



**Liga Apărării Drepturilor Omului din Moldova**  
**League for Defence of Human Rights of Moldova**

coalitia 2009



coalitia civică  
pentru alegeri libere și corecte

## **CIVIC COALITION FOR FREE AND FAIR ELECTIONS - COALITION 2009**

### **LEAGUE FOR DEFENSE OF HUMAN RIGHTS OF MOLDOVA - LADOM**

## **REPORT**

### **OBSERVATION OF THE PRE-ELECTORAL PERIOD. 2009 PARLIAMENTARY ELECTIONS**

Monitoring period: October - December 2008



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The opinions expressed in this document are those of the authors and do not necessarily reflect the position of the donors.

## **INTRODUCTION**

Monitoring period: October – December 2008

The 2009 parliamentary elections are of major importance for the strengthening of democracy in Moldova, which is contingent upon a transparent and fair electoral process.

The Project „Observation of the 2009 parliamentary elections” is implemented by the League for Defense of Human Rights of Moldova (LADOM) within the Coalition for Free and Fair Elections – Coalition 2009.

The report presents findings resulting from the observation of behavior and situation of the central electoral body, public authorities, mass-media and political parties in the pre-electoral period. The data were collected through 6 regional coordinators, 37 long-term observers and tackle various aspects of electoral process.

The observation of electoral process is conducted in compliance with internationally recognized standards and principles, stipulated in the Observers’ Code of Conduct and the Electoral Code of the Republic of Moldova.

## **SUMMARY AND CONCLUSIONS**

During this period LADOM observed a series of positive evolutions, as follows: the open and constructive dialogue established between the Central Electoral Commission and the civil society NGOs, the training for potential electoral servants conducted by CEC, the actions focused on the information and education of voters, the re-emerging activities of political parties.

Meanwhile, there were negative tendencies in the unfolding the pre-electoral process. Despite the recommendations of the Venice Commission, Council of Europe and OSCE/ODIHR, the restrictive provisions of the Electoral Code were not eliminated.

LADOM is particularly concerned about the following aspects related to the pre-electoral process:

- The parliament does not ensure transparency regarding the decision on the Election date and does not take measures for interpreting and applying the electoral law so as not to admit violations of the electoral law.
- The public authorities do not ensure in a sufficient manner respect for all human rights and fundamental freedoms of citizens and do not take effective measures to prevent occurrence such violations in the future
- The central public authorities get involved in actions with an electoral character, which may undermine the local autonomy and local democracy
- Distribution of financial resources to local budgets based on political orientation
- Incoherent reaction of the CEC to the electoral actions conducted by political parties
- Unfair conditions for the potential electoral contestants
- Media’s neglect of the Journalist’s Code of Conduct
- Potential disequilibrium of the media space of the country
- bureaucratic procedures related to the change of the domicile, a fact that affects the accuracy of the voters’ lists

In order to ensure free, fair, and transparent elections, we recommend to the relevant authorities to address the problems articulated in this report.

## FINDINGS

### 1. Pre-electoral context

The Republic of Moldova is a parliamentary country with a unicameral legislative body made up of 101 deputies, who are elected on party lists in a single electoral constituency at national level, once in 4 years. Taking into account the legal provisions, it is likely that the elections of the new parliament will take place in late March, on one of the last two Sundays. The parliamentary elections are also of significant importance due to the fact that they trigger the elections of the new President of the country.

The elections of the new parliament are characterized by both positive and negative aspects. The positive aspects deal with the existence of a certain institutional stability and a modest economic growth; existence of a national consensus on the European integration of the country; asymmetric trade facilities acquired in the relationship with the EU; promises of strengthened and advanced cooperation with the EU, subject to organization of free and fair parliamentary elections<sup>1</sup>;

The negative aspects include the measures to restrict the accession to the parliament of small parties; the tensioned relations between the central and local public authorities; the decreasing number of potential electoral contestants; decisions of the European Court of Human Rights on some cases with an electoral character; the failure to settle the transnistrian conflict.

