

Promo - LEX

advancing democracy and human rights

coalitia 2009



coalitia civică pentru alegeri libere și corecte

THE CIVIC COALITION FOR FREE AND FAIR ELECTIONS

PROMO-LEX ASSOCIATION

FINAL REPORT

Monitoring general local elections of June 5, 2011

Monitoring period: April 5 – July 25, 2011

Published on August 30, 2011



This project is financially and technically supported by the National Democratic Institute for International Affairs (NDI). The project is co-financed by the East-European Foundation from financial resources offered by the Swedish International Development Cooperation Agency and the Ministry of Foreign Affairs of Denmark. The opinions expressed in the report belong to the authors and do not necessarily reflect those of the donors.

**Final Report on monitoring the local general elections of
June 5, 2011**

CONTENT:

I. SUMMARY

II. PROMO-LEX MONITORING EFFORT

III. PRE-ELECTORAL CONTEXT

IV. FINDINGS

- A. Public Administration**
- B. Election Administration**
- C. Electoral rolls**
- D. Electoral competitors**
- E. Local/regional mass-media**
- F. Days of scrutiny**

V. RECOMMENDATIONS

I. SUMMARY

The local general elections in 2011 in the Republic of Moldova, which were held on June 5 (Round I) and June 19 (Round II), were marked by a high level of voter participation, a fierce competition demonstrated by candidates and an adequate level of preparing the elections by the electoral organs. At the same time, multiple deficiencies have been recorded in the electoral process, mainly due to the actions undertaken by the majority of the involved actors. These deficiencies did not have a significant influence on the results of the scrutiny.

The pre-electoral period was marked by uncertainty regarding the date of organizing local general elections. The Parliament has set and announced the date for the local general elections as a result of the proposal which was not initially included in the official agenda and which was only three days prior to the expiry of the deadline specified by the legal norms. Amendments to the Electoral Code have been operated outside the term recommended for these purposes by the Venice Commission. Moreover, the amendments were admitted after the announcing of the date of the local general elections.

The Promo-LEX observers have reported that local public administration authorities have mostly respected the provisions of the electoral legislation, demonstrated the tendency to respect the deadlines set by the electoral legislation and undertook the necessary measures in order to create equal conditions for all the electoral competitors. Except for a few cases, local public administration authorities have generally offered sufficient logistical support to the electoral organs. At the same time though, the observation effort has reported a significant number of cases of use of public function for campaigning purposes. The latter also include the isolated cases of abuse of public office for electoral campaign purposes by some central and local public administration officials.

The Promo-LEX elections monitoring effort reports that, with some exceptions, the electoral organs have been constituted generally on time within the deadlines prescribed by the CEC electoral calendar and have demonstrated a correct and impartial behavior towards all the electoral competitors. The Promo-LEX elections monitoring effort salutes the neutral behavior of the electoral organs members and a conscious fulfilling of the functional tasks, as well as the timely replacing of those members of the electoral organs whose incompatibility were found.

Nevertheless, observers reported minor deficiencies at constituting the voting stations, publicly displaying the information regarding the headquarters of the voting stations and the public contact information. Moreover, the monitoring effort found isolated cases of involvement of electoral organs members into electoral campaigning activities. Observers have reported cases of uneven interpretations and insufficient knowledge of the legal norms regarding the registration of electoral competitors, the filing of financial reports by the competitors, the access to electoral rolls and the procedures regarding the modification of their content. The monitoring effort continues to be alarmed by the situation regarding the state of the technical and logistic assistance to electoral organs, the frequent changes in the composition of election bodies which makes it impossible to ensure adequate training to new members and causes delays in the plan of activities.

Observers have noted a dynamic election campaign, marked in particular by the organized launch of the political parties and independent candidates to elective office. More, observers noted that candidates used diverse methods of campaigning, as well as the obvious decrease in the number of electoral posters placed in unauthorized places.

On the other hand, the Promo-LEX observers remain very concerned over the isolated cases of violence and intimidation (at least 22 reported cases), black PR methods, use of provocative and hate speech aimed at counter candidates (at least 13 reported cases), as well as the considerable number of cases of using the administrative resources (at least 42 reported cases) and gifts in the electoral context (at least 99 reported cases).

The Promo-LEX monitoring effort continues to be worried by the candidates' opacity in declaring electoral funds and other material support used in campaign, but also by the lack of appropriate legal mechanisms for resolving electoral dissensions. Thus, observers highlight the tendency of more electoral disputes being solved by courts rather than amicably at the electoral organs. This phenomenon carries the risk of harming the credibility in the electoral process as a whole, emphases being transferred from the guaranteeing of the citizens' right to vote to the interpretations of electoral norms by courts.

The Promo-LEX monitoring effort notes the continued and active involvement of local and regional mass-media in covering campaign. In particular, the role of mass-media can be noted in the public presentation of the election administration activity, in the presentation of information on candidates and in conducting the electoral debates. Nevertheless, some legal shortcomings have been noted related to the authentication of the electoral advertising authors in accordance with legal provisions.

Observers have reported two cases of impossibility to exercise the right to be elected as local elected officials in the administrative-territorial units Bender and UTA Transnistrian Region, because of the impossibility to constitute there appropriate election organs

The Promo-LEX elections observation mission has formulated a number of recommendations which are aimed at improving the electoral process. The recommendations of the Promo-LEX observation mission are made in good faith in order to improve the election process. They are based on findings and indicate the direction for necessary intervention, without requiring specific solutions.

II. PROMO-LEX MONITORING EFFORT

The monitoring of general local elections held on June 5 (19), 2011, is a project implemented by the Promo-LEX Association within the framework of the Civic Coalition for Free and Fair Elections „Coalition 2009“. „Coalition 2009“ is a voluntary union of nongovernmental organizations, aiming to enhance the electoral process and raise public confidence in this process. The monitoring programs of general local elections, within the framework of the “Coalition 2009”, are implemented by Promo-LEX, as well as other member organizations. All the observers involved in the monitoring process have signed the Promo-LEX national observer Code of conduct. The main moral obligations of this Code are good faith, non political partisanship and promptness. The Code is available on the Association's website, <http://www.promolex.md>.

