM interlocutors raised the concern that voters felt intimidated by the campaigning being conducted close to the polling station or its vicinity.

*To ensure that voters are able to cast their votes free of pressure and undue influence, authorities could consider prohibiting partisan and campaign activities not only within polling stations but also in the vicinity of polling stations during voting hours.*

Citizen and candidate observers were present in over 95 per cent of observed polling stations and DECAs and were able to follow all stages of voting, counting, and tabulation without restrictions, contributing to the transparency of the process.

## **B. COUNTING**

The IEOM assessed the counting positively in 93 out of 117 polling stations observed. Negative assessments were made primarily due to procedural irregularities including PEB members not counting unused ballots and voters' signatures in the voter lists. In 30 cases, the validity of questioned ballots was not decided by a vote of PEB members. PEB members did not understand the counting procedures in 10 cases and were not following the procedures in 16 cases. Some cumbersome procedures like cancellation of the unused ballot papers by applying the stamp "Annulled" unduly complicated the process.<sup>85</sup>

PEBs encountered difficulties in reconciling voting results in the protocols in 63 cases, the announced figures were not accurately entered in the results protocol in 10 cases. After long voting hours (from 7:00 to 21:00) some PEBs tried to skip certain steps in procedures, thus significant procedural errors or omissions were noted in 15 polling stations observed.<sup>86</sup>

*Consideration could be given to reasonable shortening of voting hours and streamlining counting procedures by introducing a simpler ballot annulment procedure. The CEC training centre could consider enhancing its training with a particular focus on the vote count and completion of results protocols.*

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<sup>85</sup> The PEB members had to cancel 1,995,105 and 2,002,791 of unused ballot papers for national and single member constituencies respectively as well as 2,298,857 and 2,298,454 for the first and the second question for the referendum respectively.

<sup>86</sup> IEOM observers noted that these procedural omissions were mainly aimed to speed up the process and had no impact on the count as no attempts to disrupt or obstruct the process were observed.

Although, in most PEBs observed, candidate representatives and observers received copies of the results protocol, they were only posted for public scrutiny in a half of observed counts. In an important move that increased transparency, PEBs reported preliminary results directly to the CEC electronically who then placed them on their website.

### C. TABULATION AND ANNOUNCEMENT OF RESULTS

IEOM observers evaluated tabulation as efficient, effective and orderly in all but 6 out of 46 DEC's observed. In some DEC's significant procedural errors or omissions were noted, largely due to inadequate facilities for receiving election material and tabulating the results. Negative assessments typically related to the lack of promptness, orderliness and transparency of the process (5 DEC's) as well as the DEC handling of problems and complaints (2 DEC's).

The CEC regularly released information on voter turnout including for out-of-country, with a breakdown by age and gender. The preliminary turnout was reported at 49.2 per cent. The CEC started posting the preliminary results as reported by PEBs at around 10:30 pm, contributing to the transparency of the process. However, the CEC posted only partial figures from the PEB result protocols, the data was presented in generalized manner with information about three leading candidates in the single-member constituencies and breakdown within the administrative units for the national constituency, which reduced the usefulness of the data provided and limited the possibility for public scrutiny. On 6 March, the CEC published the scanned copies of the DEC's protocols on its website. The scanned copies of PEBs protocols were published on the CEC website on 12 March.

*To enhance transparency of the results tabulation the CEC should publish detailed preliminary election results, which include all data from PEB protocols, on its website.*

On 3 March, within the legal deadline, the CEC summarized the results of the elections in the national constituency and approved the allocation of mandates based on the outcome of the elections in national and 51 single member constituencies. On 4 March, the CEC submitted "the report on the organization of elections" together with protocols on election results with relevant election documentation to the Constitutional Court, which on 9 March validated the results.

## XV. POST ELECTION DEVELOPMENTS

A total of 85 complaints were made to the courts and about 40 to the CEC on election day from citizens unable to vote abroad using an expired passport or a national ID. All of these complaints were rejected by the courts, which referred to the Constitutional Court decision on the issue. Complaints and notifications about vote buying and bussing voters to the polling stations for Transnistria were made to the CEC, the police and prosecutors. The police reported a total of 140 violations on election day, and opened investigations into a number of these.

