



CIVIC COALITION FOR CORRECT AND FREE ELECTIONS

LEAGUE FOR DEFENCE OF HUMAN RIGHTS OF MOLDOVA

REPORT

AS REGARDS MONITORING THE ELEC TORAL PROCESS

ANTICIPATED PARLIAMENTARY ELECTIONS FROM 29 JULY 2009

Monitoring period: 1-30 June 2009









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INTRODUCTION

The present report reflects the electoral situation from the period 1-30 June 2009. This is the first monitoring report of the early parliamentary elections, realized by the League for Defence of Human Rights within the framework of the Coalition for Free and Fair Elections – Coalition 2009 and is a normal continuity of the project "Observing parliamentary elections 2009". The Coalition 2009 was launched on 18 November 2008, at the initiative of 7 NGO-s: Association for Participatory Democracy, CONTACT Centre, League for Defence of Human Rights (LADOM), Association for Legal Clinics Promotion (APCJM), National Youth Council from Moldova (CNTM), Independent Journalism Centre (CIJ) and Independent Press Association (API) – which joined their efforts with a view to continue the activities of promoting free and fair elections that were marred by the Coalitions 2005 and 2007. 70 NGOs joined the initiative group, it being opened for the joining of new members.

Observation activities of the parliamentary activities carried out by national observers have a special significance in the view of ensuring the electoral process integrity and providing the citizens the right to vote. The League for Defence of Human Rights is a NGO, non-affiliated politically, which unfolds activities of observing elections at national level beginning with the year 1996.

The monitoring process is carried out in conformity with the stipulations of the Electoral Code of the Republic of Moldova, LADOM (the League for Defence of Human Rights from Moldova) Code as regards observers' Conduct and in accordance with the international standards in the sphere of national observation of the elections.

The conclusions and recommendations from this report are formulated and presented in the spirit of professional cooperation all the parties being interested in carrying out a transparent and correct electoral process in Moldova.

EXECUTIVE SUMMARY

The results of parliamentary elections from 5 April 2009 brought victory to the Communists' Party that arose discontent among the youths who protested two days after the election. The calm manifestations became in a short period of time violent resulting in the destruction of the buildings belonging to the Parliament and Presidency. The unreasonable measures and the repressions applied towards the protestors registered severe violations of human rights and generated in a large scale political crisis. As a background of this, parliamentary opposition united in the political fight against the communists, blaming them for elections frauds. As a result, the parliamentary opposition blocked the elections of the President of the Republic, causing in this way the scission of the Parliament and establishing the early parliamentary elections.

The electoral legislation, stipulated to ensure the organization of free and fair elections was criticized many times. Resulting from the experience of the electoral period before 5 April 2009, several modifications of the electoral legislation were suggested. The Parliament has only intervened in what regards the electoral threshold for the electoral contestants up to 5% and the voting participation threshold up to 1/3, in order to consider the elections valid. The modifications in the Electoral Code are unanimous with the international and national experts' positions, who earlier recommended the lowering of the respective electoral thresholds. The Parliament, as well, interpreted the stipulations of the Electoral Code, so as the terms allotted to organize the elections would frame within the limits up to 45 days.

Public authorities, who represent the main electoral contestants, try to use the image of the respective institutions to obtain electoral favours. Great aggressiveness is registered in the messages of the President of the Republic, who rudely blames the parliamentary opposition, labelling it as a criminal one, without respecting the innocence presumption. The aggressive accusations continue as regards the organization of post electoral protests, on the basis of the fact

that the opposition didn't present proofs of elections fraud. This happens in the full silence of State Commission, which is obliged to investigate the cases of post-electoral protests and to report the results obtained. The State Commission didn't inform the public about the investigations and didn't take any attitude towards the reciprocal replies and accusations of the political parties' leaders.

The political parties find themselves in a difficult situation as regards the participation in the anticipated parliamentary elections. On the one hand, some parties don' have the necessary financial means, on the other hand, the majority of small parties have the risk of being dissolved because they don't take part in the elections or because they obtained too few votes. They are forced to re-group their forces and to search for solutions. In this meaning, many political migrations and signs of possible fusions are registered.

