



MONITORING THE RESPECT OF ELECTORAL RIGHTS IN PSYCHIATRIC INSTITUTIONS FROM THE REPUBLIC OF MOLDOVA

GENERAL LOCAL ELECTIONS – 5 JUNE 2011

Monitoring period: May - June 2011







This Report is elaborated within the Project "Monitoring the Respect of Electoral Rights in Psychiatric Institutions from the Republic of Moldova" implemented by IDOM with the financial support of the East–European Foundation, from the resources granted by Swedish International Development Cooperation Agency (SIDA) and Ministry of Foreign Affairs of Denmark/DANIDA. The views expressed in the Report are those of the authors and do not necessarily reflect the views of the donors.

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1. INTRODUCTION

"Monitoring the Respect of Electoral Rights in Psychiatric Institutions from the Republic of Moldova" within the framework of the General local elections of 5 June 2011 is a project implemented by the Moldovan Institute for Human Rights (IDOM) with the financial support of the East-European Foundation.

IDOM has experience in monitoring the elections held in the last 3 years in the Republic of Moldova. It is experienced, especially, in monitoring the medical institutions for persons with psychic deficiencies. The activity in the respective institutions urged to assess new methods of interaction during the monitoring process, as well as reflection of elections in these specific institutions.

The present Report imposes an assessment of the facts, informing all those interested about the existing situation in electoral field. The Report also provides proposals and recommendations for state authorities in order to modify the electoral legislation aiming at guaranteeing the respect of electoral rights of persons with psychic deficiencies, but who have the right to vote.

Activities of general local election observation, particularly in these specific institutions, have a special significance for ensuring the integrity of electoral process and citizens' right to participate in the governing act of their country.

Data provided in this Report have been collected by means of direct observation, ensured by a network of 18 independent observers, appropriately accredited by the Central Electoral Commission according to the Decision No. 199 of May 17, 2011.

The monitoring process has been carried out in accordance with the provisions of the Electoral Code of the Republic of Moldova and in compliance with the international standards in the field.

Analyses and critics provided in this Report have been formulated with good faith, constructively and realistically, as well as the recommendations and practical suggestions are presented in the spirit of professional cooperation with all those interested in promoting a modern, transparent and fair electoral process.

Any suggestion on exerting the right to vote of this category of persons is welcome.

The total number of persons involved in this project was 32. The implementation period lasted one month. The total budget of the project amounted at 5 903 USD funded by the East-European Foundation.

2. PROJECT DESCRIPTION

Monitoring period: 23 May – 05 June 2011

The aim of the project was to monitor the access to vote of the persons placed in psycho-neurological and psychiatric institutions from the Republic of Moldova having the legal right to vote within the General local elections 2011. On general purposes, the project intended to change the attitude of central and local authorities, of the persons involved in these fields (electoral, psychiatric), so that to grant the voting right to all the persons enjoying this right under the law, as well as to acknowledge the hospitalized persons on their legal right to vote.

Within the project the following activities have been implemented:

- 1. Identification and training of domestic electoral observers for electoral monitoring in psychiatric institutions: one training seminar;
- 2. Organization of informational and documentary workshops for the administrative staff of the psychiatric institutions from Moldova (9 institutions: 3 psychiatric hospitals, 4 psycho-neurological boarding houses for adults and 2 psycho-neurological boarding houses for children)
- 3. Monitoring the process of compiling the electoral lists by the administrative staff of the psychiatric institutions;
 - 4. Monitoring the electoral process on the day of elections 5 June 2011;
- 5. Elaboration and publication of a Report on monitoring and consolidation of the information collected due to monitoring. The Report will be further distributed to competent authorities and relevant organizations.

Specific objectives:

- Monitoring and evaluating the current situation on guaranteeing the voting rights in psychiatric institutions;
- Providing relevant authorities and the society at large a higher awareness on electoral processes in psychiatric institutions;
- Raising awareness among residents in psychiatric institutions on the acknowledgement of their voting rights;

- Ensuring sustainability of access to voting rights in psychiatric facilities for future elections;
- Contributing to a transparent electoral campaign by addressing persons with mental disabilities;
- Informing the public opinion on elections held in the above above-mentioned medical institutions and in the social ones psycho-neurological boarding houses.