Since 2005 the legislative body paid special attention to the Electoral Code of the Republic of Moldova, which has been since then amended through 9 laws. The latest 2 laws deal with the increase of the electoral threshold up to 6%, interdiction of electoral blocs, restrictions related to the right to be elected in the legislative body for the holders of the dual citizenship<sup>2</sup>. These measures were adopted by the parliamentary majority despite the repeated recommendations of the international experts<sup>3</sup> to abstain from such changes to the electoral law. Consequently, these measures can be qualified as creating a legal framework that favors only big political parties.

In spite of the fact that some opposition deputies submitted a draft law on amending the electoral code<sup>4</sup> aiming at eliminating the restrictive provisions mentioned above, the operation of such changes to the Electoral Code in the eve of the 2009 parliamentary elections is unlikely.

### 2. Public authorities

*Parliament does not ensure transparency in assigning/ setting down the date of parliamentary elections 2009 and takes no measures for interpreting and implementing the electoral legislation in order to avoid the violation of electoral rights.*

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<sup>1</sup> Conclusions on the Republic of Moldova, adopted on 13 October 2008 by the EU Foreign Ministers, which stipulates: „The EU attaches particular importance to the parliamentary elections in the spring of 2009 being conducted in a democratic manner” available online at <[http://www.europa-eu-un.org/articles/en/article\\_8214\\_en.htm](http://www.europa-eu-un.org/articles/en/article_8214_en.htm)>.

<sup>2</sup> Law no.273-XVI from 7.12.2007 on the amendment of some legislative acts; Law no. 76-XVI from 10.04.2008 on the amendment of the Electoral Code; Law no. 273-XVI from 7.12.2007 on the amendment of some legislative acts.

<sup>3</sup> Note no. AS/Mon(2008)28 from 13 November 2008 on Respecting the obligations assumed by Moldova; Joint Opinion on the Election Code of Moldova, no.484/2008 CDL (2008) 094 of Venice Commission, CoE, OSCE/ODIHR dated 17-18 October 2008.

<sup>4</sup> Draft law no. 3416 from 10.12.2008 on amending some legislative documents, submitted as a legal initiative by the Members of the Parliament Vitalia Pavlicenco and Ion Neagu.

The preparation for the parliamentary elections was given the start by the legislative body itself, which has registered and adopted a series of legislative initiatives with electoral effect during the pre-election campaign<sup>6</sup>. Regrettably, the parliament did not tackle the issue of establishing the date of elections enough in advance. By now, no draft decision on the date of parliamentary elections 2009 is registered in the parliament as legislative initiative or included in the parliament agenda, fact that keeps the whole political society in suspense. This fact may also put in difficulty the CEC activity for the organisation of the electoral activities.

The Parliament didn't display an adequate reaction to the ECHR Decision and recommendations of the Venice Commission regarding the aspects of the current legislation that endangers the electoral rights of the citizens. This fact causes the concern of the civil society and casts doubts over the sincerity of the power to organise free and fair elections.

*Public authorities do not ensure sufficiently the observance of all fundamental rights and freedoms of the citizens and take no measures for avoiding future violations.*

Some political parties invoke the restrictive application of the new Law on Political Parties. This may have a negative impact on the activity of political parties and implicitly on the realisation of the political rights of the persons. As well, during the pre-electoral period there were many cases when people have been summoned, retained, investigated and sanctioned by law enforcement bodies for freely expressing their opinion<sup>7</sup>, active participation in political meetings and for their intention to associate to certain political parties<sup>8</sup>.

The adoption of the amendments to the Law on Public Servant related to the verification of the holder or candidate for a public office also raises concern. The provisions of the law may be used for exerting pressure on the public servants.

*Central authorities get involved in actions with electoral character, which can lead to the undermining of local autonomy and democracy.*

During the pre-electoral campaign the tensioned situation of the relationships between the central authorities and the mayoralty of the Chisinau municipality became more obvious. The activity of the mayoralty is endangered by several factors aimed at underlining the inefficiency and impossibility of the mayoralty to run the public affairs of the city. Lately, the tensioned situation was placed within the frames of the municipal authorities, being manifested through a series of verbal altercations between the new chairman of the municipal council and the general mayor.

The situation emerging around the Christmas Tree has also an electoral ground and the interference of the law enforcement agencies in settling the dispute has an intimidation effect. The warnings uttered by the General Prosecutor's Office about the sanctioning of the mayoralty responsible official for not presenting a new energy tariff can be qualified in a similar way<sup>9</sup>.

