

Report on the respect for freedom of elections in the Republic of Moldova

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INTRODUCTION

Electoral law and the way elections are conducted is a major issue in the evolution of any democratic state. Democracy is a fundamental principle of any modern society and the right to free elections is one of its basic pillars.

The right to democratic elections is essential for ensuring that the will of the people is respected in the shaping of the legislature and government at all levels. The process of translating the outcome of elections into political mandates should take place in a fair, impartial and trustworthy manner. Citizens must be sure that their collective will has been respected and, in turn, they will accept the verdict from the ballot box¹.

The right to free elections is not only a guarantee of political participation but also an essential mechanism for the legitimacy of government. Without free elections, governments risk being perceived as illegitimate, and political conflict can escalate into instability and a loss of public confidence in state institutions.

In this regard, the right of every citizen to participate actively in political life by exercising their vote is guaranteed by multiple international and national instruments. Art. 38 of the Constitution of the Republic of Moldova, adopted in 1994², provides in Art. 38 that citizens have the right to vote, ensuring that it is universal, equal, direct, secret and freely expressed. A fair and transparent electoral process is therefore the foundation of legitimate governance and a functioning democratic society.

However, respect for this right has not always been uniformly guaranteed in Moldova's recent history. Political developments since the country's independence in 1991 have shown that there are multiple challenges in ensuring a free and fair electoral process. These challenges range from external influences and electoral corruption to poor electoral administration and a lack of adequate political education among the electorate.

Following independence from the Soviet Union, the Republic of Moldova has had a difficult path in strengthening democratic institutions. The first post-independence free elections were marked by major changes in political structures and the formation of a new political class, often influenced by remnants of the former regime. Over the years, there have been sustained efforts to democratize the electoral system, introduce mechanisms to ensure the transparency of the process and eliminate fraudulent practices.

However, not all attempts at reform have been entirely successful. Moldova has been affected by numerous political and electoral controversies, including allegations of electoral corruption, vote buying, media influence and the use of administrative

¹ [The right to free elections, Yannick Lécuyer, Council of Europe, November 2014](#)

² [Constitution of the Republic of Moldova](#)

resources by political parties. The 2009 elections and the subsequent protests exposed the vulnerabilities of the Moldovan electoral process, drawing the attention of the international community to the need for profound reform.

Adherence to European and international democratic standards has thus become a strategic objective for Moldova.

In Moldova, free and fair elections are a subject of intense debate in both domestic and international contexts. External observers, such as the Organization for Security and Co-operation in Europe (OSCE) or the Council of Europe, have closely monitored the country's elections, highlighting irregularities and improvements needed to align the electoral process with international standards. This Report aims to analyze in detail how the Republic of Moldova respects this right and to highlight both progress and shortcomings.

Although the legal framework is defined, the effective implementation of free elections in Moldova has often been undermined by internal and external factors. Electoral corruption, political pressure, use of administrative resources in campaigning, and external interference, including misinformation and propaganda, are major obstacles. In this regard, the current report examines the role of electoral institutions in the Republic of Moldova, such as the Central Electoral Commission (CEC), as well as the influence of political parties and international actors on the electoral process.

Another important issue in respecting this right is the accessibility of the electoral process for all categories of citizens. For instance, citizens in the diaspora and in the Transnistrian region often face significant difficulties in exercising their right to vote. Moreover, lack of voter education and media influences can distort voters' perceptions, contributing to low turnout and votes based on misinformation or manipulation.

An essential aspect of respecting the right to free elections is the existence of a legal framework clearly regulating the electoral process. The Republic of Moldova has adopted several normative acts that define the procedures for organizing and conducting elections, the basic normative act being the Electoral Code, which sets out the rules and conditions for the organization of parliamentary, presidential and local elections.

In addition to national legislation, the Republic of Moldova is a party to several international instruments guaranteeing the right to free elections, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. However, the application of these rules is not always uniform and the vulnerabilities of the electoral system require special attention to ensure full respect for citizens' rights.

Given the complexity of the electoral process in the Republic of Moldova and the numerous challenges affecting respect for the right to free elections, this Report

provides a detailed and objective analysis of the current situation. It explores both the strengths and weaknesses of the electoral system through an examination of recent cases, international recommendations and government responses.

The final aim is to offer practical recommendations and contribute to the improvement of the electoral process in the Republic of Moldova, with a view to strengthening democracy and respect for citizens' fundamental rights.

1. THE RIGHT TO FREEDOM OF ELECTION IN INTERNATIONAL INSTRUMENTS

The right to free elections is central to democracy and the protection of fundamental human rights. Globally, the international community has recognized the importance of this right and enshrined it in numerous international legal instruments. These instruments set clear standards for the organization of elections so that the electoral process genuinely reflects the citizens' will and is transparent, ensuring free and fair participation of all.

From the adoption of the Universal Declaration of Human Rights in 1948 to regional treaties such as the European Convention on Human Rights and documents issued by the OSCE, the international community has developed a comprehensive set of rules designed to protect the integrity of the electoral process. These rules place particular emphasis on guaranteeing the right of every citizen to vote and stand as a candidate in an environment free from intimidation, fraud, or interference.

Below, we explore some of the most important international instruments governing the right to free and fair elections.

1.1. UNIVERSAL DECLARATION OF HUMAN RIGHTS

The Universal Declaration of Human Rights (UDHR), drafted under the aegis of the United Nations and adopted by the United Nations General Assembly on 10 December 1948, is a document which has been of exceptional significance for the elaboration and development of the concept of human rights at the international level and which enshrines, in its very first paragraph, the idea that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world".³

It establishes a set of fundamental principles concerning the rights and freedoms that every individual deserves, regardless of race, gender, nationality or social status. Art. 21 of this declaration is particularly important because it enshrines the right of every individual to participate in the political life of their country, an essential pillar of democracy and self-determination of peoples.

³ https://ombudsman.md/wp-content/uploads/2018/11/manualul_functionarului_public.pdf

Art. 21 of the UDHR enshrines the right of everyone to take part in the government of their country, directly or through freely elected representatives, and guarantees the right to free and regular elections:

"Art. 21 1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. 2. Everyone has the right of equal access to public service in his country. 3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."

Art. 21 is one of the fundamental pillars of democracy and political rights, through which citizens exercise their sovereign right to elect representatives to govern on their behalf.

Each of the Art.'s three paragraphs addresses key aspects of political participation, guaranteeing not only the right to participate in public life, but also ensuring equal access to public office and free and fair elections. To fully understand the meaning of this Art. requires a deeper look at each of its dimensions and how they contribute to collective and individual well-being in a democratic society.

The first paragraph of Art. 21 states that "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives." This provision recognizes two essential forms of political participation: direct and indirect participation.

Direct participation refers to the active involvement of citizens in political decisions. This type of participation is practiced, for example, in direct democracies, where citizens vote on every major decision, such as referendums or popular legislative initiatives. A good example is Swiss democracy, where citizens have a direct say in many political decisions at local, regional and national levels⁴. This type of participation fosters a sense of involvement and responsibility among citizens, encouraging deeper civic engagement.

Indirect participation, which is characteristic of representative democracies, involves electing representatives to make decisions on behalf of citizens. This is the predominant form of government in most modern democracies. In this system, citizens exercise their political power through voting, periodically electing their leaders who must act in the collective interest. Indirect participation enables the effective management of complex states where political decisions require expertise and a detailed legislative process.

⁴ <https://www.eda.admin.ch/aboutswitzerland/en/home/politik-geschichte/politisches-system/direkte-demokratie.html>

In this context, the right of every individual to elect their representatives and participate in the political process is a guarantee that citizens' interests are taken into account in public policy-making. Without this right, an imbalance is created between the rulers and the ruled, favoring the concentration of power and the emergence of authoritarian regimes.

The second paragraph of Art. 21 states that "everyone has the right of equal access to public service in his country". This principle of equal access is crucial for preventing discrimination and fostering meritocracy in a state's governing structures. It removes barriers that could prevent certain groups or individuals from accessing public office on the basis of discriminatory criteria such as ethnic origin, gender, religion or social class.

