



Office for Democratic Institutions and Human Rights

REPUBLIC OF MOLDOVA

PRESIDENTIAL ELECTION

1 November 2020

ODIHR NEEDS ASSESSMENT MISSION REPORT

17-21 August 2020



Warsaw
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ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following the official invitation to observe the 1 November 2020 presidential election and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 17 to 21 August. The NAM included Vladimir Misev, ODIHR Senior Adviser on New Voting Technologies, and Oleksii Lychkovakh, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and preparations for the presidential election. Based on this assessment, the NAM should recommend whether to deploy an ODIHR election-related activity for the forthcoming election, and if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions and representatives of political parties, media, civil society and international community. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs and European Integration (MFA) and the OSCE Mission to Moldova for their assistance and co-operation in organizing the NAM. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the mission and to share their views.

II. EXECUTIVE SUMMARY

On 21 May, the parliament called the presidential election for 1 November. The upcoming election will be the second direct presidential election since 2016, as between 2000 and 2016 the president was elected by the parliament. The president is elected for a four-year term in a single nationwide constituency. For the election to be valid, participation is required from at least one third of registered voters. A candidate is considered to be elected if he or she is supported by at least half of the valid votes cast. If no candidate obtains the required number of votes, a second round is held two weeks later between the two leading candidates. In the second round, the candidate who obtains the higher number of votes is considered elected regardless of voter turnout.

The election is governed by the Constitution and several election-related laws, and supplemented by Central Election Commission (CEC) regulations and decisions. Changes to several election-related laws, including the Election Code, the Law on Political Parties and the Administrative Code took place since the last 2019 parliamentary elections, amending the provisions for voting abroad, campaign finance, election dispute resolution and media coverage of the campaign. In July 2020 the parliament passed first reading of newly proposed amendments to several electoral laws. On 19 August, ODIHR and the Venice Commission provided a Joint Opinion that concluded that “the drafting procedure was rather hasty and disputed the transparency of the process” and that “the draft includes some improvements and addresses several prior recommendations.” Most ODIHR NAM interlocutors, including the CEC, pointed to the frequent changes of the legal framework and expressed concern that the electoral period started without sufficient legal certainty.

The election will be managed by a three-tiered election administration. This includes the CEC, 36 District Electoral Councils (DECs) and some 2,140 Precinct Electoral Bureaus (PEBs). A number of ODIHR NAM interlocutors expressed concern about the effect of COVID-19 pandemic on the process of recruitment and training of some 19,000 PEB members. To facilitate the participation of voters from Transnistria, where voting will not take place, the CEC intends to open polling stations in the neighbouring areas which are under government control and requested assistance from the local authorities. Several heads of local authorities responded negatively to the request noting COVID-19 pandemic concerns. Overall, most of the ODIHR NAM interlocutors expressed low confidence in the election administration alleging political pressure on its members and referring to the examples of their inconsistent decision-making on sanctions for electoral violations.

Citizens at least 18 years old by election day are eligible to vote, except those declared incapable by court. Voter lists are compiled based on information in the State Register of Voters, which is extracted from the State Population Register maintained by the Public Service Agency. The total number of voters is around 3,286,300. ODIHR NAM interlocutors did not raise significant concerns regarding voter registration process.

Voters abroad can vote in polling stations established in the country's diplomatic representations, and in additional locations based on need. Some 125 polling stations are planned for voters abroad. Most of the opposition political parties met by ODIHR NAM expressed concerns about misuse of the criteria for establishing polling stations abroad and a significant increase of the number of polling stations in specific countries. The July 2020 amendments to the Election Code eased the requirements for the selection of PEB chairpersons abroad and transferred the final decision for the allocation of polling stations abroad from the MFA to the CEC. Both institutions raised concerns to the ODIHR NAM regarding the organisation of voting abroad and the challenges to opening polling station in some countries due to COVID-19 related limitations.

To be eligible to run for president, a voter has to be of at least 40 years of age, have resided in Moldova for a minimum of ten years and possess a proficiency in the state language. Each nominee is required to submit from 15,000 to 25,000 voter signatures from at least 18 of 35 administrative units; a minimum of 600 signatures is required from each unit. A number of ODIHR NAM interlocutors raised concerns about overly restrictive signature collection and verification requirements and noted that complying with these requirements is more challenging during the COVID-19 pandemic.