*Distribution of financial resources according to political criteria*

With the adoption of the Law on the modification and amendment of the Law on State Budget for 2008 and the adoption of the Law on State Budget for 2009, some localities have been privileged

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<sup>6</sup> During the pre-electoral period a series of draft laws with electoral connotation has been submitted by the Government and opposition MPs. Most relevant examples are the draft laws related to the allocation of financial means for salaries increase, for capital investments, etc. It is worth mentioning here the Law on the modification and amendment of the Law on State Budget for 2008; The Law on State Budget for 2009, etc.

<sup>7</sup> Unsuccessful protest manifestation broadcast on Pro TV on 18 December 2008

<sup>8</sup> In Drochia district there has been registered actions of intimidation of the leader of the territorial organisation of the Centrist Union of Moldova on the ground of his association to the party. Similar cases have been registered around the country with the members or supporters of Liberal Party or Liberal Democratic Party.

<sup>9</sup> Infotag 15 December 2008, The Prosecutor's Office warned the mayoralty of Chisinau municipality; Info-Prim Neo 17 December 2008, the police arrests the Christmas Tree.

being allocated considerable financial resources for capital investments. Thus, the local authorities which plan the budgetary means do nothing else than emphasising their electoral character by naming and advertising the political formations they belong to and which allocated the money for capital investments or social projects. At local level, the money is allocated according to political criteria either, fact that can be treated as corruption of the voters and inequity towards all tax payers<sup>10</sup>. The same thing is valid for the use of administrative resources with the scope of political parties' consolidation. Thus, the President of the country, MPs and other officials during their working visits around the country do not hesitate mentioning about the results of their activity and about how important is for the country that their parties remain in power<sup>11</sup>.

It is worth mentioning that the budget related laws provide for an increase of allocations destined to the law enforcement agencies (police, Intelligence and Security Service, the army), for Teleradio Moldova and of wages for the budgetary categories. Let's hope that these actions do not have an electoral character and will not be used for electoral purposes.

### **3. Central Electoral Commission**

The Central Electoral Commission is the only permanent electoral body and comprises 9 members with deliberative right to vote, among which: one member is appointed by the President of the country, one member by the Government and the other 7 members appointed by Parliament, including 5 from the opposition, depending on the number of mandates held in the Parliament. The current CEC composition has been working since 11 November 2005 and represents the result of a political consensus.

#### *Training and informative actions*

During the pre-electoral period, the Central Electoral Commission carried out a series of civic education, training and informative activities. In collaboration with the civil society, CEC has launched a series of projects aimed at sensitising the young voters. As well, CEC carried out the first phase of the potential electoral officials training.

In this context, it should be brought to the attention of political parliamentary parties and local public authorities to assign as members of electoral bodies persons who have been previously trained by CEC in order to ensure the professionalism of electoral officials and to avoid the waste of public money.

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<sup>10</sup> During the sitting of the local council of Șoldănești town (11.12.2008), the local mayor, Alexandru Tinica, mentioned that grace to the formation he belongs to, PPCD, the town was allocated 2 million lei more for the restoration of roads and communal services. In Ungheni money was allocated for the construction of the steam-generating station and the heating system of the Culture Palace. In the next period, money will be allocated for the reparation of the road no. L385, to Todirești, Ungheni district. Although there are also other roads which need general reparation, the district councillor Ion Bulhac, called his colleagues from the council to vote for the reparation of this particular road; in Cimișlia the distribution of budgetary means is also made according to political criteria, etc.

<sup>11</sup> In district Drochia: a group of communist deputies came for a meeting with the voters and were met and accompanied for the duration of their stay by the chairman of the district (a Communist member); after some time a group of Moldova Noastra Alliance arrived in the town which was in its turn met and accompanied by the mayor of the town (AMN member). On 04.12.2004 during the commissioning of the gas pipeline in Cuhureștii de Sus village the president of the country Vladimir Voronin was present together with the leadership of the Floresti District Council and the chairman Mihail Rusu. The ceremony of ignition of the "blue flame" was intensely combined with the electoral agitation for PCRM – both president and the district chairman made political declarations about the Communist Party merits in the country's evolution, etc. Reports on the achievements and victories made by the communist party in the development of Floresti district have been presented by other local officials – on the reform of the medical system - S. Rusu-director of the Family Doctors' Centre – all these reports bearing an electoral character, taking account of the fact that the entire leadership of the district is part of PCRM.