The Promo-LEX monitoring effort has been coordinated by 18 observers grouped in five central teams of Network, Analysis, Logistics, Communication and General Management. The central teams have operated from the day the election date was announced and until the current final observation report was produced, including thus findings on the pre-electoral and the post-electoral periods.

The Promo-LEX monitoring effort has involved 40 long-term observers, who have observed the election process in all the II-level District Electoral Constituencies in the Republic of Moldova in the period from April 18 to June 25, 2011. Observers have reported their findings in a standardized form, immediately after the events were observed and including weekly digests. Observers produced reports based on direct observation, meetings with interlocutors and consultation of official documents.

The Promo-LEX monitoring effort is not an investigative body and does not aim at proving the observed findings, even though relevant evidence confirming the findings presented in the public reports has been collected. Nevertheless, the standardized reports filed by the observers served as the only source for drafting the public reports of the monitoring effort. The standardized reported were sent by observers to the central team for analysis immediately after observing the campaign events.

On June 5, 2011, when the first round of the elections was held, Promo-LEX has delegated 560 short term observers in polling stations opened throughout the country, including a number of mobile teams of observers. The polling stations where short term observers have been present throughout the polling day were selected based on two criteria: representative national sample as well as full coverage of polling stations in the municipal constituencies of Chişinău, Bălţi and Comrat. Promo-LEX has carried out a parallel vote tabulation operation (PVT) in the municipal constituencies of Chişinău, Bălţi and Comrat, a qualitative Quick Count operation based on a representative sample, and also observation of the quality of the electoral process.

On June 19, 2011, when the second round of the elections was held, Promo-LEX has deployed 318 short term observers in polling stations opened on the territory of the Republic of Moldova, as well as a number of mobile teams of observers. The observers deployed to polling stations have monitored the electoral process in all the polling stations (300) opened in the electoral circumscription no.1 Chişinău. Throughout the country, the monitoring effort has dislocated mobile teams, at least one per each electoral circumscription. These have visited and observed 600 polling stations where the second round of scrutiny or repeated elections was organized. In the electoral circumscription Chişinău, the Promo-LEX elections monitoring effort has carried out a Parallel Vote Tabulation for the position of General Mayor of the Chişinău municipality.

The recommendations of the Promo-LEX elections observation mission are made in good faith and are aimed at improving the election process. They are based on findings and indicate the direction for necessary intervention, without dictating detailed solutions.

The project received financial and technical support from the National Democratic Institute for International Affairs (NDI). The effort was co-financed by the East-European Foundation from the financial resources provided by the Swedish International Development Agency (SIDA/ASDI) and the Ministry of Foreign Affairs of Denmark. The expressed opinions in the report belong to the authors and do not necessarily reflect the opinions of the donors.

III. PREELECTORAL CONTEXT

The pre-electoral period has been marked by uncertainty regarding the date of holding local general elections and the changes to the Electoral Code which were made outside the recommended time limits prescribed by the European Commission for Democracy through Law (Venice Commission). Nonetheless, the date set for elections was within the limits set by the Electoral Code, thus ensuring the continuity in the activity of the local public authorities previously elected in the local general elections on June 3, 2007.

During the plenary session of the Parliament on March 31, 2011, as a result of an ad-hoc proposal which was not previously included in the official agenda, the legislative body voted on the Decision no. 51 which set the date for the local general elections for June 5, 2011.

According to the art.119 of the Electoral Code, the elected local public officials – town (municipality) and village (commune) mayors and councilors as well as rayon councilors are elected by means of universal, equal, direct, secret and freely expressed vote. The local general elections result in electing 12,638 local elected officials: 898 mayors and 11,740 local councilors, of which 1,118 in local councils of level II (rayons and municipalities) and 10,622 in councils of level I (towns, villages and communes).

The European Commission for Democracy through Law (Venice Commission), by means of its Code of good practices in electoral matter (2002), recommends to all the states to abstain from operating frequent changes to the electoral legislation and especially within a year from the day of election. Contrary to these recommendations, the Parliament has operated changes to the Electoral Code in the pre-electoral and even the electoral periods.

On April 1, 2011, after the announcing of the date of general local elections, the Parliament has operated a number of changes to the Electoral Code. The changes referred mainly to the following:

- Decreasing by 10 days the period of activity of the electoral circumscriptions of level I. As a consequence, the campaigning period for the electoral candidates who run for local public offices of level I has been reduced by 10 days;
- Excluding of the norm which obliged the national and local/regional radio broadcasters to provide free of charge air time to electoral candidates as part of the general local elections;
- Suspending for at least 4 more years the new method for preparing the electoral rolls by the Central Electoral Commission. In such a way, the old method of preparing the electoral rolls done by the local public administration was kept in place;
- Canceling the possibility which allowed voters to decide themselves where to vote in cases of having both residency and domicile visas;
- Attempt to explain the term and duration of office of the local elected officials;
- Extending the period in which changes to the electoral rolls on request from voters could be made.

The Parliament has failed to resolve the uncertainties linked to the special restrictions to exercising the right to vote. As a consequence it remains unclear and open for different interpretations how certain categories of voters described in art.123 par.2 of the Electoral Code, especially the voters who possess both residency and domicile visas, are to vote. The CEC has published on its webpage its own interpretation on this matter, prioritizing the residence visa, arguing the position by the method of compiling the electoral rolls.

Of the 20 recommendations made by the Promo-LEX elections observation effort for the early parliamentary elections on November 28, 2010, only the one regarding the revision of the mechanism of providing electoral candidates with free of charge air time with national radio broadcasters was taken into account by the Parliament when operating changes to the Electoral Code.

IV. FINDINGS

A. Public Administration

During the monitored period, the Promo-LEX observers have reported that local public administration authorities have demonstrated an overall balanced behavior, trying to work within the deadlines set by the electoral legislation and to create equal conditions for all candidates. The local public administration authorities, with some exceptions, provide necessary logistical support for the electoral bodies. Nevertheless, observers have reported a number of cases when local public officials did not fulfill fully their elections-related duties. The monitoring effort has observed a significant number of cases of use of public office for campaigning purposes.