The official campaign starts 30 days prior to election day and early campaigning is prohibited. Economy, the fight against corruption, and national identity issues, such as statehood, traditional values and religion, are expected to be the focus of the campaign. All parties met by ODIHR NAM informed that COVID-related restrictions and public health concerns will significantly impact their campaigning methods with the focus shifting to the online domain. Traditional campaigning will include small-scale rallies, door-to-door canvassing and distribution of printed materials. ODIHR NAM interlocutors also stated that the COVID-19 restrictions on 'in-person' campaigning will give advantage to the political forces that control certain broadcast media. A number of parties met by ODIHR NAM expressed concern over the limitations to campaign in Transnistria and alleged vote-buying and bussing of voters residing in the region. Another concerns raised by many ODIHR NAM interlocutors were the potential misuse of administrative resources and the dissemination of fake news and use of inflammatory language and intolerant rhetoric against certain potential contestants, particularly online.

Party and campaign finance is regulated by numerous legal acts including the Election Code, the Laws on Political Parties, on Administrative Offences, on the Court of Accounts, and the Criminal Code and supplemented by CEC regulations. The August 2019 amendments included provisions to allow private donations from abroad, establishment of a nationwide ceiling for the campaign fund and lowering the caps for donations from private and legal entities. The CEC is responsible for campaign finance oversight. Despite some positive changes to the party and campaign finance framework, a number of ODIHR NAM interlocutors questioned its overall transparency. They also noted that the CEC lacks sufficient resources for effective oversight and is inconsistent in applying sanctions for non-compliance with the campaign finance regulations.

Media are influenced by political and economic forces through direct or indirect ownership, as well as control of the advertising market. ODIHR NAM interlocutors opined that such environment undermines media pluralism and independence of editorial policies and will decrease the quality and diversity of the electoral media coverage. Legislation provides for equitable conditions in media and calls for balanced coverage. The law guarantees the contestants free airtime and print space in public media. National broadcasters have to organize debates among them. The national public broadcaster, *TeleRadio Moldova*, is planning to allocate free airtime to each contestant and host debates. Several ODIHR NAM interlocutors questioned impartiality of the public broadcaster and the media regulator, the Audiovisual Council, and opined they favour the ruling parties.

The Election Code, the Administrative Code and the CEC regulate election-related complaints. ODIHR NAM interlocutors pointed to the conflicting provisions of the Election Code and the new Administrative Code. According to the CEC, campaign finance complaints and appeals against decisions of lower level electoral bodies will be examined by the CEC and those filed by candidates on actions of other electoral contestants – by the courts. A number of ODIHR NAM interlocutors expressed low confidence in election dispute resolution system, including on the basis of the process of selection and appointment of judges.

The law provides for citizen and international election observation. Citizen observer groups that the ODIHR NAM met with expressed concern that the draft amendments provide for election observation only from the start of the electoral campaign. In the Joint Opinion on the draft amendments ODIHR and the Venice Commission pointed that such restrictions would unduly limit the scope of election observation and recommended to guarantee observer access to all stages of the electoral process in line with international standards and good practice. Citizen observers intend to follow the entire electoral process and deploy both long and short-term observers. They also informed ODIHR NAM that they will conduct media monitoring focusing on hate speech and intolerant rhetoric.

All ODIHR NAM interlocutors supported an ODIHR observation activity for the upcoming election and opined that it should be of large scale and long duration. They emphasized that the value and importance of comprehensive international election observation of all aspects of the election process during COVID-19 pandemic. In line with the issues and concerns raised by ODIHR NAM interlocutors, potential election observation activity would focus on management of the election, campaigning and potential misuses of administrative resources and vote buying, candidate registration, election dispute resolution and election media coverage.

Based on the findings of this report, the ODIHR NAM recommends the deployment of an Election Observation Mission (EOM) to assess the 1 November 2020 presidential election for its compliance with OSCE commitments, other international obligations and standards for democratic elections and domestic legislation. In addition to a core team of experts, the ODIHR

would request the secondment of 26 long-term observers from OSCE participating States to follow the election process countrywide, as well as 200 short-term observers to follow election day proceedings. In line with ODIHR's standard methodology, the EOM would include a media monitoring element.

III. FINDINGS

A. POLITICAL BACKGROUND

Moldova is a parliamentary republic with legislative power vested in the parliament and executive power exercised by the government. The president serves as the head of state and holds certain limited functions and authority in foreign relations and national security.

On 21 May the parliament called the presidential election for 1 November. The upcoming election will be the second direct presidential election since 2016 when the Constitutional Court declared that the constitutional revision from 2000 which required electing the president by the parliament, was unconstitutional.¹ Igor Dodon, nominated by the Party of Socialists of Moldova (PSRM), won the 2016 presidential election in the second round with 52.11 of valid votes cast.