### *The implications of the CEC trainings on the political parties*

It should be mentioned that the political parties, the courts and eventually the local councils have the real possibility to influence the electoral bodies by discretionary revocation of its members. This fact calls into question the independence of the members of electoral bodies, because the later are exposed to an increased risk of political corruptibility and may undermine the fairness of elections. In this context, we call all observers and representatives accredited by the electoral bodies to be vigilant in order not to let the members of the electoral bodies to be corrupted by the political parties which appointed them.

### *The uneven reactions of CEC members towards the political parties' electoral actions*

During the pre-electoral campaign the Central Electoral Commission had uneven reactions towards the election-related activities organised by different political parties<sup>12</sup>. CEC warns unofficially the political parties not to enter the electoral campaign before the official start of the electoral race. Other similar activities organised by other political parties<sup>13</sup> remain without any reaction from CEC.

## **4. Political parties**

### *Invigoration of political parties' activity*

During the pre-electoral period we are witnessing an invigoration of the political parties' activities which are preparing themselves for entering the upcoming electoral campaign. Parties organise congresses (conferences), reactivate their media institutions and launch different publications and materials for the public. The activity of the political parties in the region is mostly oriented towards the informing of the public about their electoral programmes and the consolidation of primary organisations. Other political formations advertise themselves by providing free of charge services for the population<sup>14</sup>, fact which may be considered as mass corruption of the voters.

### *Pre-electoral fusions*

At the same time, as a reaction to the legislative restrictions regarding the participation in the electoral process, an electoral reorientation of the local leaders and consolidation of potential electoral competitors has been registered. As well, because of the impossibility to form electoral blocks, the small parties fuse with others.

### *Inequitable conditions for potential electoral candidates*

During this period the political formations are mainly preoccupied with the adjustment of their constitutive acts to the requirements of the new Law on Political Parties. It should be mentioned that the given law has been understood, interpreted and implemented restrictively and generated a series of conflicts among the parties. Thus, the parties invoke the fact that the Ministry of Justice

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<sup>12</sup> After a cease of election-related activities of political parties, the Central Electoral Commission publicly warned on 6 October 2008 political parties on the inadmissibility of launching political parties before the beginning of the electoral campaign.

<sup>13</sup> On 17 December, 15.00 o' clock, during a press conference at the premises of the Democratic Party, the party have presented its candidate for the post of prime-minister and a series of ministers after parliamentary elections. Being asked by the journalists for the reason of starting the electoral campaign so long in advance, the party leader answered that the communists have started it long before. Only electoral issues have been debated during the press conference

<sup>14</sup> On 07 December 2008 in Tătărauca Veche from Soroca district three doctors from the Organisation of the Christian Democrat Association of Doctors and Pharmacists have offered free medical consultations. During consultations, promotional materials with the logo of the party have been distributed to clients together with the credit cards of the doctors.

continues to multiply the restrictive measures taking advantage of the vagueness of the legislation regulating the activity of political parties. The Ministry of Justice has conflicts with several potential electoral candidates who have asked the registration of the modifications made to the constitutive acts of their parties<sup>15</sup>.

## 5. Mass-media

### *Non-observance of the Journalist Code of Ethics*

During the pre-electoral campaign the activity of the media stirred up and the message conveyed by the media related, directly or indirectly to the upcoming electoral process. The party newspapers re-began their activity and some of them are even distributed for free to the readers.

As regards the public and independent media, it should be mentioned that the activity of the media institutions does not ensure the plurality of opinions and is endangered by partisan tendencies which do not shape within the required deontological frame for the journalists<sup>16</sup>. The dependence and partiality is also characteristic for the regional media<sup>17</sup>. The lack of objective information by respecting the plurality of opinions deprives the citizens of the right to have access to veridical and objective information. This situation may lead to the limitation of the human right to information and undermines the right to freedom of expression.