TASKS

- Creating teams by collecting information from psychiatric institutions;
- Training the independent observers in accordance with the principles of the Observers' Code of Conduct and the Regulation of the Central Electoral Commission;
 - Monitoring the electoral process;
- Elaborating the Report on elections held in the mentioned psychiatric institutions;
- Informing the public opinion and international community on the existing irregularities, etc.

3. LEGISLATIVE FRAMEWORK

The electoral legislation (Election Code) and the connective ones (Law on Administrative Court, Law on Local Public Administration, Civil Procedure Code, Criminal Code, Contravention Code, etc.), as well as the subordinated normative acts, in their complexity, offer an adequate general base for holding democratic elections, if implemented in good faith. The electoral rules have always been considered as particularly important in the process of transferring the power from the population to the legislative body, as this has been especially visible in the last five years. Thus, after 2005, the legislative body paid particular attention to the preparations for the 2007 General local elections and subsequent 2009 Parliamentary elections, as well as for the General local elections held in 2011. The Election Code has repeatedly been the subject of parliamentary debates. It was stated that the legislative framework does not meet several requirements that would ensure the voting right to voters living on the left bank of the Dniester River, the legal use of administrative resources by the state authorities and parliamentary deputies, the way of formation of electoral bodies, etc.

4. PSYCHIATRIC INSTITUTIONS AND JUSTICE. ELECTORAL RIGHTS IN PSYCHIATRIC INSTITUTIONS

Behavior deviations and psychic diseases affect people of all the countries in the world, causing suffering and, at the same time, influencing the economic and social situation. Persons, who suffer from these diseases, are often stigmatized and isolated, having a low quality of life.

The forms of mental diseases are various and they are caused by multiple factors. In essence, the psychic deviations are caused by psychological stresses, interpersonal problems, social problems, various psychological factors, and alcohol and drugs consumption.

Mental health has been determined as a priority in Moldova's accession to the Helsinki Declaration on Mental Health (January 2005). Thus, the Republic of Moldova, along with the Member States of the European Community, has assumed certain responsibilities in order to improve the situation in the field of mental health. These responsibilities relate to reforming the system of mental health aid, with emphasis on assistance outside the hospital, decentralized, being proximate to the beneficiary, and undertaking activities to reduce stigmatization and discrimination of the people with mental disabilities, with full respect of human rights.

Also, mental health is set as a priority in the National Health Policy of the Republic of Moldova for the years 2007-2021 and the Strategy of the healthcare system development during the period of 2008-2017.

The elaboration of the National Program on Mental Health for the years 2007-2011, approved by the Government Decision, allows the creation of conditions for providing aid and protection, rehabilitation and social integration of patients with mental disabilities. This program envisages an improvement in accessibility and effectiveness of psychiatric care, by integrating persons with mental disabilities into families and community through public awareness about mental health problems and mental disease recognition as one of the fundamental interdisciplinary issues.

Currently, the field of mental health in the country is at the stage of extension from a hospital to an outside the hospital system. Outside the hospital pole of psychiatric assistance is based on the activity of community centers for mental health in which patients will benefit from a range of services, being placed in society through developing their existing potential.

5. SPECIFIC ASPECTS OF MONITORING THE ELECTIONS IN PSYCHIATRIC INSTITUTIONS FROM THE REPUBLIC OF MOLDOVA

Evaluating the current situation, it was found out that a number of 3582 persons placed in psychiatric institutions have full capacity of exercise and thus, right to vote. The psychiatric institutions activate under the subordination of the Ministry of Health - Psychiatric hospitals and the Ministry of Labour, Social Protection and Family - Psychoneurological boarding houses. Nevertheless, the state has not guaranteed yet the exercise of the right to vote to these persons. In the previous elections, the persons hospitalized in psychiatric institutions did not benefit from polling stations placed within the institutions, an exception being the psychiatric hospital from Codru district of Chisinau municipality. Moreover, the persons who have their place of residence registered in these institutions have not been included in the voters' lists at the corresponding polling stations.

According to the Moldovan legislation, a person may be deprived of the capacity of exercise only by a final court decision. The majority of the files of the persons hospitalized in psychiatric institutions lack in any decision that might deprive them of the capacity of exercise, this meaning that, legally, these persons fully enjoy the right to vote. Nevertheless, the employees of the psychiatric institutions often undertake the role of a "judge" when it comes to guarantee the access to vote to the hospitalized persons.