Regulating campaign activities

In accordance with art.47, par.7 of the Electoral Code, local authorities are required, within 3 days of the start of the election period, to establish, to immediately display and to inform the public about the decisions on places for the electoral posters and locations for the meetings with the voters. In most cases, the local authorities of all territorial administrative units have complied with legal requirements. Nevertheless, Promo-LEX observers have reported some deviations from legislation. Decisions were taken, exceeding this deadline (up to 3 days), in the following first-level territorial administrative units: Anenii Noi, Bălți, Basarabasca, Cahul, Călărași, Căușeni, Cimișlia, Chișinău, Criuleni, Florești, Glodeni, Hâncești and Ștefan Vodă.

At the following first-level territorial administrative units – Anenii Noi, Basarabeasca, Căușeni, Cimișlia, Criuleni and Hâncești – these decisions were not made public and the observers had limited access.

Offering venues for meetings with voters

In accordance with art.47, par.6 of the Electoral Code, public administration authorities and institutions may not offer to electoral competitors public goods or other favors except based on contractual terms and in equal conditions for all the electoral competitors.

In most cases, the attitude displayed by the local public authorities towards electoral competitors was an equidistant one. In some districts, local officials offered venues for meetings with voters free of charge. In the districts of Cahul, Criuleni and Orhei though, these venues were offered in exchange for a fee. Observers reported that in those localities where the local authorities have instituted fees for renting venues for meetings with voters, the fee was charged in the same amount from all the electoral competitors. Similarly, where there was no fee, none of the competitors were requested to pay.

The amount of the fee varies from one locality to another. The lowest reported fee was of 300 lei for 2 hours of rent (the hall of the rayon council in Cahul). The highest one was of 800 lei for 2 hours of rent (the hall of the „Grigore Sârbu” youth and culture center in Criuleni). Generally speaking, the venues offered by the local public authorities for purposes of meetings with voters can be grouped in two categories: Culture Houses (or culture homes) and halls of local authorities (mayoralities, district councils).

Nomination of candidates for the establishment of electoral councils

In accordance with art.27, par.4 and 5 of the Electoral Code and the calendar program (timetable) developed by the CEC, the II-level local councils were to nominate no later than April 8, or April 11 in some cases, the candidates for the constituting of II-level electoral councils. In turn, the I-level local councils were to submit by April 18, or April 21 if the case, the list of candidates for the constitution of I-level electoral councils. All I and II-level local councils have nominated their representatives, within the deadline set, for the establishment of the electoral councils.

Involvement of local public officials in the electoral campaign

In accordance with art.47, par.6 of the Electoral Code, candidates may not use public goods and services (administrative resources) in their electoral campaigns.

Throughout the observation period, the Promo-LEX observers have reported numerous cases in which local public officials got involved in electoral campaign activities, including during their public office working hours. These included the use for campaigning purposes of premises and of public meetings, of different public institutions, participation, including during working hours, of public officials in electoral meetings held by party leadership for purposes of monitoring those meetings, as well as use of public office transportation for campaigning purposes.

Prolonging of residence visas for students

According to art.39, par. 8 Electoral Code, voters who have both domicile and residence visa, vote at the polling station under residence visa.

Promo-LEX observers reported that at the State Pedagogical University „Ion Creangă”, the student group heads collected students IDs to extend their residence visas in Chișinău until July 1, without offering explanations for such actions.

Limiting access to information for the observers

The Passport Departments in Chişinău, Criuleni and Rezina refused to provide information to the Promo-LEX observers regarding the number of requests for obtaining F9 form and the number of F9 forms issued last week. At the same time, the same information was made available to observers in the districts of Anenii Noi, Donduşeni, Drochia, Hânceşti, Ialoveni, Leova, Ocniţa, Sângerei and ATUG.

B. Election Administration

The election bodies have been constituted, with some exceptions, within the deadlines established by the law and demonstrated an unbiased attitude toward all the electoral competitors. Observers have reported an active voter information campaign implemented by the CEC in most of the districts.

Observers welcome the neutrality of the members of electoral organs and a conscious performance of functional duties, as well as the replacing of members whose incompatibility was found.

Obvious deficiencies have been reported at the constitution and the logistical preparation of polling stations, displaying the information on physical premises of the polling stations and how to contact them.

The observers have noticed at least two cases of impossibility to exercise the right to be elected as local representative in the territorial-administrative units Bender and Transnistrian Region due to the inexistence of both of respective electoral organs and of appropriate legal mechanisms.

Even though isolated, observers have reported cases of refusal to issue copies of protocols to observers.

The elections monitoring effort received reports of uneven interpretations and superficial understanding of legal norms regarding the transmitting of electoral documentation, organizing the activities of the electoral organs for the second round of scrutiny, drawing electoral rolls for the second round of scrutiny.

The situation regarding the change in the composition of electoral organs, as far as the qualitative training of the new members, remains alarming. A larger number of members of the electoral organs remained disappointed by the fees they obtained for the delivered services.

Establishment of II-level District Electoral Constituencies

Within the deadlines established by the Electoral Code, CEC has formed the II-level District Electoral Constituencies, including the DEC nr.3 Bender and nr.37 ATU Transnistrian Region. In the cases of DEC nr.3 Bender and nr.37 ATU Transnistrian Region (both not under the control of constitutional authorities), the circumscription electoral councils have not been constituted. Therefore, the observers have reported at least two cases of impossibility to exercise the right to be elected as local representative in the territorial-administrative units Bender and Transnistrian Region.

Establishment of I-level District Electoral Constituencies

Most of the I-level District Electoral Constituencies have been constituted on April 20, 2011, within the deadline set in the timetable, excepting those from Vulcăneşti and Glodeni rayons which were late by 1 day, and from the Orhei rayon which were late by 2 days. Most of I-level Precinct Electoral Bureaus have been established April 25, 2011, within the maximum deadline set by the timetable. The following II-level District Electoral Constituencies have been registered with minor delays: Bălţi, Râşcani, Străşeni, and Teleneşti. There were no I-level DEC and Precinct Electoral Bureaus established for the commune and village territorial-administrative

units: Chițcani (Chițcani, Merenești and Zahorna), Cremenciug and Gîsca, all in the Căușeni rayon (all of the listed localities are not under the control of the constitutional authorities).