As previously noted, the Election Code lacks clear procedure for making post-election complaints. Relatively few post-election complaints were made as a number of parties told the ODIHR EOM that it is unclear how to lodge a post-election complaint. Some contestants sent notifications, rather than complaints, to the CEC, although these do not result in a specific remedy.<sup>87</sup>

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<sup>87</sup> Notifications are not governed by the Election Code, but by general laws relating to access to information and the conduct of public authorities. CEC generally responded to them by letter and/or by referring the matter to the competent authority, and did not publish them. The CEC sent some notifications to the police and other competent bodies, and sent all of them to the Constitutional Court.

The Election Code allows for recounts upon a request being made to the Constitutional Court. The Court may order a recount if the request is based on grounds which could have affected the results and the assignment of mandates.<sup>88</sup> Only one request for a recount was submitted to the Constitutional Court, but was rejected on the grounds that no evidence was presented to show that the results were impacted.

ACUM made a request to the Constitutional Court to annul the results of five single member constituencies on the grounds of diverse violations. The court rejected the request as unfounded in relation to all five districts. It noted that the test for annulment is whether the violations would have influenced the results so as to make it impossible to determine the will of the voters in that constituency.<sup>89</sup> ACUM also challenged the formula for allocating mandates in the national constituency, but the Court also rejected this challenge as unfounded. On 9 March, within the timeframe set down by the law, the Constitutional Court validated the results for all 51 single member and for the national constituencies.

*The Election Code should establish the competences, procedures and timelines for post-election complaints and appeals, with the possibility of appeal to a higher instance, in order to provide an effective mechanism for challenges to election results.*

## **XVI. RECOMMENDATIONS**

These recommendations, as contained throughout the text, are offered with a view to enhance the conduct of elections in the Republic of 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 that remain to be addressed, in particular in its final reports from the 2014 parliamentary, 2015 local and 2016 presidential elections. ODIHR stands ready to assist the authorities of the Republic of Moldova to further improve the electoral process and to address the recommendations contained in this and previous reports.<sup>90</sup>

### **A. PRIORITY RECOMMENDATIONS**

1. The authorities should consider a comprehensive review of the electoral legal framework to eliminate inconsistencies and ambiguities, and to address ODIHR and Council of Europe recommendations.

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<sup>88</sup> The decisions of the Constitutional Court in these and previous elections are clear that evidence must have been gathered beforehand to ground such requests. However, the law does not specify what procedural route should be followed to gather such evidence.

<sup>89</sup> The Constitutional Court cited European Court of Human Rights jurisprudence on the right to vote contained in Article 3 of the First Protocol to the European Convention on Human Rights.

<sup>90</sup> According to 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 EOM as follows: from the final report on the 2016 presidential elections, recommendation 7 is mostly implemented and recommendation 8 is partially implemented. From the 2015 local elections, recommendation 12 is fully implemented, recommendations 3, 9 and 14 are mostly implemented, and recommendations 15, 16 and 17 are partially implemented. From the final report on the 2014 parliamentary elections, recommendation 30 is fully implemented, recommendation 5 and 11 are mostly implemented, and recommendations 3, 6, 7, 24, 31 and 32 are partially implemented.

2. Serious consideration should be given to revising the timeframe of appointing DEC members to better ensure professionalism and stability in their work. This should enable training to be more effective and the institutional capacity to become more developed.
3. As previously recommended, should the CEC remain the competent oversight body, it should be given sufficient authority, human and technical resources to conduct effective campaign finance oversight.
4. To ensure that voters are able to cast their votes free of pressure and undue influence, authorities could consider extending the prohibition of partisan and campaign activities not only within polling stations, but also in the vicinity of polling stations during voting hours.
5. To increase confidence in the police and prosecutors should vigorously investigate and prosecute all electoral violations and publish updated statistical and other information on electoral cases on a regular basis and once they are concluded.
6. To promote a level playing field among contestants and ensure the separation of state and party, consideration should be given to clarifying provisions related to misuse of administrative resources and vote buying and introducing an effective enforcement mechanism to prevent these violations.
7. To enhance transparency of the results tabulation the CEC should publish detailed preliminary election results, which include all data from PEB protocols, on its website.

## **B. OTHER RECOMMENDATIONS**

### **Legal Framework**

8. To ensure the principle of equality of the vote the criteria for creation of the constituencies, including for voters in Transnistria and abroad should be re-considered.