Following the 24 February 2019 parliamentary elections, the newly elected 101-member parliament comprised three political parties and one bloc. These were the PSRM with 35 mandates, the Democratic Party of Moldova (PDM) – 30 mandates, the Electoral bloc “ACUM” – 26 mandates, the Shor Party – 7 mandates and three independent members of the parliament (MPs). For some three months after the validation of newly elected MPs by the Constitutional Court in March 2019 no attempts to form the governing coalition were successful and the government continued to be led by Pavel Filip from PDM.

On 8 June 2019, Maia Sandu, the leader of Party of Action and Solidarity (PAS), part of the ACUM bloc, was elected as a Prime Minister and Zinaida Greceanii, from PSRM, was elected as Speaker of the Parliament. The same day, the Constitutional Court declared these decisions unconstitutional, reasoning that the parliament had missed the timeline for forming the government, and the following day decided to temporarily suspend the President on the grounds of noncompliance with the Court's request to dissolve the parliament and call early parliamentary elections. These Constitutional Court decisions led to political and constitutional crisis and resulted in a strong political divide and duality of power.

On 14 June 2019, Mr. Filip stepped down from the prime-ministerial post and on the following day, the Constitutional Court repealed its 8 and 9 June decisions. It was also reported that the PDM leader, Vladimir Plahotniuc, fled the country. The PSRM and the ACUM formed a ruling coalition, which they declared to be a “temporary political agreement despite their diverging political platforms” based on “common political objectives” such as to “de-oligarchise” the country and fight against corruption. On 12 November 2019, Ms. Sandu government was ousted in a motion of no-confidence initiated by the PSRM and supported by PDM.² On 14 November 2019, the PSRM and PDM with 62 votes supported ex-finance minister Ion Chicu as new prime

¹ From 2000 to 2016, the president was elected by a 3/5 parliamentary majority.

² The official reason stated in the motion was the draft law proposed by the government to delegate a part of its plenary powers to the prime minister to nominate a "short list" of candidates for Prosecutor General's position. The president stated that by this proposal, the ACUM violated the coalition agreement stipulating that the applicants for the position of Prosecutor General are selected by an expert committee.

minister and in March 2020, the two parties officially signed a coalition agreement and PDM got five posts in the government.

Since the 2019 parliamentary elections several MPs changed factions, the ACUM faction split into two factions of Party Action and Solidarity (PAS) and Dignity and Truth (*Platforma DA*). In February 2020, ex-speaker of parliament Andrian Candu and six MPs left PDM and created the Pro Moldova parliamentary group.³

ODIHR has previously observed 14 elections in Moldova.⁴ Most recently, ODIHR deployed an Election Observation Mission (EOM) for the 2019 parliamentary elections, which concluded that the elections “were competitive and fundamental rights were generally respected and the election 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. It was also noted that control and ownership of the media by political actors limited the range of viewpoints presented to voters. At the same time 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.” The ODIHR’s final report on 24 February 2019 parliamentary elections offered 33 recommendations, including 7 priority ones, for the authorities to improve electoral process and bring it closer in line with OSCE commitments.⁵

B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

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

Presidential elections are primarily regulated by the 1994 Constitution, the 1997 Election Code (last amended in 2020) and the 2007 Law on Political Parties (last amended in 2020). It is supplemented by other laws, including the Criminal and Administrative Codes, and Central Election Commission (CEC) regulations and decisions.

The 2016 decision of the Constitutional Court on presidential elections necessitated changes to the Election Code to regulate their direct conduct. ODIHR and Council of Europe’s Commission for Democracy through Law (Venice Commission) provided an opinion on these draft changes, concluding that the draft amendments were “generally in accordance with international obligations and standards, and, if properly implemented, should enable presidential elections to take place in conformity with them, however, several draft provisions would benefit from further revision or clarification”.⁶

³ Current composition of the parliament includes 37 MPs from PSRM, 13 MPs from PDM, 15 MPs from PAS, 14 from Pro Moldova group, 11 from *Platforma DA*, 9 from Shor Party and 2 independent MPs.

⁴ See [previous ODIHR election reports on Moldova](#).

⁵ In paragraph 25 of the 1999 [OSCE Istanbul Document](#), OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”.

⁶ See ODIHR and Venice Commission [Joint Opinion on Amendments to the Election Code of the Republic of Moldova, 9 June 2016](#). In [June 2017](#), [December 2017](#) and [March 2018](#) ODIHR and Venice Commission issued Joint Opinions that were primarily focused on the regulation of the parliamentary elections.