Establishment of Polling Stations

Most of the Polling Stations have been established by April 30, 2011, within the deadline set by the CEC timetable. Cases of exceeding the prescribed deadline by up to 3 days have been registered in the Hâncești, Nisporeni and Ungheni rayons. Concomitantly, II-level PEBs have published with a delay of up to 3 days the decisions on the establishment of the Polling Stations for Călărași, Chișinău, Criuleni, Dubăsari, Fălești, Glodeni, Ialoveni, Nisporeni, Orhei, Rezina, Strășeni, Șoldănești and Ungheni. Contrary to the timetable, Central Election Commission has not placed on its website until May 3, 2011 information on the premises of the polling stations and their contact details. There were no polling stations established for: Chițcani (Chițcani, Merenești and Zahorna), Cremenciug and Gîsca, of Căușeni rayon, all of them not being under the control of constitutional authorities.

Electoral Information Campaigns

In accordance with art.22 of the Electoral Code, CEC is tasked to conduct civic education programs to inform voters during elections.

The CEC has conducted an information campaign with the slogan “Small steps, great things”, in most of the districts. In eight district centers observers reported civic education campaigns conducted by non-formal youth groups under the slogan “You vote, what about your mate?” The National Youth Council of Moldova has released 3 video clips of civic and voter education.

Registration of candidates

According to art.41 par.1 of the Electoral Code, the candidate registration procedure ends 30 days before the Election Day. Similarly, the art.40 par.1 of the Electoral Code specifies the list of documents that are necessary for the registration of the competitors.

The observation mission noted a certain lack of uniformity in the candidate registration procedure from one rayon to another. At least two DEC II (Edineț and Ocnița) have extended the deadline for submitting documents for registration, justifying such decisions with the holiday period. In at least three DEC II (Florești, Orhei and Ștefan Vodă) observers have noted isolated cases of delays in organizing the draw procedure and presenting of registration dossiers of the candidates in an incomplete or inadequate form. In DEC II of Cahul, Leova and Taraclia observers have found that inadequate forms have been used for the registration of the candidates and lists of candidates, (for example, candidates for mayors and candidates for councilors registered in the same form).

Provision of technical assistance for electoral bodies

In accordance with art.35, par. 6 of the Electoral Code, local public administration authorities provide electoral councils and bureaus with premises and necessary equipment for the organization, deployment and tabulation of the election results. Also, according to Article 31 paragraph 1 of the Electoral Code, the support from the authorities can only be granted to the Election Administration by request. At the same time, according to p.31 of the Regulation on the precinct electoral bureaus activity, approved by the CEC Decision nr. 396 of December 14, 2006, the premises of the precinct electoral bureau must be equipped with necessary furniture, cabinets, safe box, telephone, fire safety equipment.

Observers noted that in district centers and in large localities the level of provision with electronic equipment of the electoral bodies (computers, telephones) was satisfactory. The situation was different in the case of smaller rural localities DEC I and PEB, where the provision with electronic equipment was poor. Observers reported that a number of polling stations in at

least 6 districts were disconnected from electricity. In at least 4 districts observers found that the electoral officials were forced to purchase office supplies from their own resources, due to lack of funds.

Visibility of the polling stations

In accordance with p.30 of the Regulation on the precinct electoral bureaus activity, approved by the CEC Decision nr. 396 of December 14, 2006, the following inscription in the official language and in another language used by the population in that locality must be displayed on the frontispiece of the building of the precinct electoral bureau: „The precinct electoral bureau nr. __ for the elections _____”.

The observation mission noted the lack of the inscriptions on a large-scale in rural localities, including the information about the address of the polling stations and the working hours of PEBs. In at least 5 districts observers have found cases where the premises of the electoral bodies, most often in Houses of Culture and town halls, were locked during working hours. Some polling stations are located in buildings that are currently used by other public or private institutions. Also, a large number of small rural electoral bodies have not displayed, contrary to the rules, the lists of candidates, the decisions of the electoral body, the voters lists.

Approving the decision regarding the text of the ballot

According to the Schedule for holding elections, the deadline for approving the text of the ballot for the election of mayors and local councils and the circulation of ballot papers was set for May 13.

Promo-LEX observers reported that the provision was respected in most cases. An exception was the district of Cimișlia, where delays of up to 2 days were recorded in more than half of I-level DEC's. The mission received reports from its observers of errors being committed in the adopted texts of bulletins. This has led to the annulling of elections in 2 I-level DEC's.

Financial reports

In accordance with art.38, par.8 of the Electoral Code, electoral competitors have to present a financial report to the election bodies once every two weeks, which must contain information on income and expenditure, as intended.

The observation mission noted a worrying tendency regarding the insufficient level of understanding of financial reporting standards both among candidates and electoral officials. Eleven candidates presented financial reports to the CEC. In 3 districts observers reported that only independent candidates presented financial reports. Observers reported only one district where an electoral bloc presented a financial report. In at least 5 districts, DEC II recorded statements of candidates of lack of intention to open bank accounts.

Errors in filling in the protocols regarding the counting of votes

In accordance with p.32 of the Code of good practices in electoral matters, “only two main parameters should be employed in order to judge the correctness of the vote count: the number of voters who participated in the voting compared to the number of ballots introduced in the ballot boxes.” Following the analysis of the 298 protocols regarding the counting of votes for the position of general mayor of the Chișinău municipality, the Promo-LEX elections monitoring effort has found at least 51 cases of errors in the logical controls, based on the verification formulas established by the CEC. Nevertheless, the electoral officials have not established a transparent procedure for correcting the errors in the protocols, except for by means of legal courts or as a result of vote recount.

Transmission of the election results tabulation reports

In accordance with art.58, par.6 of the Electoral Code, each PEB is required to submit to DEC the report of the election results tabulation as soon as possible, but no later than 18 hours after closing PS. Similarly, art.59, par.4 of the Electoral Code requires DEC to submit to CEC the report of the election results tabulation within 48 hours from the closing of the polling station.

In at least 5 electoral constituencies (Basarabasca, Chişinău, Cimişlia, Hânceşti and Ştefan Vodă), in several DEC I, observers reported errors and deviations in drawing the report of the election results tabulation. These errors were related to formulas and to the lack of signatures of all DEC members on the reports. Because of these inaccuracies, in at least 3 DEC II (Basarabasca, Cimişlia and Hânceşti) electoral documents have been sent back to several DEC-I.