In a genuine democracy, public offices should not be privileges reserved for a narrow elite or ruling class. They must be accessible to all citizens on the basis of merit and competence. In this way, the principle of equal access promotes diversity in governing structures and contributes to building a more equitable society in which decisions are made by representatives who genuinely reflect the interests and needs of the whole population.

Equal access to public office also plays an important role in fighting corruption. When positions of power are monopolized by certain groups, there is a tendency for abuse of power and self-interest to the detriment of the public good. On the other hand, when access to public office is open to all, there is a greater chance that decision-making will be transparent and accountable, and that abuses of power will be easier to identify and combat.

The third paragraph of Art. 21 emphasizes that "the will of the people shall be the basis of the authority of government". This is one of the most important principles of democracy and reflects the idea that governments derive their legitimacy from the consent of the governed. In this sense, the organization of free, fair and regular elections becomes a fundamental requirement to ensure that the will of the people is respected.

Elections must be organized in such a way as to ensure a universal, equal and secret ballot, thus protecting the freedom of individuals to express their political opinion without constraint or pressure. Universal suffrage implies that every adult citizen has the right to vote, and equal suffrage means that every vote counts equally, regardless of social status or other characteristics.

Fair elections are essential to avoid electoral fraud, which undermines public confidence in the democratic system.

In addition, the UDHR states that the will of the people must be the basis of government authority. Human rights and democracy are closely linked⁵.

Art. 21 of the UDHR reflects core democratic values and the principle of the sovereignty of the people. It emphasizes the right of every individual to express their opinion and to participate actively in the government of their country, whether through elections or other means of political participation. The right to vote, equal access to public office and the organization of free and fair elections are all essential aspects of a healthy democracy. Art. 21 of the UDHR emphasizes the inextricable link between human rights and democracy. Political rights, such as the right to vote or to stand for public office, are essential to guarantee other fundamental rights and freedoms. Without equal and fair participation in political life, it is difficult for individuals to fully exercise their economic, social and cultural rights.

Furthermore, active political participation is essential to prevent abuses of power and to ensure transparent and accountable governance. Free and fair elections, referred to in the third paragraph of the Art., are mechanisms that allow citizens to express their agreement or disagreement with government policies and to demand changes when necessary. This helps maintain a balance of power and protect the rights and interests of all citizens.

1.2. CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

In Europe, protection of the right to free elections is ensured by the European Convention on Human Rights (ECHR), a legal instrument that sets fundamental standards for the respect of human rights and freedoms.

According to the Preamble to the Convention, fundamental human rights and freedoms are best maintained by "an effective political democracy". Since it enshrines a characteristic principle of democracy, Art. 3 of Protocol No. 1 (P1-3) is accordingly of prime importance in the Convention system⁶.

It is Art. 3 of Protocol No. 1 of the ECHR⁷ which explicitly regulates the right to free elections, stipulating that Council of Europe member states must organize free elections at reasonable intervals, by secret ballot and under conditions that ensure the free expression of the will of the electors.

„The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.”

⁵ [Human Rights Council resolution 19/36, para. 4](#)

⁶ [Mathieu-Mohin and Clerfayt v. Belgium, para. 47](#)

⁷ https://www.echr.coe.int/documents/d/echr/Convention_ENG

Although this Art. does not provide an exhaustive procedural framework, it imposes a set of basic principles that must be respected by each signatory state in order to guarantee fair and democratic electoral processes.

In the ECHR's view, the right to elections is not just a formal right, but one with far-reaching implications for democratic governance, respect for the rule of law and the protection of human dignity.

Art. 3 of Protocol No. 1 to the ECHR does not establish a fixed model for the electoral system, leaving a wide margin of appreciation to States as to how they regulate and implement electoral processes and how elections are organized. For example, an unequal distribution of constituencies in terms of population does not constitute a violation of Art. 3 of Protocol No. 1 as long as it does not affect the accuracy of the reflection of the free will of the people⁸. Likewise, the Court makes it clear at the outset that the choice of electoral system by which the free expression of the opinion of the people in the choice of the legislature is ensured – whether it be based on proportional representation, the “first-past-the-post” system or some other arrangement – is a matter in which the State enjoys a wide margin of appreciation.⁹

However, the European Court of Human Rights (ECtHR) has played an active role in defining and enforcing the minimum standards that Member States must respect in the field of elections.

As regards the actual characteristics of the elections, the text of Art. 3 of Protocol No. 1 provides only that they must be free and secret ballot, which the European Commission and subsequently the ECtHR have consistently reiterated (*X. v. United Kingdom*). It also states that elections must be held at reasonable intervals. However, case law has indicated certain guidelines:

"The Commission finds that the question whether elections are held at reasonable intervals must be determined by reference to the purpose of parliamentary elections. That purpose is to ensure that fundamental changes in prevailing public opinion are reflected in the opinions of the representatives of the people. Parliament must in principle, be in a position to develop and execute its legislative intentions - including longer-term legislative plans. Too short an interval between elections may impede political planning for implementing the will of the electorate; too long an interval can lead to the petrification of political groupings in Parliament which may no longer bear any resemblance to the prevailing will of the electorate."¹⁰

Essentially, the right to free elections has three main components:

⁸ [Bompard v. France](#)

⁹ [Matthews v. United Kingdom](#)

¹⁰ [Timke v. Germany](#)

Periodicity of elections - The state must hold elections at regular intervals to ensure that the will of the people is consistently reflected in the composition of government. This element of periodicity is essential for the proper functioning of democracy, as it prevents stagnation of power and allows for constant updating of political representation. Elections must be organized in accordance with clear legislation defining the intervals at which they take place, to avoid arbitrary choices or excessive postponement.

Secret ballots - Elections must be organized in such a way as to protect the secrecy of the vote, preventing voter intimidation and to ensure the free expression of the will of the voters. This principle is crucial to protect the autonomy and integrity of every citizen in expressing their political preferences. Voting by secret ballot ensures that voters cannot be subject to pressure or intimidation and that elections truly reflect the free will of citizens.

Guaranteeing a secret ballot safeguards each person's political independence, ensuring that no one is compelled to disclose their voting preferences. In this context, states must guarantee the physical and logistical conditions to prevent any form of surveillance or control over the votes cast by citizens.

Free expression of the will of the people - Elections must be free, fair and open to all citizens who have the right to vote. The state must guarantee fair access for all political parties and candidates to the electoral process and prevent any form of manipulation or fraud. Freedom of expression of the people's opinion is not limited to the act of voting, but also includes the right to information, participation in political debates and to criticize the government. A free electoral process therefore also implies the protection of citizens' freedom of expression and association. The state must guarantee equal access to the media and ensure that all political parties and candidates have equal opportunities to present their election programs.

Although it does not spell out procedural specifics, such as the type of electoral system (proportional, majoritarian or mixed), the ECtHR has established in its case law that this right must be effective and not merely a formality.

Art. 3 of Protocol No. 1 differs from the other substantive rules of the ECHR and the Protocols thereto in that it expresses an obligation for the High Contracting Parties to organize elections under conditions which ensure the free expression of the people's opinion, not a particular right or freedom.

However, having regard to the preparatory work in respect of Art. 3 of Protocol No. 1 and the interpretation of the provision in the context of the Convention as a whole, the Court has established that this provision also implies individual rights, comprising the right to vote (the “active” aspect) and to stand for election (the

“passive” aspect) (Mathieu-Mohin and Clerfayt v. Belgium, 1987, §§ 48-51; Ždanoka v. Latvia [GC], 2006, § 102)¹¹.

Stricter requirements may be imposed on eligibility to stand for election to Parliament (the “passive” aspect) than is the case for eligibility to vote (the “active” aspect). In fact, while the test relating to the “active” aspect of Art. 3 of Protocol No. 1 has usually included a wider assessment of the proportionality of the statutory provisions disqualifying a person or a group of persons from the right to vote, the Court’s test in relation to the “passive” aspect has been limited largely to verification of the absence of arbitrariness in the domestic procedures leading to disqualification of an individual from standing as a candidate (Ždanoka v. Latvia [GC], 2006, § 115; Melnychenko v. Ukraine, 2004, § 57)¹².