Since the 2019 parliamentary elections, several changes were made to the legal framework that regulates the conduct of the presidential elections. The August 2019 amendments to the Election Code returned ban on campaigning on election day, provided for private donations from abroad and established ban on public procurement for legal entities that made donations, and established a ceiling for the campaign fund (see *Campaign Finance* section). The 2019 changes to the Law on Political Parties envisage additional public funding for youth and gender equality party activities and were followed by technical amendments in 2020. The new Administrative Code (in force since 1 April 2019) made changes in the election dispute resolution system (see *Complaints and Appeals* section). The July 2020 amendments to the Election Code made changes to the process of establishing polling stations and the composition of the PEBs abroad.

In July 2020 the parliament passed the first reading of the Law on Amending the Election Code, the Administrative Code and the Audiovisual Code. On 19 August the Venice Commission and ODIHR provided Urgent Joint Opinion that concluded that “the drafting procedure was rather hasty and disputed the transparency of the process” and that “the draft includes some improvements and addresses several prior ODIHR, PACE and Venice Commission recommendations”.⁷ The Joint Opinion recommended any restrictions on freedom of expression to be in conformity with constitutional and international human rights law, to further refine the provisions on misuse of administrative resources, to continue allowing observers to follow all stages of the electoral process and that sanctions should respect the principles of proportionality and equality, in particular those related to election observers and the media and be subject to effective judicial review.

Most ODIHR NAM interlocutors, including the CEC pointed to the frequent changes of the legal framework and expressed concerns that the electoral period started without sufficient legal certainty, as it remains unclear if the amendments will be voted and enacted thereby affecting the forthcoming election. Majority of the ODIHR NAM interlocutors noted that consistent implementation of the legal framework will be essential for the democratic conduct of the elections.

C. ELECTION ADMINISTRATION

The elections will be managed by a three-tiered election administration. This includes the CEC, 36 District Electoral Councils (DECs) with a total of some 390 members and some 2,140 Precinct Electoral Bureaus (PEBs) with some 19,000 members.

The CEC consists of nine members appointed by the parliament for a four-year term.⁸ In July 2019 four CEC members, including the chairperson, deputy chairperson and the secretary resigned.⁹ In their replacement four new members were consequently appointed and new CEC leadership elected. There are no women among current CEC members. DECs consist of between

⁷ See the [19 August 2020 Venice Commission and ODIHR Urgent Joint on the draft law no.263](#). The “positive steps include *inter alia* clearer definitions of electoral campaign and clarifications regarding the timeline for campaigning in the second round, additional provisions aimed at preventing the misuse of administrative resources; and expanding the range of sanctions that could be applied for violations of campaign rules; the use of expired passports as identification of voters; the wide definition of the persons entitled to submit complaints or appeals as well of the appealable acts; reasonably short deadlines, in particular for complaints and appeals.”

⁸ One CEC member is nominated by the president and the other eight by the parliamentary factions proportionally to their number of seats.

⁹ Some ODIHR NAM interlocutors opined that these CEC members resigned due to political pressure.

7 and 11 members nominated by local courts, councils and parliamentary parties. PEBs comprise 5 to 11 members nominated by local councils and parliamentary parties.

The CEC has adopted the election calendar and, together with National Emergency Sanitation Commission, developed an instruction on holding election during the COVID-19 pandemic.¹⁰ A number of ODIHR NAM interlocutors expressed concern about the effects of the pandemic on the process of recruitment of the PEB members and their training. Some of them also noted decreased confidence in the CEC, following the resignation of some members and appointment of new ones, some of which had been closely affiliated with certain political forces.

The CEC informed ODIHR NAM that, as previously, voting is not expected to take place in Transnistria, which is not under government control. To facilitate the participation of voters from Transnistria, the CEC is planning to open polling stations in the neighbouring areas that are under government control and requested assistance from local authorities.¹¹ Several heads of local authorities responded negatively to the request noting COVID-19 pandemic concerns. Overall, most of the ODIHR NAM interlocutors expressed low level of confidence in the election administration alleging political pressure on its members and referring to the examples of their inconsistent decision-making on sanctions for electoral violations.

D. VOTER REGISTRATION

Citizens at least 18 years old by election day are eligible to vote, except those declared incapable by a court decision, including on the grounds of intellectual and psychosocial disability, contrary to international standards.¹² Voter lists are compiled based on information in the State Register of Voters (SRV), which is extracted from the State Population Register maintained by the Public Service Agency. Voter lists are managed by the CEC and extracts should be displayed at polling stations for public scrutiny with voter data also available online. The recent changes to the Election Code permitted to use expired IDs for voter identification. ODIHR NAM interlocutors did not raise significant concerns regarding voter registration process.

According to the CEC, the total number of voters registered is some 3,286,300. Some 2,807,700 of them are permanently registered according to their domicile and some other 229,500 voters have no permanent registration and are believed to be residing abroad. CEC also informed ODIHR NAM that some 249,000 voters reside in Transnistria.