6. ELECTORAL LISTS AND OTHER SPECIFIC ISSUES

According to the stipulations of the legislation in force and to the Regulation of the Central Electoral Commission on compilation, administration, transmission and updating of electoral lists, the voters who have the right to vote and who on the day of elections are placed in resorts, rest houses, hospitals, participate in elections only if their home address or place of residence is in the administrative-territorial unit in which the respective institution is situated.

The inclusion of this category of persons in the electoral lists is done 2 weeks before the day of elections and till 18.00 o'clock of the previous day of elections. Personal data of this category of voters is introduced by the head of appropriate institution in the additional electoral checklist, which is signed and authenticated with the stamp of the institution, and one day before the elections this list is transmitted to the electoral office of the polling station from the respective district.

On the day of elections, the members of the electoral office of the polling station go with mobile ballot boxes to the respective institutions, having the additional electoral checklists with them.

The leaders of these institutions will estimate the number of persons who will participate in elections and they will request the electoral office of the polling station to give them a sufficient number of ballots in both state and Russian languages, specifying the number of voters.

While monitoring the process of compiling the electoral lists by the administrative staff of the psychiatric institutions, the following irregularities have been stated:

The administration of psycho-neurological boarding house from Bădiceni district, city of Soroca, was trained on the compilation of electoral lists by the secretary of the Town Hall. The necessary informative support was also received from the Town Hall. The voters have been included in the lists according to their personal files. All the patients having the right to vote have been included in the basic lists of the electoral offices of the polling stations from respective area, in alphabetic order. 366 patients have not been included in the electoral lists, although they did not have any final court decision in this respect. This situation is motivated by the fact that *de facto* they are incapable and unconscious. The administration of the institutions, the relatives and other interested persons did not inform the court about the persons' recognition as being incapable. The employees of these institutions assumed the right of a judge and decided who must be included in the lists and who must not be.

Regarding the psycho-neurological boarding house from Orhei district, it was stated that in the basic lists of the polling station in which area the institution is situated, there are 65 voters from the respective boarding house. Other 96 persons from this institution have the right to vote, but they did not exercise their right because the administration did not solicit the mobile ballot boxes, motivating that these persons are immobilized and incapable, and they must not be fooled by someone. Although this institution is for under-aged children, 161 persons are teenagers.

The administrative staff of the psycho-neurological boarding house from Hînceşti district stated that there are no persons having their home address or place of residence in the respective administrative-territorial unit and/or the patients placed in this institution are severely mentally retarded, the majority being recognized as incapable by a court decision. Thus, no one from this institution will vote. However, the observers stated that in the respective institution there are 37 persons entitled to vote. Moreover, in such boarding

houses the persons are hospitalized for the whole life. Thus, we are wondering, how it would be possible that the respective persons to be registered in other localities?

In the psycho-neurological boarding house from Bălţi municipality there are almost 253 patients who are included in the basic electoral lists. The administration of this institution solicited the mobile ballot box for 48 voters, addressing a common request. Almost 50 patients having the right to vote did not have their identity card, or their cards were not valid, thus, these patients have not been included in the electoral lists.

The patients of the psycho-neurological boarding house from Edineţ, Brînzeni are the most numerous in the basic electoral lists. The administration of this institution has solicited the mobile ballot box for each patient, who has the right to vote, separately. The representatives of this institution have been trained on the compilation of the electoral lists by the chairman of the electoral office of the polling station in which area the boarding house is situated. However, 103 voters have not been included in the list because they did not have identity cards or their cards were not valid.

Regarding the boarding house from Cocieri, Dubăsari, all the patients apt to vote have been included in the basic list of the electoral office in which area the boarding house is situated. Out of the total number of hospitalized persons, which is 370, only 80 patients are recognized incapable according to a court decision. The administration of this institution has solicited the mobile ballot box for 48 patients due to the fact that they hardly can move by themselves.

Regarding the psychiatric hospital from Codru city, in the electoral lists are included only the patients who want to participate in the elections. (A lot of patients do not want to be included in the additional electoral lists presented by the respective institution).

The majority of the patients having the right to vote has not been included in the lists, because they do not have their home address or place of residence in the municipality of Chişinău or its suburbs, or they did not have identity cards. The representatives of this institution have stated that the identity cards are not kept in the patients' files or in safes. The observers of IDOM have been suggested to warn the administration about such kind of visits.

