

INTERIM REPORT No. 1
21 – 31 October 2010

5 November 2010

I. EXECUTIVE SUMMARY

- The 28 November 2010 early parliamentary elections are the third parliamentary elections to take place in two years. They come in the wake of an extended political crisis in which two consecutive parliaments (elected in April and July 2009) were unable to elect the president of the republic and the subsequent failure of the September 2010 referendum that would have changed the constitution to allow for direct presidential elections.
- The Election Code (EC) was amended most recently in June and September 2010, resulting in a number of positive changes that addressed many previous recommendations of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Venice Commission of the Council of Europe (VC), including the lowering of the thresholds to enter parliament. Two controversial amendments altered the mandate allocation methodology to the benefit of smaller parties and provided students with a simplified method to vote at the place where they study.
- The Central Election Commission (CEC) has been performing its duties in an overall efficient and transparent manner, and respecting legal deadlines. District Election Councils (DECs) have been established. Some 2,050 Precinct Election Bureaus (PEBs) will administer the polling, including in 75 polling stations abroad. Voting is not expected to take place on the territory under the *de facto* control of the Transnistrian authorities.
- As of 31 October, 20 political parties and 7 independent candidates were registered with the CEC and 13 independent candidates were awaiting registration. No pre-electoral blocs are competing. Candidates and parties represent a wide range of political views.
- The campaign is gaining momentum. It is competitive and at times tense. Some campaigning has been sharply negative. There have been several small incidents including an altercation involving one party leader's bodyguards and break-ins at two party offices.
- Recent improvements in the media landscape, including the launching of two news-oriented channels, have increased the plurality of views available to the public. *NIT TV* has been penalized for biased reporting and has accused the authorities of being hostile towards it.
- The CEC has dealt with 20 election complaints. Decisions reviewed to date by the OSCE/ODIHR Election Observation Mission (EOM) were well reasoned.
- The OSCE/ODIHR EOM has established its office, deployed long-term observers and begun an active programme of meetings with government officials, election administrators, political parties, the media, civil society and other election stakeholders. The OSCE Parliamentary Assembly, as well as the European Parliament and the Parliamentary Assembly of the Council of Europe, plan to send delegations to observe these elections.

II. INTRODUCTION

The acting president of the Republic of Moldova on 28 September 2010 announced the dissolution of parliament and called early parliamentary elections for 28 November. Following an invitation from the CEC and based on the recommendation of the Needs Assessment Mission, the OSCE/ODIHR established an EOM, which started its work on 21 October. The EOM, led by Peter Eicher, consists of a 12-member core team based in Chisinau and 20 long-term observers deployed to nine cities around the country. Participating States have been requested to second 200 short-term observers. The OSCE/ODIHR EOM has established good co-operation with national authorities, other election stakeholders, the OSCE Mission to Moldova and the international community.

III. BACKGROUND

The early parliamentary elections come in the wake of an extended political crisis in which two consecutive parliaments elected in April and July 2009 were unable to elect a president and were dissolved.

Following the July 2009 early parliamentary elections, five political parties entered parliament. The Communist Party of the Republic of Moldova (PCRM) remained the largest faction with 48 seats. The other four successful parties – the Liberal Democratic Party of Moldova (PLDM, 18 seats), the Liberal Party (PL, 15 seats), the Democratic Party of Moldova (PDM, 13 seats) and Alliance Our Moldova (AMN, 7 seats) formed a coalition government named the Alliance for European Integration (AIE), which held a majority of 53 seats. Despite two failures to elect a president in November and December 2009, which necessitate the dissolution of the parliament, the parliament elected in July 2009 remained in office until 28 September 2010 in line with the provision of the Constitution stipulating that the parliament can be dissolved only once within twelve months.

In an attempt to overcome the political deadlock, the parliament voted on 7 July 2010 to conduct a referendum on amending the Constitution to provide for direct, popular election of a president. The 5 September 2010 referendum failed as the voter turnout fell below the legal requirement to validate a referendum.

IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The legal framework for the conduct of elections includes the Constitution, the Election Code (EC), organic laws on the courts, the Law on Political Parties, as well as regulations and decisions of the CEC and relevant sections of the Criminal and Administrative Codes. Overall, the framework provides an adequate basis for conducting democratic elections if implemented fairly.

The EC was most recently amended in June and September 2010. The June amendments introduced positive changes to the EC and addressed many of the previous recommendations of the OSCE/ODIHR and the VC. The draft text of the amendments was reviewed by the VC and the ODIHR in June 2010.¹ Some of the significant changes made by the June amendments were:

- Lowering the threshold for parties to four per cent and independent candidates to two per cent;
- Reinstating the possibility to form pre-election coalitions;²
- Elimination of the possibility to file complaints both with the electoral body and the court;

¹ See Joint Opinion on the Draft Working Text Amending the Election Code of Moldova, Opinion No. 576/2010, CDL-AD (2010)014, www.osce.org/documents/odihr/2010/06/44756_en.pdf.

² The threshold for an electoral bloc of two parties is seven per cent and for a bloc of three or more parties is nine per cent.

- Removal of the requirement that winning candidates who hold multiple citizenships have to renounce all other citizenships in order to take their seats;
- Allowing for polling stations abroad in locations other than embassies and consulates.

The September amendments made two additional, controversial, modifications to the EC. The mandate allocation methodology was changed in a way that might benefit smaller parties. In addition, students who do not have a residence or domicile in the locality where they are enrolled in university can vote in any polling station in that locality by presenting a valid ID card and a student card/ID. These amendments were criticized by the parliamentary opposition. Changing the EC so close to an election is contrary to VC Code of Good Practices in Electoral Matters.³ Such changes can be a particular concern when they are adopted without consensus and when they can be perceived as benefitting one set of electoral contestants.

The parliament is unicameral and has 101 members serving four-year terms. All members of the parliament are elected from a single nationwide constituency through proportional representation. Parties, coalitions or independent candidates are all listed on a single ballot paper. For the elections to be valid one third of registered voters must participate.

V. ELECTION ADMINISTRATION

Elections are administered by a three-tiered election administration, including the CEC, DEC and PEBs. While the CEC is a permanent body serving a five-year term,⁴ DEC and PEBs are established during election periods. Since voting does not take place on the territory under the *de facto* control of the Transnistrian authorities, the CEC appointed on 8 October only 35 of 37 DEC. By the deadline of 2 November, approximately 2,050 PEBs were established by the DEC, including 75 PEBs in 30 countries for citizens residing abroad.⁵ Parliamentary political parties may nominate members of election commissions at all levels.

Thus far, the CEC has passed 186 decisions on issues such as the establishment of DEC, instructions on the compilation of voter lists (VL), registration of electoral contestants, accreditation of observers, as well as the examination of complaints and financial reports. The majority of CEC decisions were taken unanimously and sessions were conducted in a professional and transparent manner. All legal deadlines were respected. The CEC organized a two-day training for DEC on election procedures and launched its voter education campaign.

VI. VOTER REGISTRATION

Citizens who reach the age of 18 on or before election day have the right to vote, apart from those who have been declared incapacitated or were deprived of the right by a court of law. VLs are drawn up by the local authorities under general guidance from the CEC. The CEC issued a detailed “Regulation on the Compilation, Management, Circulation and Updating of the Voter Lists”. The CEC also provided the municipalities with standardized VL templates for all three categories of VLs (basic lists, supplementary lists and lists for mobile voting) in electronic form. The initial VL compilation has to be completed by 2 November and lists must be displayed for public scrutiny by 8 November.

³ Paragraphs 63, 64 and 65 of the Code recommend not changing the EC within one year of elections.

⁴ The mandate of the current CEC expires on 11 November but since this occurs during the electoral period, the mandate was extended for a maximum of 90 days in line with the law.