Voters abroad can vote in polling stations established in the country's diplomatic representations and in additional locations based on need. The July 2020 amendments to the Election Code eased the requirements for the selection of PEB chairpersons abroad and provide that diplomatic staff or any voter who is on the Register of Electoral Officials, maintained by the CEC, can be

¹⁰ The Instruction includes health protocols to limit possible exposure of voters and members of election management, such as queue control, additional requirement for the setup of the polling stations, sanitizing measures and use of personal protective equipment. The CEC estimated that additional MDL 20 million (app. EUR 1 million) will be needed to implement the measure prescribed by the instruction.

¹¹ During 2019 parliamentary elections 47 polling stations were opened for voters from Transnistria.

¹² Articles 12 and 29 of the [2006 CRPD](#). See also paragraph 9.4 of the [2013 CRPD Committee's Communication No. 4/2011](#), which states that "Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities. Therefore, an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability, within the meaning of Article 2 of the Convention". Paragraph 41.1 of the [1991 OSCE Moscow Document](#) commits participating States "to ensure protection of the human rights of persons with disabilities".

chairperson.¹³ The amendments also transfer the authority for final decision for the allocation of polling stations abroad from the MFA to the CEC. Both institutions raised concerns to the ODIHR NAM regarding organisation of voting abroad while respecting COVID-19 related limitations in the respective countries.¹⁴

Most of the opposition political parties met by ODIHR NAM expressed concerns about potential misuse of the criteria for establishing polling stations abroad and informed that they expect a significant increase in the number of polling stations in specific countries, linked to the estimated political preferences of the voters residing there. Most representatives of foreign diplomatic missions in Chisinau, including those with traditionally larger number of polling stations, informed ODIHR NAM that they intend to respond positively to the request of Moldovan authorities regarding voting in their respective countries.

E. CANDIDATE REGISTRATION

To be eligible to run for president a voter has to be of at least 40 years of age, and have resided in Moldova for a minimum of ten years and possess a proficiency in the state language.¹⁵ Candidate nomination takes place from 60 to 30 days before election day. Prospective candidates can be put forward through the self-nomination, by a political party or a bloc. Each candidate is required to submit between 15,000 and 25,000 voter signatures from at least 18 of 35 administrative units. A minimum of 600 signatures is required from any given unit.¹⁶ Despite previous ODIHR recommendations and international good practice, voters can only support one candidate. Signature lists have to be verified by the CEC within five days of submission.

A number of ODIHR NAM interlocutors raised concern about overly restrictive signature collection and verification requirements, and noted that complying with these requirements became even more challenging during the COVID-19 pandemic, as supporters became less willing to interact in person.¹⁷ ODIHR had previously recommended clarifying rules on candidate registration, including procedures for verifying signatures to ensure transparency, consistency and legal certainty at all stages and revising the role of the local administration in the signature verification process.

F. ELECTION CAMPAIGN

The official campaign starts 30 days before election day. Campaigning prior to this period, including during candidate registration, is prohibited. The Election Code provides that contestants are to participate in elections on an equal basis and have an equal right to use mass media, including public media. Candidates may not use public means and goods (referred to as administrative resources) during campaigns, while public authorities and other related institutions may not grant public goods or other benefits to candidates unless a contract is concluded to this

¹³ Currently the CEC Register of Electoral Officials includes some 25,400 persons.

¹⁴ The MFA conducted preliminary assessment of the conditions and locations for voting abroad and provided the list to the CEC. In preparation for voting abroad during the pandemic, the MFA prepared risk assessment which took into account existing regulations and restrictions in host countries, as well as issues related to transportation of election material and personnel.

¹⁵ The ODIHR has previously assessed such an age requirement as high and that the residency requirement as overly restrictive.

¹⁶ There are 37 administrative districts. Signature collection in Bender and Tiraspol, located on the territory that is not under government control, will not be undertaken.

¹⁷ Particular concern was expressed regarding the requirement for complying with the minimal number of signatures in at least 18 regions, as some of the regions have smaller population, and taking into consideration various pandemic-related restrictions and the possibility to sign only for one contestant.

end, providing equal terms to all candidates. Foreign nationals are not permitted to campaign.¹⁸ Economy, ‘de-oligarchisation’ and fight against corruption, as well as national identity issues, such as statehood, traditional values and religion, are expected to be in the focus of the campaign.