As to the question of who is entitled to rely on an alleged violation of the “passive” aspect of the right, the Court has admitted that, where electoral law or national authorities restrict the right of candidates individually to stand for election on a party’s list, the party concerned may, in that capacity, claim to be a victim of such a violation independently of its candidates (Georgian Labour Party v. Georgia, 2008, §§ 72-74; Riza and Others v. Bulgaria, 2015, § 142)¹³.

The “active” aspect may be subject to limitations. Here, as in any other area covered by Art. 3 of Protocol No 1, Member States have a certain margin of discretion which varies according to the context. For example, the imposition of a minimum age may be envisaged with a view to ensuring the maturity of those participating in the electoral process¹⁴.

The ECtHR has often been called upon to consider cases concerning the right to free elections, providing a dynamic and evolving interpretation of Art. 3 of Protocol No. 1. In various judgments, the ECtHR has emphasized that this right entails a number of safeguards necessary to ensure the democratic character of elections.

A case in point is Mathieu-Mohin and Clerfayt v. Belgium, where the ECtHR emphasized that the right to elections is not absolute, but limitations imposed by States must be reasonable and must not affect the very essence of the right. Any restriction must be proportionate and justified in a democratic society.

In Hirst v. United Kingdom (No. 2), the ECtHR addressed the exclusion of certain categories of persons from voting, in this case prisoners. The ECtHR ruled that the blanket exclusion of prisoners from the electoral process violated the ECHR as disproportionate and unjustified. This case has opened an important debate about the limits of the right to vote and how the state can justify restricting this right.

¹¹ https://ks.echr.coe.int/documents/d/echr-ks/guide_art_3_protocol_1_eng, para. 11

¹² Ibid. para. 14

¹³ Ibid. para. 15

¹⁴ [Hirst v. United Kingdom, para. 62](#)

Another important case is *Tanase v. Moldova*, in which the ECtHR considered limitations on dual nationals' ability to stand for election. The ECHR ruled that such a prohibition is unjustified and that imposing of restrictive requirements on candidates contravenes the right to free elections.

Although the right to free elections is fundamental to the functioning of a democratic system, it is not absolute. States have a wide margin of discretion in imposing restrictions on this right, such as excluding certain categories of citizens from the electoral process (e.g. minors, persons under judicial prohibition or citizens convicted of certain crimes). However, the ECtHR has imposed a number of strict criteria for such limitations to be considered in conformity with the ECHR.

One of the major challenges in implementing the right to free elections is striking a balance between electoral security and accessibility of the electoral process. On the one hand, states are obliged to prevent and sanction electoral fraud and other forms of election manipulation. On the other hand, they must guarantee free access to the electoral process for all citizens, including minorities or disadvantaged groups.

Recent concerns about digital security and the risks involved in the use of modern technologies in the organization of elections (such as e-voting) have generated intense debate about the need to protect the integrity of the electoral process without compromising citizens' access to the ballot.

1.3. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

The International Covenant on Civil and Political Rights (ICCPR) is one of the most important international legal instruments, setting out the fundamental rights and freedoms that signatory states undertake to respect and protect. Adopted in 1966 and entered into force in 1976, the Covenant has played a crucial role in strengthening the protection of human rights globally, including essential rights such as the right to free elections. The Republic of Moldova has been a party to the Covenant since 1998¹⁵ and is thus obliged to implement its principles in its domestic legislation and to ensure respect for the civil and political rights of its citizens.

Art. 25 of the ICCPR is a central pillar of the protection of political rights, guaranteeing every citizen the right to participate actively in the political life of their state.

„Art. 25 Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Art. 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot,

¹⁵ https://www.legis.md/cautare/getResults?doc_id=115567&lang=ro

guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country.”

Art. 25 has three essential elements:

1. The right to participate in the government of the country - either directly or through elected representatives;
2. The right to vote and to stand as a candidate in regular, free and fair elections;
3. The right to equal access to public office.

The United Nations Human Rights Committee has defined the right to participate in government as "a broad concept that refers to the exercise of political power, in particular the exercise of legislative, executive and administrative power. It covers all aspects of public administration as well as the formulation and implementation of policies at international, national, regional and local levels"¹⁶.

Respect for human rights is also essential if the will of the people is to be respected in electoral processes. As the Human Rights Committee has stated, "Art. 25 underpins democratic governance based on the consent of the people"¹⁷. More specifically, "elections lie at the heart of democracy and remain the principal means by which individuals exercise their right to participate in public affairs"¹⁸.

Participation rights can only be subject to limitations that are established by law, are non-discriminatory and are based on objective and reasonable criteria¹⁹. The Human Rights Committee clarified these criteria in its General Comment No. 25 (1996). The right to vote may be subject only to reasonable restrictions, such as a minimum age limit²⁰. On the other hand, certain limitations on the right to vote constitute discrimination. The right to participate must not be unduly restricted on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status.

States must take effective measures to ensure that all persons with the right to vote can exercise that right. Where voter registration is necessary, it should be facilitated and no obstacles should be imposed to registration. Where residence requirements for registration apply, they should be reasonable and should not be imposed in such a way as to exclude homeless people from the right to vote. Any undue interference with registration or voting, intimidation or coercion of voters should be prohibited by criminal laws and these laws should be strictly enforced. Voter education and voter

¹⁶ [Human Rights and Elections, A Handbook of International Human Rights Standards on Elections, United Nations publication, issued by the Office of the United Nations High Commissioner for Human Rights, para. 17](#)

¹⁷ [Human Rights Committee, general comment No. 25 \(1996\), para. 1.](#)

¹⁸ [Guidelines for States on the effective implementation of the right to participate in public affairs \(A/HRC/39/28\), para. 25](#)

¹⁹ [Human Rights Committee, general comment No. 25 \(1996\), paras. 3–4](#)

²⁰ *Ibid.*, para. 10

registration campaigns are necessary to ensure the effective exercise of Art. 25 rights by an informed community²¹.

Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected. Positive measures should be taken to overcome specific difficulties, such as illiteracy, language barriers, poverty or obstacles to free movement, which prevent persons entitled to vote from effectively exercising their rights. Voting information and materials should be available in minority languages. Specific methods such as photographs and symbols should be adopted to ensure that illiterate voters have adequate information on which to base their choice²².

Like the right to vote and the right to be elected, the right of equal access to public service²³ is expressly subject to the prohibition of discrimination under Art. 2 of the ICCPR. The Covenant permits certain requirements for access to public service, but the criteria and processes for appointment, promotion, suspension and dismissal must be transparent, objective and reasonable²⁴.

In order to ensure the full exercise of the rights protected by Art. 25, the free communication of information and ideas on public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media capable of commenting on public issues without censorship or constraint and of informing public opinion. It requires the full exercise of and respect for the rights guaranteed in Art.s 19, 21 and 22 of the ICCPR, including the freedom to engage in political activity individually or through political parties and other organizations, the freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political materials, to campaign and to publicize political ideas.

The right to freedom of association, including the right to form and join organizations and associations dealing with political and public affairs, is an essential adjunct to the rights protected by Art. 25. Political parties and party membership play a significant role in the conduct of public affairs and the electoral process. States should ensure that, in their internal management, political parties comply with the applicable provisions of Art. 25 in order to enable citizens to exercise their rights under that Art.

²¹ Ibid., para. 11

²² Ibid., para. 12

²³ [International Covenant on Civil and Political Rights, art. 25 \(c\)](#)

²⁴ [Human Rights Committee, general comment No. 25 \(1996\), para. 23](#)

2. PRINCIPLES OF FREE ELECTIONS

Free elections are those elections where candidates can compete without any obstacles erected by the authorities, where the electorate has genuine substantive options and a free access to information concerning those options. It is not the multiplicity of candidates, but the diversity of programmes that differ on substance that matters. After all, an election is all about political platforms, not only competing personalities, whose different programme positions are not known, not understood or not openly discussed²⁵.