In at least 3 constituencies (Cimişlia, Hânceşti and Ştefan Vodă), in a number of PEB, observers reported cases of delay in transmitting of electoral documents to DEC of up to 1 to 4 hours. Similarly, Promo-LEX noted that DEC II Cimişlia sent the report of the election results tabulation with a delay of 11 hours to CEC, due to the impossibility of signing the document by all DEC members. The Promo-LEX observers have been informed of at least two cases of losing electoral documents in the localities Brătuşeni, (Edineţ district) and Maramonovca (Drochia district). Subsequently, the missing electoral documents were found as a result of inspections organized by the electoral organs.

Refusal of DEC to release the protocols

In accordance with art.58, par.4 of the Electoral Code, a copy of the protocol of the election results tabulation is mandatorily offered to each of the present observers.

Promo-LEX observers have encountered obstacles in receiving the election results tabulation protocols in DEC II of the districts of Cahul, Cantemir, Căuşeni and Glodeni. The reasons that electoral officials used to explain their refusal to offer copies to observers were that the reports had already been sent to the CEC or that there was a need to ensure their safety.

The CEC decision to remove the curtains from the entrance into the voting booth

On June 14, the CEC has issued the Decision no.294 regarding the organizing the voting process of the second round of scrutiny and the repeated voting on June 19, 2011. By this decision which carried a mandatory character, all PEB have been obliged to remove the curtains from the entry into the voting booths and to place the booths so that voters are guaranteed the possibility to express their vote in a secret manner. Regretfully, the respective decision did not provide the method for informing voters regarding the modification of some procedural-technical aspects concerning the voting process and has been operated in the immediate proximity of the scrutiny day.

On June 18, the Supreme Court of Justice has annulled the respective CEC decision. The electoral officials, including the CEC initially and the inferior electoral organs subsequently, have been informed in this regard only on June 19, the election day. The lack of curtains which guaranteed the secrecy of the vote has been involved at length in the contestations filed by the PCRM electoral competitors. The second round of elections in the town of Căuşeni has been annulled due to the violation of the secrecy of the vote expressed by the lack of curtains from the entrance into the voting booth.

C. Electoral Rolls

Qualitative electoral rolls are the basis of truly democratic elections, according to international practices and standards. In Moldova, voters are enrolled in three types of lists: main lists, additional lists and lists to vote at the place of location. The main voters lists are drawn up

by the local public administration, namely by 898 municipalities. The additional lists and the lists to vote at the place of location are drawn up by the election clerks, on Election Day, according to certain criteria, such as domicile/residence in the area of the polling station or impossibility to travel to the polling station, if the elector is absent in the main voters lists. Voters receive the ballots only after signing in the main lists or in the additional lists or at the place of location, as appropriate.

In most mayoralities observers have not found a standardized approach in the preparation, the administration, the transmitting, the updating and the verification of electoral rolls. Nevertheless, upon the verification of the accessibility of the electoral rolls, observers have not found any obstacles.

Preparation and verification of electoral rolls

In accordance with p.8 of the CEC Regulation on the preparation, administration, transmission and updating the electoral rolls, the main voters lists are drawn up by the municipality, in duplicate, for each polling station, using the updated database of the State Register of voters.

In most cases, municipalities have drawn up the electoral rolls based on the information from their personal records, verifying them through phone calls and data supplied by district passport sections. The authorities of Cimişlia have faced difficulties in preparing the electoral rolls, since many people have sold their apartments, but without removing them from the record, thus continuing to appear in the passport section register.

In several localities from Cahul, Cimişlia and Taraclia districts, the observers reported practices of checking the electoral rolls by the representatives of municipalities visiting the voters at home. However, in a number of rural localities from Cahul and Criuleni districts, because people really know each other, or in rural localities from Orhei district, due to lack of financial resources, such verifications of electoral rolls were not carried out.

Transmission of electoral rolls to PEB

According to the Schedule for holding the elections, electoral rolls were to be transmitted by LPA to PEB by May 15 inclusive.

Observers have reported deviation from this period, in at least 20 localities from 13 constituencies.

Voters access to the electoral rolls

According to the Schedule for holding the elections, the electoral rolls were to be made available to the public at the polling stations by May 15 inclusive.

In most monitored constituencies, the electoral rolls have been made available to the public by displaying them inside the PEB. In at least 16 PEB from 9 constituencies, the electoral rolls have been displayed inside town halls. Such practices limit the opportunities for voters to verify the electoral rolls, updating the latter being the exclusive empowerment of the PEB members.

Worse, observers reported cases in which voters have been denied access to the electoral rolls in PEB nr.1 (Căuşeni district), PEB Gheltosu (Cantemir district), PEB Trinca (Edineţ district) and in all PEB of the Donduşeni district.

Quality of electoral rolls

In the process of checking the quality of the electoral rolls, observers noted several deviations from regulatory requirements. In two localities of Basarabeasca district, the electoral rolls have been prepared in a single copy and without the signature of the mayor. In the same district, in two localities the voters' data have been completed improperly. In four districts, the electoral rolls have been prepared using improper forms for the general local elections of June 5,

2011. In some PEB from Dondușeni and Drochia districts, authorities did not include in the main lists the voters who have reached 18 years after the last elections. Observers have noted the issue of including in the main lists of students who have residence in another locality, in at least 20 localities from Briceni, Cimișlia, Râșcani, Ialoveni, Hâncești and Ștefan Vodă districts. Students have not been included in the electoral rolls according to residence in the town of Comrat.

The situation in the villages Aluniș, Grinăuți and Răcăria (all of Râșcani district) raised concerns because the observers have reported a significant increase in the number of voters on the main electoral rolls comparing to the last elections.

Faulty interpretation of the electoral legislation

The Electoral Code operates with two notions concerning the home of voters. Thus, it provides that:

Domicile is the permanent home of a person, confirmed in the identity card by the stamp “*domicile*”;

Residence is the temporary home of a person, confirmed in the identity card by the stamp “*residence*”;

Art. 123 par. 2 of the Electoral Code provides that “In elections for local council and mayor, voters who do not have domicile in the respective territorial-administrative unit cannot participate in those elections.”

On its webpage, the CEC has published its own, unofficial, interpretation of this provision. Thus, the CEC considers that in the process of compiling the voters lists priority should be given to the residence visa. The Promo-LEX observers have been informed by persons who wanted to remain anonymous that in the village of Stăuceni, part of the Chisinau municipality, more than 100 persons have been registered for residence, thus an artificial, yet apparently legal, migration of voters has been conducted.