Mass-media continues to create problems as views opinion diversity and arose many negative reactions on behalf of NGOs which monitored the post-electoral conduct of some media institutions. Although, the electoral discussions in media institutions after adopting the respective regulation by CEC seems to obtain a correct configuration, but it doesn't stimulate the beginning of electoral discussions from the moment of each electoral contestant's registration.

The organization of the elections marred alongside with the act of issuing the President's Decree as regards dissolving the Parliament and establishing the day for anticipated Parliamentary elections. The Central Electoral Commission formed the electoral bodies and registered the first 6 electoral contestants, thus giving start to the electoral campaign. CEC approved of the schedule plan for measures to ensure efficient organization and administration of the elections. Instructing the members of the electoral bodies is one of CEC main tasks, monitored by the civil society with special interest.

Although CEC asked local authorities to prepare the voters' lists well and to verify them from house to house, this thing is not seen in the territory. In this way, the risk of non-qualitative preparation of the voters' lists still persists.

POLITICAL CONTEXT

The anticipated parliamentary elections were caused by the political crisis produced after the ordinary parliamentary elections from 5 April 2009. After the protests generated by the results of the ordinary parliamentary elections, the opposing parties accused the governing party of elections falsification, refused any political negotiations and blocked the election of the President of the Republic of Moldova, thus causing anticipated parliamentary elections.

The worsening of the political crisis was mainly determined by the police bodies, law courts and the Constitutional Court that was unable to ensure the objective examination of all electoral contestants and refused the examination of the so-called verification of falsifying the elections. The prohibition of verifying voters' lists and the control over carrying out the right to vote, together with the Court of Appeal from Chişinău refusal to examine the funds of electoral contestants' complaints, as well as Constitutional Court refusal to express the opinion with regard to the so-called electoral defalcation, encouraged the oppositional parties to fight in favour of the anticipated elections.

The way the post electoral period took place and the acts of violation and cruelty used by the policemen when treating the young participants in the manifestation caused suspicion in the society and made the accusations of parliamentary elections defalcation seem valid, though no political party made public any concluding test as regards electoral defalcation.

PCRM president's declaration which views his refusal to negotiate with the parliamentary parties the formation of a coalition to choose the president of the country, but will negotiate with each deputy partly. This act has been qualified by the oppositional parties as an act of political corruption at the highest level. The oppositional parties asked their members not to become

victims of these lies. Further negotiations with the political parties seemed to be insincere and, consequently, didn't have any results. The repeated trials to choose the President of the Republic of Moldova were stranded because the deputies of the opposition boycotted the elections of the president.

Occupying the post of the President of the Republic and of the Parliament by Vladimir Voronin generated on behalf of the opposition replies of power usurpation and function incompatibility. After the declaration made by Vladimir Voronin that he won't quit any function until the new president of the country is chosen, the Constitutional Court refused to examine the intimation in this sense, thus being vulnerable to accusations of political partiality.

The political crisis aggravated on the basis of the impossibility to elect a new President of the country, the necessity to abolish the Parliament and the activity of a Government in resignation. The stopping of law bodies' activities caused by post-electoral political crisis lead to the necessity of investing a provisional Government in order not to allow lack of power after abolishing the Parliament. In consequence, the President in function suggested the candidateship of the prime minister. The prime minister, in turn, suggested the Parliament the group of the provisional Government, which was offered the reliable vote by the legislation. The surprise here was that immediately after Government investment there were produced a number of governmental changes. The Communists Party's ally, Jurie Roşca, PCDP leader, was given the function of deputy minister, having to coordinate the activity of judicial and law enforcement bodies. This happened despite the previous declarations of the Prime minister that he refused the function in the provisional Government.

After investing the provisional Government and finding by the Constitutional Court the circumstances which justify the abolition of Parliament, the President of the Republic, through the Decree no. 2243-IV from 15 June 2009, abolished the Parliament and established the date of anticipated parliamentary elections, Wednesday, 29 July 2009.

Establishing the elections date on a working day is done for the first time in the Republic of Moldova and imposes certain problems that could appear in the process of organizing anticipated parliamentary organizations. The rationality of establishing the date of parliamentary elections in a working day is questionable, we don't think that this will contribute to people's presentation at the voting polls, even vice-versa, it can decrease the voters' participation in elections, they being obliged to be present at their working places found in other localities than their living places. This peril can be decreased by the fact that 29 July is considered as Constitution day and the Government declared it to be holiday. Although what could change if the anticipated parliamentary elections were established for Sunday of that week? More NGOs expressed their worries as regards organizing the elections in a working day and addressed Central Electoral Commission¹.