Parties that the ODIHR NAM met with informed that pandemic-related restrictions and public health concerns will significantly impact the campaign. They stated that restrictions on ‘in-person’ campaigning raised the importance of television and gave advantage to the political forces that control certain broadcast media. These conditions forced contestants to focus on online rather than traditional campaign methods, which will still include small-scale rallies, door-to-door canvassing and distribution of printed materials. A number of parties met by ODIHR NAM expressed concerns on the limitations to campaign in Transnistria and alleged vote-buying and bussing arrangements for voters residing in the region in favour of certain candidate. Another concerns raised by many ODIHR NAM interlocutors were the potential misuse of administrative resources and the dissemination of fake news and use of inflammatory language and intolerant rhetoric against certain potential contestants, particularly online.¹⁹

G. CAMPAIGN FINANCE

Party and campaign finance is regulated by many legal acts.²⁰ The August 2019 amendments to the Election Code, the Law on Political Parties and several other acts, allowed private donations from abroad (maximum 3 average monthly salaries), established a nationwide ceiling for the campaign fund of a contestant at 0.05 per cent of the state budget and limited donations from private and legal entities at 6 and 12 monthly average salaries, respectively.²¹ The amendments also ban donations from public employees above ten per cent of their annual income and donations from legal entities that concluded public procurement contract within the last three years.²² Campaigns can be financed from donations and contestants’ own funds. All campaign transactions are to be made via dedicated bank accounts.

The law requires contestants to submit financial reports every two weeks from the date of opening their campaign account and the last one to be submitted not later than 48 hours before election day. The CEC is responsible for campaign finance oversight. It receives and publishes bi-weekly financial reports from contestants online and verifies their accuracy and compliance with the law.²³ The CEC informed ODIHR NAM, that they successfully co-operate with relevant institutions, such as Tax Authority and Social Aid Service, to cross-check compliance with party and campaign finance regulations.²⁴

¹⁸ On 31 August, prior to the start of the official campaign period, the [President of the European People’s Party Donald Tusk has endorsed the prospective candidate Maia Sandu](#) for 1 November presidential election in a video on his official Facebook page.

¹⁹ In July 2019 the Supreme Court decided in favour of Maja Sandu, who filed a complaint against the use of intolerant rhetoric by high-ranking clerics against her during 2019 parliamentary elections campaign.

²⁰ These include the Election Code, the Laws on Political Parties, on Administrative Offences, on the Court of Accounts, and the Criminal Code and supplemented by CEC regulations.

²¹ On 1 September the CEC established the nationwide ceiling for the campaign fund of a contestant at MDL 18,925,500 or approximately EUR 1 million.

²² The decrease of caps for donations and expenditures was made in response to prior ODIHR recommendations.

²³ In 2019, the CEC launched an online system, which is mandatory for use electoral contestants from 1 January 2020, and which automatically checks donors eligibility and excesses of the donation limits.

²⁴ These institutions provide the CEC with information on tax returns of the donors for the last 3 years as well as if the donor received any social benefits.

Despite some positive changes to the party and campaign finance framework, a number of ODIHR NAM interlocutors questioned its overall transparency. They also noted the CEC lacks sufficient resources for effective oversight and is inconsistent in applying sanctions for non-compliance with the campaign finance regulations.²⁵

H. MEDIA

A high number of media outlets operate in the country.²⁶ Media are influenced by political and economic forces through direct or indirect ownership, as well as control of the advertising market. Limited advertising market and commercial pressure from the two big advertising firms linked to prominent politicians limits financial autonomy of some media outlets.²⁷ Many ODIHR NAM interlocutors opined that such environment undermines media pluralism and independence and will decrease the quality and genuineness of political pluralism of the electoral media coverage.

The legal framework for media coverage during elections comprises the 2019 Audiovisual Code, the Election Code, as well as other relevant acts and regulations.²⁸ The legislation provides for equitable conditions for contestants in media and calls for balanced coverage. It guarantees the contestants free airtime and print space in public media outlets. Broadcasters with national coverage are required to organize debates among contestants.²⁹ As in previous elections, the CEC is planning to develop a Code of Conduct for media and to offer them to sign it.

The public broadcaster, *TeleRadio Moldova*, is planning to host debates among contestants, and to allocate one minute daily to each contestant for free-of-charge and two minutes for paid advertisement.³⁰ The participants on the debates will be selected by lottery and the programmes will be facilitated by an NGO representative. *Teleradio Moldova* representatives informed ODIHR NAM that editors are especially employed to ensure balanced coverage of electoral contestants and scrutinise content for hate speech and issues related to national minorities. To increase voter awareness, spots developed by the CEC will be broadcasted. Most of the political parties met by the ODIHR NAM noted that they will utilize the free airtime on the public

²⁵ The ODIHR NAM interlocutors referred to various examples, including the de-registration of Our Party in 2014 based on alleged campaign finance violations (See the European Court of Human Rights [judgment on Political Party 'Patria' and other v the Republic of Moldova, from 4 August 2020](#), in which the Court ruled that the de-registration on campaign finance violations grounds was unlawful) and instances of inaction which were also observed and reported by previous ODIHR EOMs, when contestants were using vehicles of charitable foundations to campaign (in case of *Edelweiss* foundation and *Martishor* social shops).