Changes in the electoral rolls for the second round of scrutiny

According to the electoral legislation, the electoral rolls remain the same as in the first round of elections for all the constituencies. However, in the DEC II of the districts Cahul, Dondușeni, Edineț, Strășeni, Taraclia, Ungheni and Vulcănești, the electoral rolls have been modified by including the names from the additional lists. In the Chișinău municipality the rolls have been changed to include those citizens who by June 19, 2011 reach the age of 18.

D. Electoral Competitors

The Promo-LEX monitoring effort has found a dynamic campaign. In the first part of the monitored period, observers reported on a large number of campaigning activities throughout the country. Nevertheless, observers have reported cases of extensive interpretation of the electoral legislation which in turn led to electoral campaigning activities prior to the registration as a candidate with the electoral organs, including by means of offering of electoral presents. Particularly concerning are the use of violent methods against opinion and political opponents, the cases of abuse of power, as well as the use of black PR. The observation mission drew special attention to the impressively high number of cases of electoral presents.

Violent incidents

Throughout the electoral campaign, the Promo-LEX observers have reported at least 22 cases of physical and psychological intimidation of people involved in one form or another in the election campaign. Although the number of cases was impressively high, the investigations of the law enforcement institutions have not shown in each case a direct connection to the electoral campaign.

Election campaign activities before the official start

In accordance with the Electoral Code, during the electoral period, the campaigning activity starts after the registration of the electoral competitors with the Precinct Electoral Bureau.

The Promo-LEX observers have reported electoral campaigning activity before the registration of the electoral candidates in the Criuleni rayon and the towns of Cimișlia and Ocnîța. These activities included publication of Easter greeting for citizens in newspapers; meetings with voters; distribution of calendars with parties' logo; distribution of posters with Easter greetings.

Distribution of "Electoral Presents" and/or corruption of voters

In accordance with the Article 38, paragraph 7 of the Electoral Code, electoral competitors are forbidden to offer voters money, presents, to distribute free goods, including humanitarian aid or other charity.

The Promo-LEX observers have reported an alarmingly large number of cases of offering presents to voters. Throughout the electoral campaign, including the days of scrutiny, at least 99 cases of offering presents to voters have been documented. In most cases, the offered presents were in the form of food packages.

Types of electoral activities

Comparing to previous elections, in this campaign, observers noted a diversification of electoral activities. The following types of campaign activities have been reported: electoral meetings (massively organized by the parliamentary parties and only in isolated cases by extra-parliamentary parties and some independents); public campaign launches and public presentations of the platforms; distribution of campaign materials in mailboxes; distribution of electoral materials in public places; flash-mobs and rallies; outdoor advertisement as billboards; car caravans and/or advertising campaigns on cars; door to door activities; advertising on private property; invitations to vote by means of phone calls; election tents; public debates with the participation of several candidates; electoral letters and/or personalized messages posted on the internet; contests and sport competitions; financing and involvement in charity events.

Many electoral competitors continued the practice of drawing participants to public electoral meetings by means of organizing concerts. While in itself the practice does not contradict any campaign regulations, regretfully, most of the competitors have not reported any concerts-related expenses in their public financial reports.

Use of administrative resources

The Code of good practices of the Venice Commission prescribes strict equality in the use of public resources for electoral purposes by all electoral competitors. In accordance with art.46, par.2 of the Electoral Code, all the electoral competitors "are offered equal possibilities in technical and financial support for the electoral campaign." In accordance with art.47, par.6 of Electoral Code, candidates are not entitled to use public means and goods (administrative resources) for campaign purposes.

During the monitored period, the Promo-LEX observers have reported at least 42 cases of use of administrative resources, including of the public office, by different candidates.

Campaign posters in unauthorized places

The provisions of the Regulation regarding the modality of placing electoral advertising on billboards during the campaign, approved by CEC Decision nr.3338, of July 16, 2010, prohibits placing campaign displays: in public passenger transport which is of public property; on monuments, buildings, objects and spaces, that have historical, cultural or architectural value, regardless of their form of ownership; in premises where electoral councils and bureaus are

located and at a distance of 50 meters from these; on fences, restrictions, poles and other constructions, as well as devices, equipment, regardless of ownership.

By comparison with previous elections, observers reported fewer campaign displays in unauthorized places.

Complaints

The complaints filed by the electoral competitors during the monitored period referred mostly to violation of registration procedure as candidate, non relief from office or formal relief of people who were to relief from office, „negative conscious” incompatibility with the position (moral qualities, observer-competitor, commission member-candidate), „positive” incompatibility (family relationship between election body members and candidates), offering electoral gifts by candidates, using administrative resources by candidates for campaign purposes, electoral campaigning conducted by the election body members, requests for vote recount and/or of annulling elections.

Electoral hooliganism

Throughout the electoral campaign, the Promo-LEX observers have reported numerous cases of „electoral hooliganism.” Most of the reported cases were of vandalizing campaign headquarters or homes of candidates, destroying and vandalizing authorized electoral billboards, thefts of electoral tents or other campaigning materials, sabotaging other electoral competitors meetings with voters.

Hate speech, insulting propaganda and black PR

In accordance with art.47 of the Electoral Code, citizens of Republic of Moldova, parties and other socio-political institutions, electoral blocs, candidates and candidates representatives have the right to call into free discussions under all aspects the electoral programs, the political, professional and personal skills of candidates, to make campaign agitation within the gatherings, political rallies, meetings with voters, through mass-media, election posters or other forms of communication.

The Promo-LEX observers have reported at least 13 cases of use of public speech that incited hatred, social intolerance, used vulgar language or other methods of black PR against counter-candidates.

Vote Recount and invalidation of the legality of elections

In accordance with art.60, par.21 of the Electoral Code, in case of disagreement with the preliminary results of voting, before confirmation of the results by the authority empowered, candidates may request this authority to order the recount. Recount may be ordered by the authority empowered to validate elections results for good reason, which affect voting results and the distribution of mandates and will take place within 7 days after the adoption of the decision on recount.