JURIDICAL FRAMEWORK

According to the stipulations of art. 76 from the Electoral Code, the anticipated elections will be able to be organized in not more than 45 days from the date of coming in function of the decree of Parliament abolition. In this context, in the view of unleashing electoral procedures, the correlation of terms reserved for electoral procedures is imposed. The problem was treated with regard to the Parliament which intervened with an interpretation of art. 76 from the Electoral Code. Thus, via Law no. 24-XVII from 15 June 2009 there was established a quota of proportional reduction of terms reserved by the Electoral Code for the organization of ordinary elections, thus being possible the organization of anticipated elections within the limits of 45 days. These are the terms reserved by the Electoral Code as regards the organization of anticipated Parliamentary elections.

¹ See the **appeal** of Civic Coalition for Free and Correct Elections - "Coalition 2009" nr.07/09 from 15 june 2009, towards Central Electoral Commission

Alongside with the interpretation of art. 76 stipulations, the Electoral Code had to be modified with regard to other compartments as well in order to ensure a good development of anticipated parliamentary elections. From the multiple problems noted by civil society, electoral contestants and Central Electoral Commission, the results of developing parliamentary elections from 5 April 2009, the Parliament examined only two of these complaints. Though there were treated problems viewing the right to vote for certain categories of citizens (especially those from abroad), the right to be voted, the electoral threshold, electoral blocks, the threshold of participating in elections, the formation of electoral bodies etc., only the problems regarding electoral threshold and the threshold of participation in elections were given the Parliament's attention. Thus, through Law no. 25-XVII from 15 June 2009 the Parliament reduced the electoral threshold from 6% to 5%, so as the parties would be able to accede into the Parliament and to pass the threshold of participation in the elections, there was a reduction from 1/2 to 1/3 for the elections to be considered valid. These modifications of the Electoral Code are made to reduce the risks of invalidating the elections because of electoral absenteeism and to contribute to encouraging some parties which have not passed the electoral threshold to participate again in the anticipated parliamentary elections. The modifications from the Electoral Code are unanimous with the previous suggestions of national and international experts, who recommended the reduction of the electoral validity thresholds of the elections. Yet, the modifications in the Electoral Code were carried out by the Parliament, taking into consideration the interests of big parties, without treating the whole scale of problems regarding the ensurance of organizing free and correct elections.

FINDINGS

Public authorities

Public authorities take different measures during this period to show their efficiency and to present themselves positively in front of the voters. In this context, the President of the country present the voters strategic external collaboration partners, he promises obtaining grants and the initiation of agreements of borrowing considerable sums of money aimed investigatory development of the Republic of Moldova. The actions and messages belonging to the President are determined as having an electoral character. In the same context, the administration of Chişinău Mayoralty informs about obtaining European grants for the investments in the town infrastructure and takes measures to reduce the incongruous salaries of runners of municipal associations in comparison with budget employees.

The use of administrative resources

- 1. On Thursday, 18 June, in Rîşcani, the Minister of Internal Affairs Gh. Papuc carried out a working visit, where he spoke about the post-electoral situation in the country. He explained the police workers the damage caused by the oppositional parties on 7-8 April, the positive effect of naming Iu. Rosca deputy prime minister, and, especially explained the policemen and police veterans how to behave during the next electoral period. He also emphasized the visits of the oppositional parties on the territory and the discussions they will hold with the citizens. All these measures are necessary in order "not to lose power".
- 2. The employees of the Mayoralty from the village Zaim, Căuşeni district and those from the regional section of social assistance and family protection visit every house from the village asking the people to vote for PCRM, otherwise there will take place the joining with Roma minorities and Moldova will suffer war, famine, people won't have salaries and pensions.

Electoral billboards

In the period of monitoring the first incidents of destroying publicity billboards. Thus, more billboards of the Democratic Party have been deteriorated in Bălţi.