⁵ CEC decision no. 3672 of 19 October.

The CEC will conduct a pilot project in 45 polling stations of Centru district in Chisinau to test the feasibility of a centralized electronic voter register.⁶

VII. CANDIDATE REGISTRATION

Citizens eligible to vote have the right to run for office, with the exception of active military personnel, prisoners serving their sentence in a penitentiary, persons whose criminal records include crimes committed intentionally, and persons deprived of the right to vote by final decision of a court.

Under the EC, electoral contestants and independent candidates wishing to run for parliament had to apply to the CEC for registration no later than 28 October. As of 31 October, the CEC had registered 20 political parties and 7 independent candidates. No party coalitions applied for registration. The CEC has until 4 November to finalize the registration of another 13 independent candidates. At the time of writing, the CEC has not rejected any applications. Amendments to the lists of candidates may be introduced until seven days before election day.

In accordance with the EC, state officials running for parliament are required to temporarily suspend their duties for the period of the election campaign. Over 50 state officials have done so.

VIII. CAMPAIGN ENVIRONMENT

Campaign activities are well underway, with posters, television spots, and small meetings with voters taking place all across the country. Some campaigning has been sharply negative or even defamatory. Some key political parties have portrayed their main competitors as being influenced by the foreign policy of other countries (“pro-Russian”, “pro-Romanian” or “pro-European”). Political parties have told the OSCE/ODIHR EOM that much of the population is election weary after two elections and a national referendum in the past two years and that it may be a challenge to build voter enthusiasm. Five parliamentary political parties are widely regarded as the main contenders.

There have been several campaign-related incidents. During a meeting of PCRM leader Vladimir Voronin with the electorate in Ungheni, on 21 October, a PLDM supporter who allegedly behaved in an abusive manner towards Mr. Voronin was reportedly removed from the meeting and assaulted by the PCRM leader’s bodyguards. The Prosecutor’s Office in Ungheni opened an investigation. The PDM office in Soroca and the European Action Movement office in Vulcanesti were broken into on 19 and 29 October, respectively. The police is investigating these cases.

The PCRM complained to the OSCE/ODIHR EOM that Saturday, 27 November has been declared a study day for university students. The PCRM alleged that this was done to ensure students remain at the universities to vote for the governing coalition instead of taking the weekend off. Some university administrators explained that the extra day was added to compensate for the “Chisinau Day” holiday in October. The PCRM believes that students are being subjected to pressure and political influences to support the governing alliance.

IX. CAMPAIGN FINANCING

The EC obliges contestants competing in elections to submit reports every two weeks to the CEC detailing all campaign-related expenditures. A CEC regulation specifies that a political party,

⁶ See the OSCE/ODIHR Needs Assessment Report at www.osce.org/documents/odihr-el/2010/09/46305_en.pdf for details regarding the development of the centralized electronic voter register.

organization or electoral block may spend up to 0.50 EUR per voter included in the VLs; independent candidates may spend up to 0.05 EUR per voter.

Many parties complain that after so many recent elections, they do not have sufficient funds left to undertake vigorous campaigns. On 26 October, 11 parties that were registered the earliest submitted their first financial reports. The PCRM included in its report information about two individuals who donated 250,000 Lei each (about 15,400 EUR). Some media reported that these donors had very modest incomes, which raised questions about the veracity of the data submitted. As it is not in the CEC's competence to verify the financial reports, the CEC sent these and other political party financial reports to the Centre for Combating Economic Crimes and Corruption to assess their accuracy.

X. MEDIA

In addition to the public broadcaster *Teleradio Moldova*, there are four private TV channels and five private radio stations with national coverage, as well as a large number of newspapers across the country. Recent changes in the media landscape included the appointment of the new management of the public broadcaster, which is widely assessed as having contributed to its enhanced impartiality. In addition, two news-oriented channels, *TV Publika* and *TV Jurnal*, were launched, which increased the plurality of views available to the public. The adoption of the Law on Freedom of Expression in April 2010 was welcomed by the OSCE Representative on Freedom of the Media.⁷ A number of media outlets are perceived to be affiliated with political parties.