The Promo-LEX elections observation mission has found the extensive use by candidates of the right to request the recount. Thus, in 25 constituencies a total of 56 requests for recount of votes have been registered. Most requests for recount have been registered in the districts Anenii Noi, Cahul (6 requests for recount in each district) and Florești (5 requests).

For various reasons, courts have confirmed the invalidation of elections of local public officials in the following localities: village of Cârpești (Cantemir rayon), town of Căușeni, villages Logănești and Sofia (Hâncești rayon), village of Ciorăști (Nisporeni rayon), village of Climăuții de Jos (Șoldănești rayon), village Popeasca (Ștefan Vodă rayon), village of Condrătești (Ungheni rayon) and village of Cotovscoe in ATU Găgăuzia.

Faulty interpretation of the electoral legislation

In accordance with art.1 of the Electoral Code, the electoral campaign ends on the date of the exclusion of the electoral candidate or on the polling day. The Electoral Code does not regulate in an explicit manner and in detail the situation of electoral campaigning for the second round of scrutiny.

In such a way, the electoral competitors who had acceded to the second round of scrutiny did not obtain a clear explanation regarding the moment when they were allowed to resume the electoral campaign and how the financing for the second round electoral campaigning activities was regulated. By its Decision no.284 regarding the amending and the completion of the Central Election Commission Decision no.84 from April 15, 2011 “Regarding the establishing of the ceiling for financial resources which can be transferred to the electoral fund accounts for the general local elections on June 5, 2011”, the CEC has attempted to clarify this situation. The mentioned Decision only specifies that the maximum ceiling for financial resources which is allowed to be spent for the electoral campaign is the same throughout the campaign, including the second round or the eventuality of new elections. At the same time though, the CEC did not specify the timing and the procedure for reopening of the electoral accounts, neither did it indicate when electoral competitor could resume their campaigning activities.

The Promo-LEX observers have reported, starting with June 7, in most of the electoral circumscriptions electoral campaigning activities carried out by the top two scoring candidates for the position of mayor who got most of the votes in the first round, yet none of whom obtained at least 50% plus one vote. The electoral campaigning has started immediately after the presentation of the preliminary and final results of the general local elections by the electoral circumscriptions and by the CEC.

The same confusion in the electoral legislation made it difficult to ensure the qualitative logistic preparation of the electoral processes concerning the second round of elections. The electoral organs did not budget and consequently did not print invitations to the voting in the localities where the second round of the scrutiny or repeated elections are to be held. Observers have reported the lack of such invitations in all the electoral circumscriptions.

Intimidation of observers and of the electoral administration

On June 5, at the PEB 297 in the locality of Colonița in the Chișinău municipality, due to the large influx of voters after 21.00, the electoral administration has decided to extend the voting process for one hour, informing the appropriate hierarchically superior organs. At around 21.30, 2 unidentified persons entered the above polling station, demonstrating aggressive and brutal behavior, discussing with the members of the electoral administration with a high tone in their voices and insisting on an aggressive tone that the polling station be closed. The two individuals identified themselves as members of the youth wing “Young Moldova” of PCRM and have filmed the entire process. After some time, the respective persons have identified themselves as observers representing the mentioned youth wing. The two persons have verbally intimidated the PEB president, as well as the members of the bureau, but also the Promo-LEX observer present in the polling station. Subsequently, the videotaped images were displayed on the website <http://www.grenada.md/>.

On June 8, the Ministry of Foreign Affairs of the Russian Federation has placed a comment on its official website <http://www.mid.ru/> regarding the preliminary results of the “general municipal elections on June 5 in the Chișinău municipality”. In that comment, the Russian MFA questions the objectivity of the observers of the OSCE/ODIHR Mission, accusing them in an open manner of concealing allegedly obvious “electoral frauds”. Moreover, the mentioned comment brings forward accusations also in the address of the CEC for announcing as winner an electoral competitor on the morning of June 6 and later announcing that it would hold the second round of elections in the Chișinău municipality. On two occasions, the comment highlights the quality of “victim” of Igor Dodon, the PCRM general mayor candidate for

Chişinău. The comment does not mention any of the other electoral competitors. The Ministry of Foreign Affairs and European Integration of the Republic of Moldova has reacted to the comment by suggesting to the Russian authorities to analyze the official information, and not mass media articles.

E. Local and regional Mass-media

The Promo-LEX observers have reported an active involvement of the local and regional mass media in reflecting the electoral campaign. Specifically, the media has reflected the elections-related activity of the electoral administration, including the publishing of some of its decisions, presented information on electoral candidates, printed electoral advertising, offered electoral debates and mediatized the results of the scrutiny. In accordance with art.64, par.7 of the Electoral Code, mass media have the right to reflect the elections and to inform the public on all aspects of elections, free from any interference from public authorities, electoral competitors/candidates.

The Promo-LEX observers have reported some legal deficiencies, especially regarding the identification of authors of electoral advertising, a provision required by the electoral norms.

F. Days of scrutiny

June 5, 2011. Round I

Unauthorized electoral campaigning

In accordance with the provisions of the Electoral Code, electoral campaigning activities are prohibited both on the election day and on the day preceding it. Likewise, on election day, displaying of electoral advertising is prohibited within a radius of 50 meters from the polling station.

On June 5, the Promo-LEX observers have reported at least 34 cases where the mentioned provisions were not respected.

Organized transportation of voters

On June 19, the Promo-LEX observers have reported at least 11 cases of organized transportation of voters to and from polling stations.

Sale of alcoholic beverages in the vicinity of polling stations

On June 5, the Promo-LEX observers have reported at least 21 cases of sale of alcoholic beverages within the radius of 50 meters from polling stations.

Electoral Rolls

On June 5, the Promo-LEX observers have identified at least 9 cases of inconsistencies in the electoral rolls. These included cases of including in the rolls of persons without domicile at the indicated address, but also vice-versa, cases where voters with domicile visas could not find their names in the respective rolls (7 cases), errors in voters' identity data (1 case), inclusion in the electoral rolls of deceased persons (1 case).

Respecting the secrecy of the vote

The Promo-LEX observers have reported at least 4 cases of unauthorized simultaneous entrance in the voting booth of at least 2 voters.