The principles underpinning the organization of free elections are essential to guarantee the integrity and transparency of the electoral process, giving citizens confidence in the election results and in the democratic system. In what follows, we will examine the most important principles of free elections.

2.1. UNIVERSALITY OF THE RIGHT TO VOTE

The universality of the right to vote is one of the most important fundamental values and principles governing contemporary democracies. This principle guarantees that all citizens of a state have the right to participate in the electoral process without unjustified restrictions and without discrimination on the basis of race, gender, religion, ethnicity, political opinion, social condition or other aspects that could limit access to this fundamental right. The universality of the right to vote is essential to ensure a genuine democratic process in which every citizen has the opportunity to influence the way in which the state is run and to contribute to the formation and legitimization of government.

This principle is enshrined in numerous international documents, including the UDHR (Art. 21), which states that everyone has the right to take part in the government of his country, directly or through freely chosen representatives. Likewise, the ICCPR (Art. 25) states that all citizens shall have the right and the opportunity, without any discrimination and without unreasonable restrictions, to vote and to be elected.

In the Republic of Moldova, the universality of the right to vote is regulated by the Constitution and electoral legislation, constituting a central element in the organization and conduct of electoral processes. Art. 38 of the Constitution of the Republic of Moldova stipulates that "citizens of the Republic of Moldova have the right to elect and to be elected". This Art. is the legal basis that ensures that every citizen who has reached the age of 18 has the right to participate in the electoral process, regardless of his or her personal characteristics, except in cases expressly established by law. This means that no one can be excluded from voting on the basis of arbitrary criteria such as gender, race, ethnicity, religion, political opinion or social

²⁵ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2010\)037-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2010)037-e)

status. In a genuine democracy, voting must be a right enjoyed by all citizens equally, without discrimination or unjustified restrictions.

The universality of the vote is the essence of two of the principles of genuine democracy: the universality of rights and equality in rights, including equality before the law.

The universality of the right to vote has not always been guaranteed equally for all citizens, and the development of this right has been marked by multiple social and political struggles to extend and consolidate it.

Universal suffrage has evolved systematically in three stages:

- a) universal male suffrage;
- b) women's access to the vote;
- c) lower minimum voting age²⁶.

In the Republic of Moldova, the development of the right to vote is directly linked to the transition from a totalitarian regime to a democratic system, starting with the proclamation of independence in 1991²⁷. In the early 1990s, democratic reforms paved the way for broad participation of citizens in political life, and the extension of the right to vote was essential to the democratization process of the country. The 1994 Constitution (art. 38) established a legal framework that recognizes the universal right to vote for all citizens over the age of 18 without discrimination²⁸.

Another relevant aspect of the universality of the right to vote in the Republic of Moldova is the access of ethnic and linguistic minorities to vote. The Republic of Moldova is a country with a diverse population, made up of Moldovans, Ukrainians, Russians, Gagauz and other ethnic groups. Moldovan legislation, in line with human rights principles, ensures that every citizen has the right to participate in elections, regardless of ethnicity or language. In this regard, the electoral legislation provides for measures to facilitate minorities' access to electoral information and voting processes, including the availability of election materials in several languages and ensuring fair representation in electoral commissions.

An important aspect of the Electoral Code is that Moldovan citizens who are temporarily outside the country can also exercise their right to vote. Since a significant number of Moldovans live or work abroad, the legislation provides for the organization of polling stations in the diaspora, thus allowing citizens to participate in national elections regardless of where they are at the time. In this respect, the CEC has the responsibility under the Electoral Code to organize these polling stations and to ensure that voting procedures are properly observed. In the recent elections,

²⁶ https://www.undp.org/sites/g/files/zskgke326/files/2023-12/cultura_electoral_a_universitar_tipar.pdf

²⁷ https://www.legis.md/cautare/getResults?doc_id=64806&lang=ro

²⁸ https://www.legis.md/cautare/getResults?doc_id=142462&lang=ro#

diaspora participation played a significant role in the election results, demonstrating the importance of this segment of the electorate in the political life of the Republic of Moldova.

Another important element to ensure the universality of the right to vote is the access of persons with disabilities to the electoral process. Thus, all voters, including persons with disabilities, should have effective and easy access to polling stations or other voting procedures²⁹.

According to Law no. 60/2012 on the social inclusion of persons with disabilities³⁰, the State ensures to persons with disabilities:

- a) political rights and the opportunity to enjoy them on equal terms with others;
- b) the right and opportunity to choose and to be elected;
- c) the right to adequate, accessible and easy to understand and use voting procedures and materials (implementation of alternative voting modalities);
- d) the right to express their choice by secret ballot in elections and referendums without intimidation
- e) the right to effectively hold elected office and to perform any public function at the executive or legislative level, facilitating the use of new and assistive technologies, where appropriate;
- f) the right to freely express their will as electors and, to this end, where appropriate and upon request, allow their vote to be assisted by a person of their choice
- g) the right to freely form opinions on political parties and electoral candidates, including by organizing electoral debates and radio and television broadcasts in mimetic-gestic language, by printing election materials using the writing systems used by visually impaired persons, by using other information tools accessible to persons with disabilities.

Although the legislation of the Republic of Moldova enshrines the universal right to vote, the effective implementation of this right requires constant practical and administrative measures to ensure that all citizens can vote without obstacles. An example of a challenge is the massive migration of our citizens, which has led to an increase in the number of citizens abroad at election time. Although the legislation allows for diaspora voting, organizing polling stations and ensuring access to them is a significant logistical challenge. Recent elections have seen long queues and difficulties for many diaspora citizens attempting to vote, highlighting the need for

²⁹ <https://www.osce.org/files/f/documents/5/e/68439.pdf>

³⁰ https://www.legis.md/cautare/getResults?doc_id=139006&lang=ro#

reforms to facilitate the remote voting process, including the introduction of postal voting³¹.

Another challenge related to the universality of the right to vote is insufficient voter education among certain segments of the population, particularly in rural areas and among young people. The low turnout of these groups in elections points to an urgent need to raise awareness of the importance of voting and encourage more active involvement in the democratic process. To this end, the CEC, together with non-governmental organizations, is conducting civic and voter education campaigns aimed at informing citizens about their rights and how they can participate in elections³². These campaigns are essential for strengthening a healthy political culture and ensuring a high level of voter participation.

The universality of the right to vote is an essential pillar of democracy and the rule of law, as it is the foundation on which political participation and the legitimacy of government are based.

Voting reforms in the diaspora, accessibility for people with disabilities and the promotion of voter education are just some of the steps needed to strengthen the universality of the right to vote in the Republic of Moldova. Only by fully respecting this right and by implementing effective measures to facilitate the participation of all citizens in political life can a representative and functional democracy be ensured, in which every citizen has an equal voice and an active role in shaping the country's future.

The European Commission for Democracy through Law (Venice Commission), OSCE Office for Democratic Institutions and Human Rights in joint opinion *Amicus Curie* on the ineligibility of persons affiliated to political parties declared unconstitutional approved by the Council for Democratic Elections at its 79th meeting (Venice, 14 .12. 2023) and adopted by the Venice Commission at its 137th Plenary Session (Venice, Dec. 15-16, 2023) ruled³³ that the law establishing the prohibition in presidential, parliamentary and local elections, for a period of 5 years, of members of the party's executive body, and persons holding elective office from the party violates the right to be elected as guaranteed, inter alia, by Art. 3 of Protocol No. 1 to the ECHR and Art. 25 of the ICCPR. The limitation affects a large group of persons, making them responsible for the illegal activities of the party to which they belong, thus depriving them of individualization and thus of due process guarantees. This contravenes the principle of proportionality and may lead to arbitrariness.