The conduct of media during the election campaign is regulated by the EC and the Broadcasting Code, as well as the CEC Regulation on the Coverage of the Election Campaign. According to the Broadcasting Code, all broadcasters are obliged to cover elections in an accurate, balanced and impartial manner. The Audiovisual Co-ordinating Council (CCA), the regulatory body for broadcast media, is monitoring campaign coverage by national television broadcasters and plans to co-operate with domestic media monitoring institutions in monitoring of others channels.⁸

During the campaign period, each registered contestant is entitled to one minute per day of free air time on public television and radio, as well as a total of five and ten minutes during the campaign on each television and radio channel broadcasting country wide, respectively. Also, all contestants are entitled to participate in debates which all national broadcasters are obliged to organize free of charge. In addition, contestants can purchase paid airtime; however, not more than two minutes a day per broadcaster.

Following recent amendments to the EC, complaints related to the election coverage by broadcasters are now examined by the CCA. This has been interpreted by the CEC in a way that if a complaint is between a broadcaster and a candidate it will be heard by the CCA, and if it is between two candidates it will be heard by the CEC. Complaints related to written media and Internet are examined by the courts.

As of 31 October, 13 complaints related to broadcast media have been filed with the CCA. In eight cases⁹ political parties challenged newscasts of *NIT TV* claiming either preferential treatment of the PCRM or bias against their parties in violation of the principle of political pluralism and balance

⁷ See the OSCE Representative on Freedom of the Media's Regular Report to the Permanent Council, 29 July 2010, at www.osce.org/documents/pr/2010/07/45552_en.pdf.

⁸ Media monitoring will be carried out by the Independent Journalism Center and the Association for Electronic Press.

⁹ Other complaints concerned *Jurnal TV* (2), *Pro TV* (1), *Moldova 1* (1), *Vocea Basarabiei* (1).

required by the Broadcasting Code.¹⁰ While most of the complaints were rejected, on 29 October, CCA decided to withdraw *NIT*'s right to broadcast advertisements for three days.¹¹ This sanction was in response to a complaint from PLDM claiming a biased news report about the disruption of the PCRМ meeting in Ungheni. *NIT* had already reportedly received a warning for one earlier infraction and a fine for another. In turn, *NIT* accuses the authorities of a hostile attitude towards the channel.

On 25 October, the OSCE/ODIHR EOM began its media monitoring based on qualitative and quantitative analysis of the principal television channels, two radio stations, and four newspapers.¹²

XI. COMPLAINTS AND APPEALS

Any voter or election contestant may complain about actions, inactions and decisions of election commissions, election contestants and media. Unlike during previous elections, complainants now must exhaust the administrative process respecting the hierarchy of electoral bodies before going to court. The electoral bodies bear the burden of proving the legality of their decisions.

All complaints against electoral bodies and competitors must be filed within three calendar days of the date of the action/inaction. If the complaint is against a decision of a PEB or a DEC it must be resolved by the higher electoral body within three calendar days but not later than election day. If the complaint concerns actions/inactions of electoral competitors it must be resolved within five days.¹³ Complaints against decisions of the CEC are filed with the Chisinau Court of Appeal and must be resolved within five days.

As of 31 October, the CEC had considered 20 complaints. Complaints were related *inter alia* to early campaigning, members of the government continuing to act in their official capacities after having stepped down for the campaign, campaign materials not containing the name of the electoral competitor that ordered the material and other details required by the law.

The Chisinau Court of Appeal has heard a number of election related cases. In one case, the PCRМ challenged the CEC decision setting up polling stations outside embassies and consulates because the authorities failed to present written confirmations of consent from governments of the respective countries. The court rejected the complaint on the grounds that the PCRМ had failed to prove any infringement of its rights by the challenged decision.