### **Election Administration**

9. To increase the transparency of the district-level election administration, consideration could be given to requiring the publication of all DEC decisions.
10. As previously recommended, decisions on the number and locations for polling stations abroad should be taken transparently and based on clear and consistent criteria. Such decisions should be taken in a broad consultation with relevant stakeholders well in advance of an election.
11. To improve professionalism and effectiveness of DEC's and to allow for more extensive training consideration could be given to revising the timeframe of their appointment.

### **Voter Registration**

12. The possibility for deprivation of voting rights on the grounds of mental disability should be reconsidered.

13. In line with international good practice, consideration could be given to removing the possibility for voters to register on election day at the polling station to avoid the possibility of switching constituencies which may impact the outcome of election.
14. The authorities should continue efforts to improve the accuracy of the voter lists, through updating the civil register with current information from various authorities in order to remove persons residing or having died abroad.
15. Voter identification requirements in and out-of-country should be harmonised to facilitate universal suffrage.

### **Candidate Registration**

16. The legal provision that requires a minimum 40 per cent representation share for both sexes in the national constituency lists should be further clarified to ensure the balance of both genders in winnable positions on the lists.
17. In order to ensure consistency, transparency and legal certainty of the candidate registration process, clear and simplified procedures for the collection and verification of supporting signatures should be set out.
18. The law should be amended to allow voters to sign in support of more than one candidate.
19. In order to provide a level playing field for all contestants, the registration process, including consideration of any complaints and appeals, should conclude before the start of the campaign.
20. To further improve confidence in election process, the position of candidates and parties on the ballots should be determined by lottery at the conclusion of the registration process.

### **Campaign and Campaign Finance**

21. To ensure that independent candidates are awarded equitable treatment in the allocation of state resources they could be entitled for public funding.
22. To ensure clear separation between the state and party, consideration could be given to amending legislation to limit the initiation and subsequent implementation of major social assistance and infrastructure projects during the electoral period.
23. In line with previous recommendations, to enhance the transparency and oversight of campaign finance, previously identified gaps and shortcomings in legislation, including those concerning regulating third-party activities and the ban on donations from out-of-country income, should be addressed.
24. The law and practice could be reviewed to prescribe gradual, timely and proportionate sanctions for campaign finance violations aimed at increasing transparency of campaign finance and improving accountability.

### **Participation of National Minorities**

25. Authorities could consider, upon consultation with national minority groups, the introduction of special mechanisms that would legally encourage greater participation and representation of minorities in public and political life.

## **Media**

26. To enhance genuine media pluralism and transparency further measures, including extending media ownership transparency requirements to online and print media, should be taken.
27. To improve voter's access to election related information, and to help them make an informed choice, in consultation with relevant stakeholders, the laws on Access to Information and Personal Data Protection could be harmonized to ensure appropriate access to information of public interest.
28. To promote pluralism in broadcast media, the CCA could consider to include debates and other relevant programs in the sample of its media monitoring and to extend it beyond the official campaign period to enable publishing media monitoring report in a timely manner, strengthening its sanction mechanism if repetitive violations of the impartiality requirement are committed.

## **Complaints and Appeals**

29. All election bodies and courts should consider election related cases in open sessions and publish session or hearing dates in advance and reasoned decisions promptly.
30. In order to ensure access to an effective remedy, the jurisdiction for each type of complaint, needs to be clarified. The CEC could consider providing better information to stakeholders about the jurisdiction and procedures for lodging complaints and appeals.

## **Election Day**

31. Further efforts are needed to allocate adequate premises to ensure the secrecy of the vote. Authorities should consider further measures to make all polling stations fully and independently accessible by disabled voters.
32. To ensure that voters are able to cast their votes free of pressure and undue influence, authorities could consider prohibiting partisan and campaign activities not only within polling stations but also in the vicinity of polling stations during voting hours.
33. Consideration could be given to reasonable shortening of voting hours and streamlining counting procedures by introducing simpler ballot annulment procedure. The CEC training centre could consider enhancing its training with a particular focus on the vote count and completion of results protocols.