The Venice Commission and the ODIHR recommended the Moldovan authorities if they intend to prevent certain members of parties declared unconstitutional from

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<https://www.parlament.md/ProcesulLegislativ/Proiectedeactenormative/tabid/61/LegislativId/6889/language/ro-RO/Default.aspx>

³² <https://www.voteaza.md/>

³³ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2023\)049-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2023)049-e)

holding certain elective positions to introduce appropriate criteria and effective individual assessments, which would limit the application of restrictions on the right to be elected only to members of the party's executive body whose activities have jeopardized the Constitution and the integrity of the democratic state and through their actions and expressions have actively pursued the (illegal) aims of the unconstitutional parties, including providing these persons in the evaluation process with all procedural guarantees, including a sufficiently reasoned decision and the possibility to challenge the limitation of rights, providing the possibility to seek judicial review of the decision on the limitation of the right to stand as a candidate in elections.

Free elections are defined not only by the freedom to vote but by a legal and administrative framework that guarantees equal participation of all citizens. Elections must also authentically reflect the will of the people and be organized in a way that ensures equal conditions for all participants, be they citizens, political parties, or independent candidates. Every citizen must be able to participate freely, without undue constraints or limitations, and have the confidence that his or her vote will be treated equally and fairly. A major challenge for the Republic of Moldova is the voting of voters from the left bank of the Nistru River. To date, no viable solution has been identified to guarantee the citizens of the Republic of Moldova, residents of the left bank of the Nistru River, the universal right to vote. It is an issue with several question marks, which are addressed before an election, circulated in the press shortly after the election, and "put on the shelf" until the next election

2.2. EQUALITY OF THE VOTE

Voting equality is one of the fundamental pillars of democracy, which guarantees that every citizen has an equal influence on the outcome of the electoral process. This principle establishes that every vote counts equally and that all citizens, irrespective of their social, economic, ethnic, religious or political status, have the right to participate in the electoral process on equal terms. Equality of the right to vote is essential to ensure a fair, equitable and representative electoral system, as without this principle, democracy becomes inefficient and can be distorted by the interests of privileged groups.

Voting equality is often expressed as "one person, one vote". When drawing electoral boundaries, efforts should be made to ensure that the votes of individuals, groups, or geographical areas are weighted equally³⁴.

In modern democracies, equality of voting rights is not simply about the opportunity to vote, but implies that each vote carries equal weight in determining the electoral outcome. This principle contributes to the balance and legitimacy of the political process because it ensures that all citizens' voices are taken into account equally and that elections fairly and accurately reflect the will of the majority. In the absence of this principle, some citizens' votes could be worth more than others, undermining

³⁴ <https://www.ohchr.org/sites/default/files/2022-02/Human-Rights-and-Elections.pdf>

the integrity of the electoral process and reducing the credibility of the electoral process.

The equality of the right to vote is enshrined in international documents such as the ODIHR, the ICCPR and national legislation. In the Republic of Moldova, this principle is guaranteed by the Constitution and detailed in the Electoral Code, which ensures that all citizens have the right to one equal vote and that this vote contributes proportionally to the final result of the elections.

The purpose of elections in a democracy is to give citizens the opportunity to elect their representatives freely and fairly. This process must be one in which every vote has equal value. Voting equality eliminates any arbitrary differentiation between citizens and prevents discrimination.

Without an equal vote, elections would no longer reflect the will of the people, but would be distorted by the interests of influential groups, and election results would no longer truly represent the people's choices. For example, if one group of citizens has greater influence than another, this would lead to inequalities in the distribution of political power. In a true democracy, every vote should carry equal weight and every citizen should have the chance to express their opinion equally and freely.

Equality of the vote also applies not only to the individual but also to the distribution of political representation. This means that the electoral system must be structured in such a way as not to favor one group over another and to ensure that election results are proportionate to the votes cast by citizens. This principle is particularly essential in countries with a diverse political landscape, such as the Republic of Moldova, where there are numerous political parties and social groups with different interests.

The equality of the right to vote is clearly protected and regulated by the Constitution of the Republic of Moldova, which guarantees that the citizens of the Republic of Moldova have the right to elect and to be elected, without discrimination on the basis of race, nationality, ethnicity, language, religion, sex, political opinion, property or social origin. Art. 38 of the Constitution enshrines the principle of equality and stipulates that the right to vote must be exercised freely and without constraint. This Art. provides the legal basis for ensuring that every citizen has the right to vote and that their vote has the same value as that of other citizens.

Furthermore, the Electoral Code of the Republic of Moldova details the ways in which the equality of the right to vote is ensured. It establishes that each citizen who has the right to vote has only one vote and each vote cast has the same value. The equality of the vote is guaranteed through the implementation of an electoral system that ensures that every citizen has a fair chance to influence the outcome of the elections.

At the same time, in the Electoral Code we also find some exceptions to equality. For example, Art. 113, para. (1) provides for differential treatment based on gender in the registration of independent candidates for parliamentary elections: "In order to be registered by the CEC, an independent candidate shall submit subscription lists containing the signatures of at least 2,000 and at most 2,500 supporters with the right to vote. By way of derogation from this provision, a female candidate shall submit the signatures of at least 1,000 and not more than 2,500 supporters entitled to vote." On this subject, the Constitutional Court has stated in its Decision No. 101/2021³⁵ that the preferential treatment of women established by the contested provision (Art. 86(2) of the Code in force at the time) constitutes an affirmative action aimed at including women in political life and at achieving a balance of representation by gender in Parliament.

According to Law No. 5/2006 on ensuring equal opportunities between women and men³⁶, positive measures are not considered discriminatory (Art. 5 para. (6)), i.e. temporary special measures taken until full equality between women and men is ensured and which are intended to prevent or compensate for disadvantages related to gender with a view to ensuring full equality between women and men in practice (Art. 2), are not considered discriminatory.

Also, promoting gender equality in the electoral process is another important objective to ensure equal voting rights. It is encouraging that in recent times more women have held important positions in the State (Speaker of Parliament, President of the Country, Prime Minister, Minister, Bashkan, State Secretaries, etc.) In this context, various legislative measures have been adopted, such as gender quotas for candidates in elections, aimed at ensuring a more equitable representation of women in politics. The Law on Ensuring Equal Opportunities for Women and Men is one of the pieces of legislation promoting gender equality and obliges political parties to include a certain percentage of women on their candidate lists.

The Electoral Code also includes measures to prevent the manipulation of results by practices such as changing constituency boundaries or favoring some regions or social groups over others.

An important aspect of equal voting rights in the Republic of Moldova is the delimitation of electoral constituencies. They must be fairly distributed to ensure that each constituency represents a roughly equal number of citizens so that there are no significant discrepancies in the weight of the vote between different regions. The CEC has the responsibility to monitor and adjust these constituencies, if necessary, to ensure that they fairly reflect the distribution of the population. These measures are essential to prevent the practice known as gerrymandering, whereby constituency boundaries are manipulated in favor of a particular political party or group.

³⁵ https://www.legis.md/cautare/getResults?doc_id=126969&lang=ro, § 26

³⁶ https://www.legis.md/cautare/getResults?doc_id=144448&lang=ro

Equality of voting rights is not just a theoretical principle, but has very important practical implications for the organization and conduct of the electoral process. First, it ensures that every vote cast at the ballot box contributes equally to determining the outcome of the election. This means that there cannot be a different weighting of votes according to region, political affiliation or other factors that could influence the final result. In the Republic of Moldova, elections are organized in such a way that each vote carries equal weight, thus reflecting the will of the people in a proportional way.

Second, equality of the right to vote requires that all political parties and candidates have equal access to the resources needed to run election campaigns. In this respect, the Election Code provides for strict rules on campaign financing and regulates the way in which the media cover electoral activities. Thus, all parties and candidates must have equal opportunities to present their electoral messages and platforms to citizens, preventing one party from being favored over another. There are also regulations that require the media to provide equal and impartial airtime for all candidates, thus ensuring that the electorate is fairly and objectively informed.