### *Potential disequilibrium of the media space in the country*

A specific situation immerses across the TV Channel PRO TV, which is considered by a large part of population as an objective source of information. The TV channel and the journalists working for it have been subjected to several attacks from some MPs and have been threaten with the non-prolongation of the broadcasting licence. This fact was later confirmed by the Broadcasting Coordinating Council<sup>18</sup>. In this context, CCA put a moratorium on the contest for broadcasting space until the end of the electoral campaign. This action can be considered as a form of pressure on all radiobroadcasters from Moldova.

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<sup>15</sup> The refusal of the Ministry of Justice to register the modifications to the constitutive acts of the People's Republican Party generated a court case in the Appeals Chamber from Chişinău; the refusal to register some modifications to the constitutive acts of the Centrist Union generated the convocation of an extraordinary congress of the party; etc.

<sup>16</sup> NIT..... Liberal Party (PL) during its press conference on 16 December, 12.00 informed the public opinion about the refusal of the national television to provide airing time for the right to reply after the broadcasting of information related to the party's opinion on the new Education Code, information which was essentially falsified during the TV programme.

<sup>17</sup> In Floreşti, the district newspaper Drapelul, no. 51, Friday's edition, 12.12.2008 dedicates entirely its first page to the visit of the president of country to the ceremony of opening the gas pipeline in the village Cuhureştii de Sus. The article contains only praising information in relation to the leadership of the country and of the district, presenting positive examples and figures of the district' development. The article also makes a retrospective of the negative aspects of the previous governments before the Communists came into power (disconnection of eclectic lights, foreign and internal debts of the country). In Ştefan Vodă, the district newspaper "Prier" reports only the issues related to the activity of the district council. All materials have a laudative character. Etc.

<sup>18</sup> In this respect the Broadcasting Coordination Council, in its letter no. 824 from 09 December 2008, notifies the Joint Stock „Mediapro” on the rejection of the request for the prolongation of the broadcasting licence on the ground of not meeting the requirements of art. 24 of the Broadcasting Code and that the given channels will be displayed for contest.

## 6. Voters lists

### *Up dating the voters lists in reasonable time*

With the aim of ensuring the correctness of voters lists, the Central Electoral Commission together with the Ministry of Informational Development have started the preparation of the State Voters Registry, which is an unique integrated informational system of voters from the Republic of Moldova.

Taking note of the fact that by now the electoral lists have not been yet sent to the local authorities and that the date of transmission is still unknown, the secretaries of the municipal sectors' offices are concerned with the impossibility of verifying them on time.

### *Bureaucratic procedures related to the change of domicile*

In relation to the possible change of address in the Population State Registry, there are many bureaucratic impediments in obtaining the certificates from the local public authorities of 1st level (composition of the family, lack of debts for the communal services, taxes, social fund, etc. As well as their presentation to the Evidence and Documentation section). The distance to the district centre, the afferent costs and the existence of long queues cause serious problems to many people. This situation also implies difficulties related to the correctness of the electoral process.

## RECOMENDATIONS

Taking into account the reported findings and observation, we recommend:

- To the Parliament: to ensure transparency regarding the decision on the Election date and to take measures for interpreting and applying the electoral law so as not to admit violations of the electoral law.
- To central public authorities:
  - to ensure respect for all human rights and fundamental freedoms of citizens and take effective measures to prevent occurrence such violations in the future.
  - to abstain from measures with an electoral character, which may undermine the local autonomy and local democracy.
  - To stop pressure on political parties, with the view to ensuring equal conditions for all potential electoral contestants.
- To political parties: to nominate and delegate as a priority in the electoral bodies first of all the persons trained by the CEC and to avoid revocations of electoral commissioners during the electoral period.
- To the public and independent Media: to observe the principles and requirements enshrined in the Journalist's Code of Ethics and to cover the events in an balanced and unbiased manner, providing a diversity of viewpoints.
- To the Audiovisual Coordination Council: not to admit the unjustified stopping of electronic media institutions, to avoid misbalance of the media environment in Moldova.
- To the CEC and Ministry of Informational Development: to ensure preparation in reasonable terms of electoral lists based on State Register of Population, offering to the local public administrations sufficient time for checking them in compliance with the requirements of the Electoral Code.
- To the Ministry of Information Development: to initiate the process of simplifying the bureaucratic procedures related to the change of the domicile, a fact that affects the accuracy of the voters' lists.