²⁶ This includes 62 television channels, 55 radio station, 90 newspapers and 77 magazines.

²⁷ See [2019 Association Implementation Report on Moldova by the European Commission](#).

²⁸ The new Audiovisual Code improves the requirements for the transparency of the broadcast media ownership, includes definition on hate speech and discrimination language, and puts a responsibility for reacting on such cases in media onto the Audiovisual Council (AC), the broadcast media regulator. Print and online media are self-regulated through the Association of Independent Press.

²⁹ On 26 August, the CA has ruled that in light of the pandemic, the debates will only be hosted by the public broadcaster. The debates will be rebroadcast live at other television channels with national coverage. On 1 September the CEC had overruled this decision and allowed all private TV stations to host debates under conditions that they send a statement on their editorial campaign policy to the AC by 8 September. The CEC emphasized that electoral competitors “have to be treated in an equal and non-discriminatory manner when it comes to time allotted to participate in electoral debates or time allotted for advertising.”

³⁰ According to ODIHR NAM interlocutors, there is a lack of clarity in the legislation whether *Teleradio* has the right to host paid electoral advertisement. During the 2019 parliamentary elections *Teleradio Moldova* aired paid advertisement referring to the CEC Regulation on media coverage of elections, while the Audiovisual Council (AC) opposed this decision referring to the Audiovisual Code.

broadcaster, but some of them questioned its impartiality and opined that it usually favours any ruling political force.

With the start of the electoral period, the Audiovisual Council (AC) is planning to conduct monitoring of 14 national broadcasters for compliance with regulation on electoral media coverage.³¹ The AC informed ODIHR NAM that besides compliance with electoral rules, they will also monitor tone of the coverage, the usage of interrogatory language, as well as issues of gender equality and accessibility of electoral information for persons with disabilities. Based on the monitoring the AC will produce bi-weekly reports. The AC is also responsible for examining media-related electoral complaints. Most ODIHR NAM interlocutors, however, doubted AC's ability to effectively oversee media compliance with the requirements for equitable conditions and balanced coverage as prescribed by the law. They were referring to the previous AC's decisions when, from their perspective, AC used their sanctioning powers selectively.³²

I. COMPLAINTS AND APPEALS

Electoral complaints and appeals are regulated by the Election Code, the Administrative Code and the CEC regulations. Voters and contestants can complain about actions, inaction and decisions of election bodies, other contestants and media. All complaints must be filed within three days and resolved within five days, but no later than the election day. Complaints against CEC decisions are filed with the Chisinau Court of Appeal.

Several ODIHR NAM interlocutors pointed to the conflicting provisions of the Election Code and the new Administrative Code enacted in April 2019.³³ According to the governing party, the new Administrative Code requires that electoral complaints are resolved by the election administration bodies before appealing to the courts. Other ODIHR NAM interlocutors noted that the Election Code that provides for a possibility of seeking legal remedy in courts at the same time as in the election commissions, as a *lex specialis*, has precedence over the Administrative Code. According to the CEC, campaign finance complaints and appeals against the decisions of lower-level electoral bodies will be examined by the CEC, and those filed by candidates on actions of other electoral contestants by the courts. A number of ODIHR NAM interlocutors expressed low confidence in election dispute resolution system, motivating with the selection and appointment of the judges who in the past made questionable decisions to the posts in the courts that deal with electoral complaints.

J. CITIZEN AND INTERNATIONAL ELECTION OBSERVATION

The law provides for international observers, representatives of contestants and citizen observers from 'competent' civil society organisations.³⁴ Currently the Election Code provides for observation throughout the entire electoral process. Citizen observer groups met with by the ODIHR NAM expressed concern that the draft changes to the electoral legislation provide for

³¹ This is a significant increase compared to previous elections, as, with digitalization process, those regional broadcasters that start broadcasting online technically became national broadcasters that should be covered by the AC monitoring.

³² Examples were given when certain media were sanctioned for not fully complying with "local content requirement" (minimum 80 per cent of the total content has to be developed in Moldova), while some other broadcasters with significantly lower portions of local content remained unsanctioned.

³³ ODIHR NAM interlocutors referenced a case related to the parliamentary by-elections in Hincesti on 15 March 2020, when a judge denied considering the complaint on candidate de-registration motivating that the new Administrative Code provides that this is solely a prerogative of the CEC.