Another important aspect related to the equal application of the right to vote is the access of diaspora citizens to the electoral process. A significant number of Moldovan citizens live or work abroad, and their participation in the elections is crucial for the fair representation of all Moldovan citizens. In this regard, the Moldovan authorities have taken steps to organize polling stations outside the country so that citizens in the diaspora can vote on an equal footing with those living in the country. However, in some cases, there were logistical challenges, such as an insufficient number of polling stations abroad or difficulties in organizing the voting process, or a lack of sufficient ballot papers, which called into question the application of equal voting for all citizens.

In addition, voting equality must also include people with disabilities and other vulnerable groups. To ensure that these people have equal access to the ballot box, polling stations in the Republic of Moldova are obliged to be physically accessible, providing facilities such as ramps and mobile ballot boxes for those who cannot move around. The law also allows people with disabilities to be assisted to vote, to ensure that they can express their electoral will without constraint. These measures are essential to ensure that all citizens, regardless of their physical or social conditions, can participate in the electoral process on equal terms.

Despite continued efforts to ensure equal voting rights in the Republic of Moldova, there are still significant challenges that need to be addressed in order to ensure full implementation of this principle. Among the main obstacles is the equitable distribution of polling stations, particularly for Moldovan citizens in the diaspora, who have consistently reported difficulties in accessing polling stations abroad, long waiting times on polling day as well as the accessibility of polling stations for people with disabilities.

Although the Republic of Moldova ratified the UN Convention on the Rights of Persons with Disabilities in 2010³⁷ and committed itself to ensure that the rights of persons with disabilities are respected, promoted and protected, according to data published by the CEC in 2024, only 8.22% (161 polling stations) of the 1858 polling stations are accessible to persons with disabilities, 35.24% (690) - partially accessible, and 56.54% (1007) - inaccessible³⁸.

Another aspect that requires attention is the fair representation of different ethnic and social groups in elections. The Republic of Moldova is a multi-ethnic state, with citizens belonging to various linguistic and cultural communities. In order to ensure that all these groups are properly represented, it is important that electoral processes reflect this diversity and that election campaigns are accessible in multiple languages so that every citizen can understand and participate in an informed manner in the electoral process.

Another challenge in ensuring equal voting rights is the unequal access to electoral resources and the media, which can disproportionately influence election results. In a democratic environment, all candidates and political parties must have equal opportunities to promote their electoral messages and reach the electorate.

Under these conditions, smaller parties and independent candidates find it difficult to publicize their electoral programs and to compete on an equal footing with large, well-funded and media-supported parties, not to mention the support for the government candidate. This affects the equality of the right to vote, as citizens do not have access to a diversity of opinions and information and are only exposed to certain electoral messages.

Only through the full application of the principle of equal voting rights can the legitimacy of elections and citizens' trust in Moldovan democracy be ensured. In essence, equal voting rights guarantee that every citizen of the Republic of Moldova has an equal influence on the political decisions that determine the direction of the country. Every vote counts equally and elections reflect the will of each social category, each ethnic group, each region and each citizen in proportion. It is only when the equality of the vote is respected that the electoral process can be said to fulfill its ultimate purpose: to genuinely represent the will of the people.

However, to achieve this goal, a multi-stakeholder collaboration is needed: government, electoral authorities, political parties, civil society and citizens. Each of these actors has an important role to play in ensuring a fair and equitable electoral environment in which all citizens have equal access to the ballot box and every vote cast contributes directly to the final outcome of the election.

³⁷ https://www.legis.md/cautare/getResults?doc_id=117839&lang=ro

³⁸ <https://api.md/ro/ce-i-de-facut-pentru-a-valorifica-dreptul-electoral-al-persoanelor-cu-nevoi-speciale/>

Ensuring the equal right to vote in any modern democracy is a complex process, involving not only clear legal regulations, but also practical, administrative and logistical measures to enable every citizen to vote on equal terms.

Without full respect for this principle, there is a risk that democracy will be undermined and that elections will not fairly reflect the will of the people. This is a major concern in the Republic of Moldova, given that electoral processes have frequently been accompanied by allegations of political manipulation, fraud and exclusion of electoral contestants, social groups from equal participation in the electoral process.

2.3. FREEDOM OF EXPRESSION AND INFORMATION

Freedom of expression and freedom of information are two of the most essential principles underpinning a functioning democracy. In the context of the electoral process, this principle plays a crucial role in ensuring that citizens can participate actively and consciously in the political life of the country, freely expressing their views and having access to full, fair and transparent information about political parties, candidates and their election platforms. Without freedom of expression and equal access to information, elections cannot be considered free and fair, as citizens would not have the necessary means to make well-informed decisions and to actively participate in the political debate.

In the Republic of Moldova, freedom of expression and information is protected both by national legislation and by international instruments to which the country is party. The Constitution of the Republic of Moldova, in Art. 32, enshrines the right of every citizen to express his or her opinion and have access to information without censorship. This right is essential in the electoral context, as it allows voters to be informed about candidates, electoral programs and major issues of national interest.

However, the practical application of this principle often faces challenges, such as the concentration of the media in the hands of a small number of actors, political influence over the media, misinformation and lack of equal access to media resources for all candidates and political parties.

Freedom of expression and freedom of information is an essential principle for a fair and transparent electoral process and contributes directly to ensuring free and fair elections. This principle enables citizens to participate actively and consciously in the democratic process, to express their opinion without constraint and to have access to a wide range of information necessary to make informed decisions at the ballot box. In the absence of freedom of expression and information, democracy becomes vulnerable to manipulation and undue influence and elections lose their legitimacy.

Free elections cannot take place without the active and informed participation of citizens. Freedom of expression ensures that every citizen has the right to express his or her political opinion, and freedom of information guarantees access to accurate

and complete information about candidates, electoral programs and issues of public interest. This enables citizens to critically evaluate all options before exercising their right to vote.

Without access to a variety of sources of information and real opportunities to express their views, citizens risk being isolated from the decision-making processes that affect their lives. Democratic elections require a free exchange of ideas and open public debate in which different points of view are presented and analyzed. In this respect, freedom of expression and information serves as the basis for creating a public space for debate, where citizens can form well-informed opinions and exercise their right to vote responsibly.

In the Republic of Moldova, access to diverse and unbiased information is essential for citizens to fully understand the implications of their vote and to participate actively in political life. Election campaigns should not be limited to mere promises, but should include a broad and balanced debate between candidates and parties, so that the electorate is adequately informed on all relevant issues.

Another fundamental aspect of freedom of expression and information is media pluralism, i.e. the existence of a diversity of media outlets reflecting a wide range of political views and perspectives. In a functioning democracy, the media play a crucial role in the electoral process, ensuring the transparency of the process and providing citizens with the information they need to make informed choices.

Media pluralism is important not only to provide citizens with access to diverse information, but also to prevent the monopolization of information by one political group or actor. If sources of information are concentrated in the hands of a small number of individuals or interest groups, there is a risk that information will be manipulated, distorted or not reflect all points of view. This can have a negative effect on the electoral process, as voters may be deprived of essential information or exposed to political propaganda that favors only certain parties or candidates.

In the Republic of Moldova, there are concerns about the concentration of the media in the hands of influential economic or political actors who may favor certain parties or candidates, and the "silencing" of some media outlets that criticize the "package (six by a Decision of the Council for the Promotion of Investment Projects of National Importance, Minutes No. 2 of the meeting of 27 December 2023)"³⁹ has sparked much criticism and raised questions about "democracy in the Republic of Moldova".