The psychiatric hospital from Orhei did not participate in the elections dated 5 June 2011. The representatives of the hospital declared that the majority of the patients are not from the administrative-territorial unit of Orhei, but anyway, those patients who are from the respective locality were permitted to go to exercise their right to vote at the place of

their home address. 40 patients could have voted in the premises of the hospital, but they did not have their identity cards. Thus, in this institution the additional electoral list was not prepared and the mobile ballot box was not solicited as well.

At the psychiatric hospital from municipality of Bălţi, a very reduced number of patients have voted. The administration of this institution has prepared an additional list in which only 11 voters have been included, out of 152 patients with the right to vote, motivating that the patients from municipality of Bălţi will vote at the place of their home addresses.

The majority of the representatives of the above-mentioned institutions have declared that they did not participate in any training and they did not receive informative materials with regard to the compilation of electoral lists.

All the electoral lists prepared by the psychiatric institutions have been transmitted in terms stipulated by the electoral offices of the polling stations.

The representatives of the respective institutions have been cooperative, presenting all the necessary information requested by the observers of IDOM, an exception being the representatives of the psycho-neurological boarding house from Hînceşti, who were indifferent and answered in a very reserved manner to the questions of IDOM's monitors.

It should be also mentioned that none of the patients from any psychiatric institution has participated in meetings with electoral candidates.

7. INVOLVEMENT OF MONITORS IN THE REGIONS: ACCREDITATION PROCEDURE AND DISTRIBUTION OF MONITORS IN THE POLLING STATIONS

The mission of the IDOM's independent observers (non-partisans) was to ensure an open and transparent electoral process within the psychiatric institutions from the Republic of Moldova.

In order to be considered non-partisans, the monitors have accepted: not to work in favor of a certain candidate or a certain political doctrine; to remain neutral and non-partisans before and after the elections, until the official announcement of the election's results; not to express their point of view on election results within the stations they have been placed as observers; to verify if each stage of the electoral process is held without any intimidations or frauds and in accordance with the electoral legislation etc.

The observers have been placed in 9 psychiatric institutions where, on the Election Day, there were hospitalized 4142 persons, among whom 3582 of the persons hospitalized in the psychiatric institutions were apt to vote. For a complete image of the electoral process within the 2011 General local elections held in psychiatric institutions see the table below.

Monitoring the access to vote in psychiatric institutions on 5 June 2011

Psychiatric institution	Total no. of persons hospitalized in institution 2009 / 2011	No. of persons within the institution apt to vote 2009 / 2011	No. of persons who lacked of the capacity to exercise their right 2009 / 2011	No. of hospitalized persons who voted in the institution 2009 / 2011
Psycho-neurological boarding house for children (girls), Hînceşti	350 / 334	189 / 37	0 / 82 definitive 66 in process	0/0
Psycho-neurological boarding house for children (boys), Orhei	319 / 293	180 / 154	125/ 5 definitive 2 in process	38 / 8
Psycho-neurological boarding house, Cocieri, Dubăsari	372 /370	346 / 290	286 / 80	0 / 25
Psycho-neurological boarding house, Bălţi	551 / 555	500 / 253	190 / 85	190 / 47
Psycho-neurological boarding house, Bădiceni, Soroca	474 / 464	461 / 408	131 / 56	90 / 21
Psycho-neurological boarding house, Brînzeni, Edineţ	299 / 308	288 / 252	171 / 56	75 / 137
TOTAL Boarding houses	2365 / 2324	1964 / 1394	713 / 432	393 / 238
Psychiatric hospital, Costiujeni, Codru, Chişinău	990 / 900	840 / 37	47 / 73	27 / 37
Psychiatric hospital, Bălţi	535 / 723	500 / 163	50 / 53	48 / 11
Psychiatric hospital, Orhei	217 / 195	211 / 92	32 / 2	1/0
TOTAL Hospitals	1742 / 1818	1551 / 292	129 / 128	76 / 48
TOTAL Psychiatric institutions	4107 / 4142	3515 / 1686	842 / 560	469 / 286

8. MONITORING THE ELECTORAL PROCESS IN PSYCHIATRIC INSTITUTIONS ON THE DAY OF ELECTIONS

Election Day

On the Election Day, the electoral process was held peacefully without major incidents. The reported violations on the day of elections have been considered insignificant, specific for such an electoral period. After processing the blanks presented by IDOM's observers and analyzing the protocols/minutes of the electoral offices of the polling stations, several breaches of the electoral legislation have been ascertained. These breaches referred to election campaigning on the Election Day, voting with improper identity acts, presence of more persons in the polling booth, presence of unauthorized persons in polling stations more than necessary for voting etc.