The Constitutional Court has received one election related application, in which the prime minister requested the court to declare Article 13(3) of the Election Code unconstitutional. Article 13(3) provides that state officials who are candidates for parliament must suspend their official duties during the electoral period. The prime minister argued that the suspension of activities by members of the government standing as candidates limited the ability of the government to perform its functions during the electoral period. The court rejected the application because the request had not been submitted by the government. Subsequently, the government approved the application and resubmitted it to the court.

¹⁰ Broadcasting Code, Article 7.

¹¹ The CCA referred to Article 38(1) b of the Broadcasting Code.

¹² The following media outlets are covered by the media monitoring: *Moldova 1* (public broadcaster), *Euro TV*, *NIT TV*, *Prime TV*, *2plus* (nationwide TV channels), *Jurnal TV*, *Pro TV Chisinau*, *Publika TV* and *TV 7*; *Radio Moldova* (public radio station), *Vocea Basarabiei* (private radio station); *Jurnal de Chişinău*, *Moldova Suverană*, *Timpul*, *Komsomolskaya Pravda* (newspapers).

¹³ If the electoral body determines that the examination of the complaint is not within its competence, the complaint and the supporting documents are sent to the competent authority within two days of receipt.

XII. PARTICIPATION OF WOMEN AND NATIONAL MINORITIES

Women make up 27 per cent of candidates running in these elections. As of 30 October, the majority of parties have women among the first ten candidates on their party lists.¹⁴ There are two parties chaired by a woman - the National Liberal Party led by Vitalia Pavlicenco and the Conservative Party led by Natalia Nirca. There are also two female independent candidates and another three awaiting the CEC's decision on their registration. There were 25 women in the outgoing parliament.

According to the 2004 census, national minorities comprise some 24 per cent¹⁵ of Moldova's population. Generally, there are no legal obstacles to the participation of national minorities in the electoral process. On 2 March 2010, the Social Political Movement of the Roma People was registered as a party and subsequently, as a contestant in the upcoming elections. It is the only political party claiming to represent one specific national minority.

Parallel to early parliamentary elections, in the Autonomous Territorial Unit of Gagauzia, the campaign for 12 December 2010 elections of the governor of Gagauzia will be taking place. The PCRM candidate for the governor, Irina Vlah, is at the same time number nine on the PCRM candidate list for parliamentary elections.

XIII. DOMESTIC AND INTERNATIONAL OBSERVERS

The EC provides for the observation of the election process by international and domestic civic organizations, representatives of foreign governments and agents of electoral contestants.

Several domestic organizations are monitoring various aspects of the elections. The largest of these are the Civic Coalition for Free and Fair Elections and the coalition "Civic Control – Elections 2010". Members of these umbrella organizations are monitoring such issues as the election campaign, quality of voter lists, performance of the media, and campaign financing. These organizations plan to deploy substantial numbers of short-term observers on election day.

XIV. OSCE/ODIHR EOM ACTIVITIES

The OSCE/ODIHR opened its office in Chisinau on 21 October. Representatives of the OSCE/ODIHR EOM have met with the Chairperson of the CEC, the Minister of Internal Affairs, the Ministry of Foreign Affairs and European Integration, the Chairperson of the CCA, the Prosecutor General, the Chairperson of the Chisinau Court of Appeal and other senior state officials. In addition, the OSCE/ODIHR EOM met the Head of the OSCE Mission to Moldova, ambassadors of the OSCE participating States and representatives of international organizations. The OSCE/ODIHR has established working relations with the CEC and has conducted meetings with political parties, candidates, civil society and the media. The OSCE Parliamentary Assembly, as well as the Parliamentary Assembly of the Council of Europe and the European Parliament, plan to send delegations to observe these elections.

¹⁴ Four parties do not have women among the first ten candidates: Christian Democratic People's Party, Humanist Party of Moldova, Social Political Movement of the Roma People and the Ecological Party of Moldova (Green Alliance).

¹⁵ This does not include the territory under the *de facto* control of the Transnistrian authorities.