Intimidation or limiting of rights of observers

Overall, observers were not prevented from monitoring the electoral process inside or in the vicinity of the polling stations. Nonetheless, at least 3 cases were reported of restricting the observers' capacity of movement inside the polling stations or, even worse in one of the cases, the observer was suggested to voluntarily leave the polling station.

June 19, 2011. Round II

Unauthorized electoral campaigning

In accordance with the provisions of the Electoral Code, electoral campaigning activities are prohibited both on the election day and on the day preceding it. Likewise, on election day, displaying of electoral advertising is prohibited within a radius of 50 meters from the polling station.

On June 19, the Promo-LEX observers have reported at least 77 cases where the mentioned provisions were not respected. The observers have reported other small deficiencies in the electoral process dealing mainly with voting based on improper identity documents (8 cases) and offering of "electoral presents" to voters on the election day (2 cases).

Cases of intimidation, insulting and acts of violence

On June 19, the Promo-LEX observers have reported at least 4 cases of intimidation, insulting and even of physical aggression towards the supporters of some of the electoral competitors.

Organized transportation of voters

On June 19, the Promo-LEX observers have reported at least 12 cases of organized transportation of voters to and from polling stations.

Attempts of multiple voting

On June 19, the Promo-LEX observers have reported at least 2 cases of attempts of multiple voting. In one of the cases, the attempt has been successful since the voter introduced the bulletin into the ballot box.

Sale of alcoholic beverages in the vicinity of polling stations

On June 5, the Promo-LEX observers have reported at least 49 cases of sale of alcoholic beverages within the radius of 50 meters from polling stations.

Electoral Rolls

On June 19, the Promo-LEX observers have reported at least 8 cases of inconsistencies in the electoral rolls. The reported cases dealt with inclusion in the electoral rolls of persons without valid domicile at the indicated address (4 cases), presents of signatures next to the name for voters who had not voted at that moment yet (3 cases), inclusion in the electoral rolls of deceased persons (1 case).

The Promo-LEX observers have registered at least 8 cases of electoral rolls containing serious deficiencies due to excess or lack of sufficient voting bulletins inside the polling stations. The differences were as high as hundreds.

Respecting the secrecy of the vote

The Promo-LEX observers have reported at least 8 cases of unauthorized simultaneous entrance in the voting booth of at least 2 voters.

Intimidation or limiting of rights of observers

Overall, observers were not prevented from monitoring the electoral process inside or in the vicinity of the polling stations. Nonetheless, at least 4 cases were reported of restricting the observers' capacity of movement inside the polling stations or, even worse in two of the cases, the observer was suggested to voluntarily leave the polling station.

V. RECOMANDĂRI

The recommendations of the Promo-LEX mission are drafted in good will and aim at improving the quality of the electoral process. These take as basis the observers concerns and indicate predominantly the direction of the required intervention, yet without dictating specific solutions. Recommendations are addressed to all the actors involved in the electoral process, but in particular to public authorities of national and local levels, to election authorities, to political parties and other potential electoral competitors, as well as to Law enforcement institutions.

1. Launching awareness campaigns targeted at electoral competitors on the need for a calm and civilized behavior both one towards another and in relations with voters, to avoid cases of physical and psychological violence;
2. Increasing the election legislation training of all electoral members of I and II levels by expert trainers, especially in regards to changes in the composition of election authorities and the existence of complex procedural issues or interpretations;
3. An official interpretation of par.2 art.123 Electoral Code of the notions „special restrictions of the right to vote” and „voters who do not reside in the administrative-territorial unit do not participate in the election of local council and mayor” or establishment of precise time-limits in which changes can be made so to exclude artificial „migration” of the voters;
4. Preparation of electoral rolls by a single author throughout the country, based on data held by the State Population Registry, in order to improve main lists and to operate computer check of the data;
5. Establish minimum standards for technical conditions and providing logistical planning of the electoral premises compared to the number of voters on the main electoral rolls, as well as the activity schedule of the election authorities;
6. Definition of „electoral gifts”, „electoral corruption”, „administrative resources”, establishment of a mechanism for qualifying campaign materials to avoid the disguise through these materials of the voters corruption;
7. Research by the competent authorities of using administrative resources during campaign by candidates and affiliated people, and in case of proof of guilt – sanctioning the persons found guilty;
8. Respecting the Venice Commission recommendations on operating and implementing modifications to electoral legislation not later than one year before convening elections;
9. Prohibiting campaigning activities during the electoral campaign period without registration as electoral candidate, including for purposes of avoiding the reflection of campaigning-related expenses in the electoral fund;

10. Strict observance by the actors involved in elections of the electoral documents models and formats, with special attention to the main electoral rolls;
11. Establish a single and clear mechanism for voters to check the accuracy of registration on the main electoral rolls, the confirmation, the responsibility for restricting voters access to lists verification;
12. Verification by the actors entitled to forward candidates for the election authorities of the designated people compatibility with the status they are going to have, to prevent staff turnover;
13. Establishing sanctions for candidates who fail to declare the financial assistance and other material support in a newspaper with national coverage, and who do not reflect expenses for campaign purposes;
14. Improving the financial reporting mechanism, especially in general local elections, where competitors are registered in various election authorities, for complete reporting of the expenditure, to improve transparency and increase voter confidence in the election process;
15. Promoting the extensive use by electoral competitors of legal methods to fight dishonest competitors, by filing on time the complaints with the authorized bodies in cases when deviations from the electoral legal norms are found. Avoiding cases of offering public statements regarding the “fraud” of elections without presenting conclusive evidence;
16. Improving the mechanism of transmission of electoral documents to the superior election authorities or courts and establish appropriate sanctions in case of loss of electoral documents;
17. Improving the legislation on the definition, organization and displaying campaign for the second round of elections by both election authorities and candidates, and establish a strong mechanism to use funds through the bank account “Electoral Fund” by candidates passed in the second round of elections;
18. Simplifying the procedures for logical verification of the correctitude of vote count and emphasizing on the need for increased attention of electoral authorities towards the following two parameters: the number of voters who participated in the voting in relation with the number of voting bulletins found in the ballot boxes. Providing logistical support through electronic equipment to PEB which would prevent the errors caused by the human factor;
19. Instituting a clear mechanism for verification of data in cases of inconsistencies in the protocols, including through the establishing of exact cases when electoral materials would not be accepted by the DEC from the PEB or cases when voting bulletins should be recounted.