On the day of monitoring the General local elections, in those 9 psychiatric institutions from the Republic of Moldova, there were hospitalized 4142 persons, among whom 3582 of the persons were apt to vote under the law, but only 286 persons have voted.

The data collected by IDOM's observers on the day of elections give us the following image: out of the total number of 3582 persons placed in psycho-neurological boarding houses, who had the right to vote on the day of General local elections of 5 June 2011, 286 persons have voted.

The most severe violations identified during the electoral process within the psychiatric institutions refer to:

- 1. Exclusion from the voters' lists of the persons with legal right to vote (Psychoneurological boarding house from Orhei; Psychiatric Hospital from Costiujeni, Codru; Psychoneurological boarding house for children (girls) from Hînceşti);
- 2. Non-ensuring the right to vote due to the lack of identity documents (it is not known where are the identity cards of the hospitalized persons) (Psychiatric Hospital from Orhei);
- 3. Influencing the voters' expressed vote by the staff of the institutions (Psychoneurological boarding house from Bălţi);
- 4. Non-ensuring the secret vote during the election process on the territory where the voters had the registration.

In the psycho-neurological boarding house from Brînzeni village, Edineţ district, the representatives of the administration of this institution has facilitated the exercise of the right to vote. In due time they have arranged a room in the premises of the institution, where the patients had the possibility to exercise their right to vote, ensuring at the same time the secret vote. For most of the persons who were included in the electoral lists (149 of them have their place of residence in Brînzeni village) the identity cards have been issued or respectively prolonged, although, 103 persons from the total number of voters, who have the right to vote, did not find their names in the electoral lists. Practically, the voting was organized according to the procedure of voting at the place where the persons were at that time, the lists being prepared by the electoral offices basing on the requests of hospitalized persons. In conclusion, 137 persons have voted.

In the psychiatric hospital from Codru city, Chişinău municipality, the polling station was opened in the premises of the hospital, a fact which facilitated the exercise of the right to vote with regard to the hospitalized persons. From the total number of the hospitalized persons, 37 persons have been included in the additional electoral list and all of them have voted; from each section of the hospital 2-3 persons have voted on the day of elections. Basically, around 7 persons solicited the mobile ballot box, but the rest of them were accompanied till the ballot box by the nurses of this institution.

According to the voters' statements, many persons have not been included in the electoral lists, because they wanted to maintain the confidentiality, but the administration of this institution informed that only the persons who presented their identity cards came to vote (the identity cards respectively were in the possession of the patients, a fact which was not true, the cards being kept in each section of the hospital and they were attached to the patients' files. Thus, the identity cards should have been given to patients before voting).

In the psychiatric hospital from Orhei district the right to vote was not ensured, even if there are 195 persons in this institution who have the right to vote and 54 have their place of residence in the city of Orhei, those 52 persons who have the capacity to exercise their vote, 2 of them being declared incapable, were not included in any electoral list and no one solicited the mobile ballot box.

At the psycho-neurological boarding house for girls from Hînceşti district, the right to vote was also not ensured, even if there are 37 persons in the present institution who reached the age of 18 years and are not recognized as incapable. Accordingly, these persons were not included in the basic or additional electoral lists, as well as no one solicited the mobile ballot box.

At the psycho-neurological boarding house from Orhei, the voting took place only at the polling station 25/8 from Orhei, according to the data from the basic lists. Out of 161 persons with the right to vote (not being limited of the capacity to exercise the right to vote), only 65 were included in the basic list, out of whom only 8 persons have voted. Accordingly, 96 persons who could solicit the mobile ballot box, or, who in conformity with the Moldovan legislation had to be included in the additional list prepared by the administration of the boarding house, did not exercise their right to vote (this decision was taken by the administration of the institution). Regarding the process of voting at the respective polling station (25/8), a series of violations has been observed. For example, a person who did not reach the age of 18 has voted on the additional list, or there were cases when unknown persons were signing in the lists instead of other persons. Indirect electoral agitation was also observed: the observers of communist party wore red shirts with the slogan of the party on them, etc.