³⁴ The Election Code defines a 'competent' organisation as "one which is committed under its statute to promote human rights and democratic values".

election observation only from the start of the electoral campaign until its conclusion. In their joint opinion on these draft amendments, ODIHR and Venice Commission pointed that such restrictions would unduly limit the scope and comprehensiveness of election observation and recommended to guarantee observer access to all stages of the electoral process, in line with international standards and good practice.

Citizen observers intend to observe the entire electoral process and deploy both long and short-term observers. They also informed ODIHR NAM that they will conduct media monitoring from the start of the electoral period focusing on hate speech and intolerant rhetoric in the campaign.

IV. CONCLUSIONS AND RECOMMENDATIONS

All ODIHR NAM interlocutors supported an ODIHR observation activity for the upcoming election and opined that it should be of large scale and long duration. They emphasized that the value and importance of comprehensive international election observation of all aspects of the election process during COVID-19 pandemic. In line with the issues and concerns raised by ODIHR NAM interlocutors, potential election observation activity would focus on management of the election, campaigning and potential misuses of administrative resources and vote buying, candidate registration, election dispute resolution and election media coverage.

Based on the findings of this report, the ODIHR NAM recommends the deployment of an Election Observation Mission (EOM) to assess the 1 November 2020 presidential election for its compliance with OSCE commitments, other international obligations and standards for democratic elections and domestic legislation. In addition to a core team of experts, the ODIHR would request the secondment of 26 long-term observers from OSCE participating States to follow the election process countrywide, as well as 200 short-term observers to follow election day proceedings. In line with ODIHR's standard methodology, the EOM would include a media monitoring element.

ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs and European Integration

Eugeniu Revenco, Secretary General
Sergiu Odainic, Head of Consular Affairs Department
Valentin Macari, Attache, OSCE and International Security Division
Daniel Voda, Spokesperson

Legal Committee of the Parliament

Vasile Bolea, Member of Parliament, Chairperson, PSRM
Serghei Litvinenco, Member of Parliament, PAS
Dinu Plingau, Member of Parliament, DA
Serghei Sirbu, Member of Parliament, ProMoldova

Central Election Commission

Dorin Cimil, President
Vladimir Sarban, Deputy President
Maxim Lebedinschi, Secretary
Vadim Filipov, Member
Rodica Sirbu, Head of public relations

Audiovisual Council

Julian Rosca Member of the Council
Lidia Viziru, Member of the Council
Lilia Gutu, Chief of the General Department of Licensing, Authorization and Monitoring

Political Parties and Movements (in alphabetical order according to party)

Andrei Nastase, Chairperson, DA
Igor Munteanu, Deputy Chairperson, DA
Renato Usatii, Chairperson, Our Party
Maia Sandu, Chairperson, Action and Solidarity Party (PAS)
Mihai Papusoi, Deputy Chair, Action and Solidarity Party (PAS)
Vlad Cebotari, Secretary General, ProMoldova
Corneliu Furculita, Member of Parliament, PSRM

Media

Veaceslav Gheorghesenco, Teleradio Moldova
Ecaterina Mitin-Stratan, TV Moldova 1
Constantin Vulpe, Teleradio Moldova
Galina Vasileva, Newsmaker
Ana Butnariuc, Prime TV
George Iosip, Publika TV
Sergiu Niculita, TV8

Civil Society

Igor Botan, Association for Participatory Democracy
Pavel Postica, Promo-Lex
Elena Prohntichi, Civil Coalition for Free and Fair Elections
Mihail Sirkeli, Pilligrim-Demo
Petru Macovei, Assosication of Independent Press
Mihai Mogaldea, IPRE

Vlad Kulminski, IPIS

International Community³⁵

H.E. Angela Ganninger, Ambassador, Germany
H.E. Pascal Le Deunff, Ambassador, France
H.E. Valeria Biagiotti, Ambassador, Italy
H.E. Steven Fisher, Ambassador, United Kingdom
Eduard Pesendorfer, Delegation of European Union
Natalia Corobca-Ianusevici, Konrad Adenauer Stiftung
Egle Blozneliene, Embassy of Lithuania
Ecaterina Valcu, Embassy of Netherlands
Daniel Slupek, Embassy of Poland
Kirill Abramov, Embassy of Russian Federation
Maros Kramar, Embassy of Slovakia
Stefan Butscher, Swiss Coordination Office
Zafer Ahmet Izcan, Embassy of Turkey
Alexandra Shema, Embassy of the United States

³⁵ The ODIHR NAM extended an invitation to all representations of OSCE participating States resident in Moldova.