Electoral contestants' conduct

The messages among electoral contestants became rather rude and aggressive. Increased aggressiveness is marked in the messages of the President of the Republic, who rudely accuses the parliamentary opposition, labelling it as a criminal one, without respecting innocence presumption. The leaders of oppositional parties bring similar accusations. Aggressive accusations continue as regards the organization of post-electoral protests on the grounds of lack of proofs on behalf of the opposing parties with view to electoral falsification. State Commission, which is obliged to investigate the cases of post-electoral protests and to report the results obtained, keeps total silence. This commission didn't inform the public about the investigations and didn't take any attitude with regard to aggressive replies and reciprocal accusations of the leaders of political formations.

POLITICAL PARTIES

During this period the political parties continue political confrontations and accuse each other as regards the causes of aggravated political and economical crisis. Yet, there have been registered certain changes with regard to regrouping political forces to start a new electoral campaign. At this stage cases of political migration have been registered. For example, some members of the Communists Party, headed by ex-President of the Parliament Marian Lupu, changed to the Democratic Party, which will be run by Marian Lupu even beginning with the electoral campaign. Extra parliamentary parties held negotiations with parliamentary ones as views identification of some solutions to take part in the anticipated elections. One of the major problems which was emphasized in the period of preparation for anticipated parliamentary elections is lack of financial support for the purpose of organizing dynamic electoral campaigns. During this period some parties appealed to the citizens for financial support in the electoral campaign.

A new element in this electoral period is the fact that the political parties have the possibility to choose either to participate in the electoral ballot or to abolish the party. Thus, the Law with regard to political parties through art. 22 par. (2) let. c), states that the Ministry of Justice will put forward the Court of Appeal Chişinău an action through which it will demand the abolition of the political party if it didn't take part with candidates' lists in two consecutive electoral campaigns or gained in these elections a number of votes smaller than the number of members necessary for the registration of a party. In this context, the Ministry of Justice has to ask the parties to make the corresponding choice. 18 parties are candidates for abolition in case they don't take part in the anticipated parliamentary elections or they don't gain at least 4 thousand votes. These parties are:

- 1. The Political Party "Agrarian Political Party from Moldova" didn't participate in the elections from 5 April 2009;
- 2. The Socialist Party from Moldova- didn't participate in the elections from 5 April 2009;
- 3. Law and Justice Party didn't participate in the elections from 5 April 2009;
- 4. The Professionals' Movement "Speranţa-Haдeждa"- didn't participate in the elections from 5 April 2009;
- 5. The New National Moldovan Party didn't participate in the elections from 5 April 2009;
- 6. Social Political Movement "The New Force" didn't participate in the elections from 5 April 2009;
- 7. The Political Party "The Party of the Socialists from Moldova "Patria-Rodina" didn't participate in the elections from 5 April 2009;
- 8. The Social-political movement "RAVNOPRAVIE" didn't participate in the elections from 5 April 2009;
- 9. The Political Party "The Ecologist Party "The Green Alliance from Moldova" withdrew

from the electoral run from 5 April 2009;

- 10. The National Romanian Party didn't participate in the elections from 5 April 2009;
- 11. The Republican Popular Party didn't participate in the elections from 5 April 2009;
- 12. The Republican Party from Moldova gained 1436 of votes;
- 13. Labour Union "Patria-Родина"- withdrew from the electoral run from 5 April 2009;
- 14. The European Party didn't participate in the elections from 5 April 2009;
- 15. The Humanist Party from Moldova didn't participate in the elections from 5 April 2009;
- 16. The Party for Spiritual Development "UNITED MOLDOVA" gained 3357 votes;
- 17. National Liberal Party-didn't participate in the elections from 5 April 2009;
- 18. The Political Party "FOR PEOPLE AND COUNTRY"- withdrew from the electoral run from 5 April 2009.

It is necessary to mention that first of all big parties are interested in implying more electoral actors in the anticipated parliamentary elections. The dispersion of votes among the crowd of electoral contestants will allow the big parties to compensate the votes in the Parliament, due to redistribution of votes, as a result of a large electoral threshold.

MASS - MEDIA

During the monitoring period a number of media institutions continued to be biased and to reflect unilaterally political and electoral events. This fact caused indignation among civil society, who appealed to Audiovisual Coordinating Council to take the necessary measures², as well as to public audiovisual³ asking not to admit censorship, to ensure diversity of opinions, to respect political pluralism etc. Monitoring from May the news programmes of main television channels treated a series of deviations from the requirements of Audiovisual Code⁴. The same forms of violations committed by some media institutions are also mentioned in the reports CIJ, APEL and API during the monitoring period 1-16 June 2009⁵. NGOs' monitoring activity is disputed by the Administration of public Campaign Teleradio-Moldova⁶, which appreciates monitoring reports as partial ones.