On December 16, 2022, the CSE decided to suspend the broadcasting licenses of six TV stations during the state of emergency "for lack of accurate reporting of national

³⁹ https://gov.md/sites/default/files/document/attachments/consiliul_174_2021_-_proces-verbal_nr._2_din_27.12.2023.pdf

events and the war in Ukraine"⁴⁰. These are: First in Moldova, RTR-Moldova, Accent TV, NTV Moldova, TV6 and Orhei TV. Subsequently, by CSE Provision No. 91/2023⁴¹ the list was extended with 6 more TV audiovisual media services (ORIZONT TV, ITV, PrimeTV, Publika TV, Canal 2, Canal 3). The authorities claim that they are affiliated to Ilan Shor, even though he does not officially control them. The CSE justified its decision by stating "the need to protect the national information space and prevent the risk of disinformation [...], based on the list of natural and legal persons subject to international sanctions [...], as well as the multiple findings in the monitoring reports of the Audiovisual Council on violations of the Audiovisual Media Services Code of the Republic of Moldova". The CSE's decision was taken by derogation from Art. 84 para. (10) of the Code of Audiovisual Media Services, which stipulates that the suspension of the broadcasting license is applied only after other sanctions have been applied and the violations have been repeated, and from Chapter XXII³ of the Code of Civil Procedure, which stipulates that the suspension of licenses is made by the court⁴².

In the Republic of Moldova, concentration of media ownership is a constant challenge that can limit equal access to information and affect the fairness of elections. During election campaigns, disproportionate access to the media by large parties or candidates backed by influential business groups can create an unfair advantage, reducing the chances of smaller parties or independent candidates to promote their messages effectively.

Freedom of information is essential to prevent electoral manipulation and to ensure a transparent and credible electoral process. Citizens must have access to accurate and objective information about all candidates, election programs and all events taking place in the run-up to elections. Transparency is a critical factor in building citizens' trust in elections, and accurate information is one of the main ways in which this trust can be maintained.

Without reliable sources of information, citizens are vulnerable to misinformation and political manipulation. In many cases, misinformation, fabricated news and disinformation campaigns can distort voters' perceptions and unduly influence election results. At the same time, this has long-term negative effects as it undermines citizens' trust in the fairness of the electoral process and the credibility of democratic institutions.

Freedom of expression is vital for creating a space for public debate, where citizens and political parties can freely express their ideas and discuss the major issues facing society. This exchange of ideas is essential for a healthy and participatory electoral

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https://gov.md/sites/default/files/document/attachments/54.disp_a_cse_nr.54_modif_d_55.57.61.90.91.pdf

⁴¹ https://gov.md/sites/default/files/document/attachments/dispozitia_cse_nr.91_30.10.2023_1.pdf

⁴² <https://promolex.md/23075-declaratie-privind-suspendarea-dreptului-de-emisie-a-sase-posturi-de-televiziune/?print=print&lang=ro>

process. Open political debates allow voters to hear different opinions, understand the alternatives and critically evaluate candidates' proposals.

For example, in the Republic of Moldova, the organization of televised electoral debates is an essential tool to facilitate an open political debate. These debates allow candidates to interact directly, defend their electoral programs and answer questions from citizens and journalists. At the same time, they give voters the opportunity to directly compare political offers and make informed decisions based on a genuine dialogue between candidates.

However, as Moldova is a young democracy, in the absence of legal rules that would clearly and unequivocally regulate the organization of public political debates, there is a risk that certain parties or candidates may be excluded, suspended, or marginalized from these discussions. Even a three-day suspension from televised public debates can result in the defeat of the electoral candidate concerned. In the Republic of Moldova, one of the challenges related to political debates is to ensure a balanced presence of all candidates and parties so that voters can get a sense of the electoral program of the contestants and make informed decisions.

Freedom of expression and information is closely linked to the active involvement of civil society in the electoral process. Non-governmental organizations and monitoring groups have quite a big role in protecting this principle by providing citizens with accurate and complete information. The monitoring of the electoral process is very important and bears fruit if the relevant bodies are well trained, have a well-defined legal framework to combat any abuse or fraud, are willing to exercise their functional duties in good faith and in accordance with the law, without making exceptions. Civil society also contributes to preventing and combating disinformation and promoting a culture of open debate and transparency. But not least in order to promote a democratic electoral culture, the state must invest funds in the development of civil society, and not only civil society "in the corridors of power" but also civil society in the opposition. When the Moldovan political class will realize this, we will become a mature democracy.

Freedom of expression and freedom of information in the Republic of Moldova are protected by a fairly modern legal framework based on both national legislation and international treaties to which the Republic of Moldova is a party. However, in addition to regulation, the law also needs to be known, applied unequivocally, and enforced without ambiguity or reservations to achieve results. This framework is essential for ensuring a democratic environment where citizens can freely exercise their political and civil rights without constraints. In the electoral process, freedom of expression and freedom of information play a central role in ensuring that voters have access to diverse and impartial information and that candidates and political parties can compete fairly and openly. But, regrettably, the "microphone" does not reach all electoral contestants, especially opposition representatives, who are often "silenced" by various means, not always legal. Why do these opinions and lack of confidence in the Government appear? Because the electoral contestants promise a

lot during the campaign, but after the elections they forget their promises and the people do not get the expected result.

The Constitution of the Republic of Moldova also provides for the right of citizens to have access to information. Art. 34 stipulates that "(1) The right of a person to have access to any information of public interest may not be restricted.

(2) The public authorities, in accordance with their powers, shall be obliged to ensure that citizens are correctly informed about public affairs and matters of personal interest.

(3) The right to information shall not prejudice the protection of citizens or national security.

(4) State or private media shall be obliged to ensure that the public is correctly informed.

(5) Public media shall not be subject to censorship." ⁴³.

These provisions are essential, including in the electoral context, as they guarantee citizens access to truthful information about the electoral process, candidates, political parties and their programs. Only an informed citizen can make the right choice in elections. An informed citizen is more difficult to influence and is more uncomfortable with weak governance.

In addition to the constitutional provisions, freedom of expression and information in the electoral context is regulated by the Electoral Code and the Audiovisual Media Services Code, two essential laws for ensuring fair and transparent political competition.

The Electoral Code of the Republic of Moldova lays down clear rules for the conduct of electoral campaigns, including access to the media and the rules of behavior for political parties and candidates in their relations with the media. One of the main provisions of the Election Code is that all political parties and candidates have equal rights during electoral campaigns, including the right to promote their political programs and ideas through the media. This means that the authorities are obliged to ensure equal access to media resources for all political parties and candidates, regardless of their size or financial resources.

The Audiovisual Media Services Code, adopted in 2006 and subsequently amended, specifically regulates the activity of TV and radio stations in the Republic of Moldova. This legislation is essential to ensure fairness in media coverage of electoral campaigns. The Code imposes an obligation on TV and radio stations to cover election campaigns in an impartial and balanced manner, providing equal access to all candidates. The Broadcasting Code also stipulates that airtime allocated to parties

⁴³ https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro

and candidates must be distributed fairly and that media outlets must not favor or disadvantage any party involved in the electoral process.

During the election period, all TV and radio stations are obliged to give free access to candidates to political debate programs and to allocate equal time for the presentation of political platforms. Also during election campaigns, all forms of paid political advertising that do not comply with the criteria of transparency and fairness are banned.

Another important aspect is the obligation to declare the sources of funding of TV and radio stations, in order to prevent media manipulation in favor of political parties or influential economic groups. Transparency in media financing is essential to protect freedom of information and to prevent undue influence on the electoral process.

Another essential element of the regulation of freedom of expression and information in the Republic of Moldova is Law No 148/2023 on access to information of public interest⁴⁴. This law establishes the right of citizens to have access to any information of public interest, including information on the work of the Government, public authorities, and institutions involved in the organization of elections. The law requires the authorities to provide information in a transparent and accessible manner, without undue delay or obstruction.

In the electoral context, Law no. 148/2023 on access to information of public interest is essential to ensure the transparency of the electoral process and to combat disinformation. Citizens have the right to know details about the financing of electoral campaigns, the campaign activities of parties and candidates, and the rules governing the electoral process. The law also provides civil society organizations and journalists with the necessary tools to monitor the fairness of elections and to inform the public about possible irregularities or violations of the law (Chapters I-VI)⁴⁵.