At the psycho-neurological boarding house from Bălţi, the persons were familiar with the electoral process, moreover they held meetings with the representatives of several parties. The hospitalized persons have voted according to the existing voting procedure. Thus, 48 persons have solicited the mobile ballot box from those 253 hospitalized patients with the right to vote. Only 40 of them have voted on the list. However, during the elections, at the polling station and in the institution, the secret vote was not ensured (more persons were at the same time in one voting booth, in the patients' rooms there were observers, members of the electoral offices and administration of the institution; other patients were also present when the voting stamp was applied by a voter on the list with all the candidates). Also, there were cases of intimidation and influencing of patients by the voters (the voters were at the entrance of the polling stations and they were proposing the patients to vote a certain candidate in exchange for 10 MD lei). In conclusion, the procedure of voting at this polling station was conducted with small violations, as well as the procedure of counting the votes did not take place according to the stipulations of the Regulation on the procedure of counting and tabulation of votes.

As in most of the cases, at the psychiatric hospital from Bălţi, the hospitalized persons knew about elections, but they were not familiar with the candidates and their platforms. In the process of voting the patients did not meet difficulties. Within the institution a special room for voting was prepared, thus, 11 persons have voted, who were previously included in the additional lists. However, at the time of elections 163 persons with the right to vote have been hospitalized, and only 11 of them have voted in the premises of the institution, using the mobile ballot box. The other 152 patients went to vote on the day of elections in the polling stations where they have their places of residence. This fact was

stated by the administration of this institution, motivating that in this way the process of voting for this patients was facilitated by the representatives of the institution.

Regarding the psycho-neurological boarding house from the village of Bădiceni, Soroca, in comparison with previous years, the administration of the institution was open to collaboration. Due to monitoring, it was stated that the hospitalized persons were familiar with the electoral process, but they were less informed about the candidates involved in elections. However the list of persons (42) who had to vote was prepared, out of whom 21 persons have voted, being brought to the polling stations in an organized manner. The identity cards have been distributed to voters by the nurse of the institution who accompanied them to the polling station. Later, the nurse took the identity cards back in order to attach them to the files which are maintained within the psycho-neurological institution. Violations regarding the electoral legislation or voting procedure were not observed, however, it is not clear why those 366 persons, who have the right to vote (not being limited of the capacity to exercise their votes) from the total number of persons having the respective place of residence (464), were not included in the electoral lists.

In the psycho-neurological boarding house from Cocieri, Dubăsari the voting did not actually take place. 290 persons from this institution have been included in the basic electoral lists, out of whom only 25 persons have voted, being brought to the polling station by the vehicles of the institution, but the rest of them did not benefit from these vehicles because the present institution did not have petrol for transporting all of them. Even if the mobile ballot box was solicited (48 requests), till the end of the elections day this box did not reach this institution, because the Transnistrian police has limited the access on the roads. Also, the indirect observers of the communist party influenced the voters. In general, due to the lack of information campaigns, very few patients knew about the organization of the elections and about the fact that they must go to vote.

However, the limited access to information that is actually doubled by the specifics of the respective institutions, creates possibilities to influence the vote of the hospitalized voters.

At the end of the project, we can conclude that administrations of the psychiatric institutions, as well as the ocal authorities, do not fully respect the electoral legislation of the Republic of Moldova. On one side, this may be caused by the outdated institutional mentality on administrating the mental health field through which the persons hospitalized in such institutions have been excluded from the very beginning from the electoral processes, and on the other side, by the discriminatory attitude towards this category of population.

9. CONCLUSIONS AND RECOMMENDATIONS

In general, at the polling stations the atmosphere was calm during the elections; the voters were not restricted from exercising their right to universal, equal, direct, secret and freely expressed vote.

Taking into consideration the effected observations and the expressed concerns, the working group responsible for the implementation of the project "Monitoring the Respect of Electoral Rights in Psychiatric Institutions from the Republic of Moldova" recommends:

To train adequately the electoral staff involved in elections;

To guarantee the right to vote to every citizen of the Republic of Moldova, who has this constitutional right;

To impose liability to decision makers who impeded the exercise of the right to vote;

To ensure in the psycho-neurological and psychiatric institutions the access to relevant information referred to the elections and electoral candidates:

To update qualitatively the electoral lists in psychiatric institutions;

To inform objectively and completely the hospitalized persons on the electoral process.