**ANNEX I: FINAL RESULTS**

Summary results for national constituency	
Total number of voters in voter's list	<b>2,803,573</b>
Number of voters in additional list	<b>155,570</b>
Number of voters who received ballots	<b>1,458,169</b>
Number of voters who voted	<b>1,457,220</b>
Voter turnout	<b>49.22 %</b>
Invalid ballots	<b>40,861</b>
Voters abroad	<b>76,583</b>
Voters from Transnistria	<b>37,257</b>

#	Name of Party/Electoral Bloc	Number of votes received (proportional)	Percentage (proportional)	Number of mandates		
				National	SM district	Total
1	Democratic Party of Moldova	334 539	23.62%	13	17	30
2	Election Bloc ACUM	380 181	26.84%	14	13	27
3	Party of Communists of the Republic of Moldova	53 175	3.75%	0	0	0
4	Party of Socialists of the Republic of Moldova	441 191	31.15%	18	17	35
5	Political Party Sor	117 779	8.32%	5	2	7
6	People's Movement Antimafie	8633	0.60%	0	0	0
7	Political Party "Our Party"	41 769	2.94%	0	0	0
8	National Liberal Party	3430	0.24%	0	0	0
9	Political Party "Will of the People"	2705	0.19%	0	0	0
10	Party of Regions of Moldova	3645	0.25%	0	0	0
11	Political Party "Democracy at Home"	4463	0.31%	0	0	0
12	Professionals Movement "Speranta-Nadejda"	2826	0.19%	0	0	0
13	Political Party "Homeland"	1033	0.07%	0	0	0
14	Green Party	3249	0.22%	0	0	0
15	Liberal Party	17 741	1.25%	0	0	0

## ANNEX II: LIST OF OBSERVERS IN THE INTERNATIONAL ELECTION OBSERVATION MISSION

### OSCE Parliamentary Assembly

George	Tsereteli	Special Coordinator	Georgia
Kari	Henriksen	Head of Delegation	Norway
Maximilian	Unterrainer	MP	Austria
Peter	Gerstner	MP	Austria
Franz Leonhard	Essl	MP	Austria
Zdenek	Ondracek	MP	Czech Republic
Silvia	Andrisova	MP	Czech Republic
Karla	Marikova	MP	Czech Republic
Jan	Hornik	MP	Czech Republic
Katerina	Kosarikova	MP	Czech Republic
Carsten Ulrick	Larsen	MP	Denmark
Eva	Esmarch	MP	Denmark
Canan	Bayram	MP	Germany
Zsolt	Csenger-Zalan	MP	Hungary
Mauro	Del Barba	MP	Italy
Gianluca	Castaldi	MP	Italy
Vito	Vattuone	MP	Italy
Luigi	Augussori	MP	Italy
Massimiliano	Ferrari	MP	Italy
Paolo	Grimoldi	MP	Italy
Abdimanap	Bekturganov	MP	Kazakhstan
Gustave Marcel	Graas	MP	Luxembourg
Lisbeth Merete	Stock	MP	Norway
Jacek Wladyslaw	Wlosowicz	MP	Poland
Grzegorz Witold	Furgo	MP	Poland
Bozena	Szydlowska	MP	Poland
Stanislawa			
Costel	Alexe	MP	Romania
Petru	Movila	MP	Romania
Catalin-Daniel	Fenechiu	MP	Romania
Ionut	Sibinescu	MP	Romania
Jose David	Carracedo Verde	MP	Spain
Pere Joan	Pons Sampietro	MP	Spain
Anna Charlotta	Olsson	MP	Sweden
Mathias	Tegner	MP	Sweden
Margareta	Kiener Nellen	MP	Switzerland
Djakhongir	Shirinov	MP	Uzbekistan
Rakhmatulla	Nazarov	MP	Uzbekistan
Andreas	Baker	OSCE PA Secretariat	Denmark
Loic	Poulain	OSCE PA Secretariat	France
Roberto	Montella	OSCE PA Secretariat	Italy
Anzhelika	Ivanishcheva	OSCE PA Secretariat	Russian Federation
Iryna	Sabashuk	OSCE PA Secretariat	Ukraine
Nathaniel	Parry	OSCE PA Secretariat	USA



## Parliamentary Assembly of the Council of Europe

Claude	Kern	Head of Delegation	France
Chemavon	Chahbazian	PACE Secretariat	France
Corneliu M.	Cozmanciuc	MP	Romania
Markus	Wiechel	MP	Sweden
Richard	Barrett	Venice Commission	Ireland
Gaël	Martin-Micallef	PACE Secretariat	France
Stefaan	Vercamer	MP	Belgium
Sonja	Langenhaeck	MP	Sweden
Elisabeth	Schneider-Schneiter	MP	Switzerland
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## 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 coordinates 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. The OSCE/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/odihr](http://www.osce.org/odihr)).