Central Electoral Commission approved the Regulation with regard to reflecting the electoral campaign at the anticipated parliamentary elections from 2009 in the means of mass information. The new regulation neglected some restrictions referring to electoral discussions, as they don't encourage electoral contestants to launch in electoral discussions from the moment of their registration. This regulation also contains some restrictions for NGOs whose task is civic education. Materials for civic and electoral education ordered by public associations or other persons will be broadcast by mass-media institutions only after their preliminary sanction by Central Electoral Commission.

ELECTIONS ADMINISTRATION

The administration of elections is the duty of an electoral body system which includes Central Electoral Commission, Electoral district Councils and electoral offices of the polling sections. CEC activates permanently, while EDCs and electoral offices are formed only in the electoral period. After announcing the date of elections and forming the commission for receiving entails, CEC,

² See the Appeal of Civic Coalition for Free and Fair Elections - "Coalition 2009" no. 07/09 from 15 June 2009, to Audiovisual Coordinating Council.

³ The Declaration of 11 NGOs with regard to public audiovisual from 15 july 2009.

⁴ Report of postelectoral minitoring viewing the presence of political actors in TV programmes of 9 channels, realized by APEL. www.apel.md

⁵ www.apel.md; www.cij.md; www.api.md.

⁶ Www. trm.md

being responsible for the registration of electoral contestants, receives citizens' and parties' applications to be registered as electoral contestants. The procedure of registration will finish 21 day before elections day, on 7 July 2009.

Beginning with 17 June up to the present, CEC received registration applications in the quality of electoral contestants on behalf of 6 political parties. They have been registered without any incidents, in odds order. Thus, the following electoral contestants have been enrolled in the electoral run according to the order of their registration:

- 1. Party of the Communists from;
- 2. Popular Democratic Christian Party;
- 3. Liberal Party;
- 4. Moldova Noastră Alliance;
- 5. Liberal Democratic Party from Moldova;
- 6. Democratic Party.

Central Electoral Commission approved the schedule plan for the whole electoral period, formed electoral constituency and electoral district councils and took other measures aimed at ensuring a good development of the elections.

VOTERS' LISTS

The voters' lists in parliamentary elections from 5 April 2009 constituted the discord, generating appeals in electoral and judicial bodies. Taking it into consideration, CEC demanded all the authorities of local public administration to prove responsibility and make necessary conclusions from the previous experience and prepare voters' lists for anticipated parliamentary elections with great attention and responsibility. CEC asked all Local Public Administrations to present the voters' lists to CEC and electoral offices to be published in polling sections before 14 July 2009. Though CEC asked local authorities to prepare qualitative voters' lists and verify them from house to house. Yet, this thing is not noticed in the territory. Thus, the risk of preparing voters' lists badly still persists.

It should be mentioned that CEC also took measures in the view of making safe voters' lists via signing them by voting office members. Yet, a mechanism of controlling possible defalcations by manipulating voters' lists has not been created.

RECOMMENDATIONS

- Public authorities should not use or allow the use of administrative resources in favour of electoral contestants;
- MIA should react to the intimations of electoral contestants and electoral bodies in order to prevent and stop any violation of the electoral legislation, that could undermine electoral process correctness;
- In cooperation with political parties CEC has to take measures to select and instruct Electoral offices members, who proved to be the weakest point in the system of electoral bodies from previous electoral period;
- In cooperation with Local Public Administration, CEC has to ensure the integral and qualitative preparation of voters' lists, their public posting in terms established by law and ensuring access to these lists, inclusively by creating a control mechanism, that would offer electoral contestants and observers the possibility to verify the identity of people who carried out their right to vote even after the elections day;
- Political parties should refrain from accusations, aggression and radicalism, that could divide the society into good and bad, our folks and enemies etc. Registered violations should be made public in order to be verified by electoral bodies and civil society

- Mass-media institutions have to prove correctness and independence, to ensure opinion pluralism and diversity;
- Audiovisual Coordinating Council and CEC have to avail themselves of the prerogatives and to react promptly in order to stop all cases of mass-media political partiality taking into consideration the negative experience from previous electoral period.