Although the existing legal framework provides solid protection for freedom of expression and information in the Republic of Moldova, the enforcement of these regulations faces challenges. The concentration of media ownership in the hands of a few influential economic or political actors may affect the impartiality and pluralism of the media, limiting citizens' equal access to diverse and accurate information. In a functioning democracy, media pluralism is essential to ensure diversity of opinion and citizens' access to a wide range of perspectives. The concentration of media power not only distorts political messages in favor of certain groups, but also reduces information pluralism, which undermines the essence of participatory democracy. Citizens who only have access to partisan sources of information may only be exposed to certain opinions and perspectives and may not be able to critically evaluate all policy options.

⁴⁴ https://www.legis.md/cautare/getResults?doc_id=137908&lang=ro

⁴⁵ https://www.legis.md/cautare/getResults?doc_id=137908&lang=ro

Misinformation and media manipulation also remain a significant problem, especially during election campaigns. False or distorted information distributed through the media or social networks can negatively influence voters' perceptions and distort election results. Combating these phenomena requires stricter measures by the authorities and closer monitoring of media content in order to protect citizens' freedom of information.

Electoral disinformation has a particularly harmful effect in the Republic of Moldova, where trust in the media is already low⁴⁶. In the absence of effective mechanisms to combat fake news and disinformation campaigns, citizens risk being manipulated and unduly influenced, affecting their ability to make informed decisions at the ballot box.

Unequal access to media is another significant problem in the application of freedom of expression and information in the Republic of Moldova. Although the Electoral Code and the Audiovisual Media Services Code impose strict rules on the allocation of airtime for parties and candidates, in reality, media resources are often distributed unequally⁴⁷.

Large parties, with significant financial resources and the backing of influential economic groups, have access to multiple TV and radio channels as well as online advertising, which gives them a considerable advantage over smaller parties or independent candidates. In contrast, these candidates find it difficult to promote their messages and lack visibility with the electorate.

This not only affects candidates' freedom of expression, but also restricts citizens' right to have access to balanced and varied information.

Media education is essential for the development of critical thinking and the ability of citizens to objectively evaluate the information they receive.

In the Republic of Moldova, the low level of civic and media literacy is a major challenge, especially in relation to young people, people living in rural areas or people with low income. In the absence of effective civic education campaigns, these groups can be more easily targeted by misinformation campaigns and exposed to partisan or biased sources of information.

Despite legal guarantees of press freedom, economic constraints and political affiliations have limited media independence in recent years⁴⁸.

Many of the main TV and radio channels are either directly controlled by political parties or have economic or political links with certain interest groups. This political

⁴⁶ <https://mediacritica.md/studiu-despre-credibilitatea-surselor-media-din-republica-moldova-respondentii-nu-au-incredere-in-presa-indiferent-de-preferintele-politice/>

⁴⁷ <https://consiliuaudiovizual.md/thematic-monitoring-reports/>

⁴⁸ <https://soros.md/wp-content/uploads/2024/02/ROM-ENEMO-EOM-Moldova-2023-Local-Elections.pdf>

control undermines media impartiality and can lead to distortion of political messages during election campaigns.

This problem becomes even more acute during election periods, when dominant political parties use their influence over the media to amplify their messages and limit the exposure of their opponents. This not only violates the principle of freedom of expression and information, but also undermines the fairness of the electoral process.

In order to ensure the correct and effective functioning of freedom of expression and information in the electoral context in the Republic of Moldova, it is necessary to develop media pluralism. Here, too, a key role is assigned to the Audiovisual Council, which must play a more active role in ensuring media pluralism by constantly monitoring and evaluating the concentration of power in the media sector.

2.4. TRANSPARENCY OF THE ELECTORAL PROCESS

Transparency of the electoral process is a fundamental principle of democracy, ensuring that all stages of elections - from the organization and conduct of voting, to the counting of votes and the publication of results - are open, verifiable and accessible to the general public, political parties, candidates and independent observers. Transparency is essential for building voter confidence in elections, preventing fraud and ensuring a fair and impartial electoral process. In the absence of transparency, the legitimacy of the results can be questioned and democracy itself can be called into question.

In the Republic of Moldova, the transparency of the electoral process is regulated by the Electoral Code, which provides clear measures and procedures for the organization of elections. Also, the role of international organizations and independent observers is particularly important for monitoring and assessing the conduct of the elections so that all irregularities and abuses are identified and corrected.

In this section, we analyze the importance of transparency in the electoral process, the legal framework in the Republic of Moldova, and the challenges.

Transparency is an essential element for the functioning of a democratic, fair and legitimate electoral process. It ensures that each stage of the elections - from the registration of candidates and the electoral campaign, to the actual voting, vote counting and the announcement of results - is transparent and verifiable by all parties involved: citizens, political parties, candidates, observers and international organizations. Without transparency, the electoral process becomes vulnerable to suspicions of fraud, manipulation or abuse, which can undermine citizens' trust in elections and destabilize democracy.

One of the most important purposes of transparency is to create and maintain public confidence in the electoral process. Citizens must be confident that their vote is being

treated fairly and that the results truly reflect the will of the people. Transparency is necessary for voters to trust the process as voters often believe that the electoral process is manipulated, corrupt or unfair, which can lead to voter apathy, low turnout and even contesting the election results. Voter manipulation and corruption are the 'germ apple' of weak democracy.

In the Republic of Moldova, as in other fragile democracies, transparency is particularly important, given the suspicions and accusations of electoral fraud that are voiced at every election. Similarly, in previous elections, irregularities in vote counting have been reported. For example, in the 2023 general local elections, the CEC received a total of 95 requests for the recount of votes, of which 18 for the recount of votes in the first level constituencies. The decisions to conduct the recount were approved by the CEC due to very small differences in the number of votes, irregularities during the recount, high number of invalid votes, and differences between the BESV results and those validated by the ECCs. Only 18 out of 95 requests for a repeat vote count were submitted during the open CEC meeting on November 10. The remaining 77 requests were examined by the CEC in a closed session and rejected as unfounded. The fact that the applications that were rejected were not published is contrary to the principle of transparency and raises doubts as to whether there are justified grounds for rejecting these applications in a package in a single decision⁴⁹.

By ensuring transparency at all levels, the authorities strive to create a climate of trust that helps voters to believe that their vote counts and that the elections are fair and legitimate. The CEC, by publishing information about the organization of elections, vote counting and party financing, contributes directly to building public confidence in the electoral process.

Another reason why transparency is essential in the electoral process is to prevent fraud and irregularities. In a transparent system, all actions and decisions of electoral authorities are exposed to public scrutiny, which reduces the risk of abuse. For example, if the counting of votes is conducted in public, in the presence of independent observers and representatives of political parties, any attempt at manipulation or fraud can be detected and stopped immediately.

Close monitoring at all stages, by both domestic and international observers, as well as the active participation of civil society, can significantly reduce the risk of electoral fraud. The rapid and accessible publication of preliminary and final results, together with transparency in the handling of complaints and appeals, helps convince the voters of the legality of the electoral process.

Transparency in the electoral process also contributes to increased accountability of the institutions involved in organizing elections. The CEC and other electoral authorities must be accountable to citizens and respect the principles of transparency

⁴⁹ <https://www.osce.org/files/f/documents/5/f/568981.pdf>

and impartiality. If these institutions do not fulfill their obligations in a transparent manner, the risk of error, abuse or manipulation increases and the legitimacy of the elections is called into question.

In a healthy democracy, transparency provides a mechanism for checks and balances on the work of state institutions. For example, external monitoring and supervision of elections, including by international organizations such as the OSCE, plays a key role in assessing the fairness of elections and ensuring that electoral authorities respect their mandate. At the same time, local NGOs, such as Promo-LEX in the Republic of Moldova, monitor the entire electoral process and report on possible abuses or irregularities.

Thus, by regularly publishing detailed reports on the work of electoral institutions, citizens can assess the measures taken to ensure the fairness of the electoral process. Financial transparency is another important aspect, as citizens must have access to information on party financing and campaign expenditure. If this information is publicly accessible and clearly presented, it reduces the risks of corruption and misuse of public or private campaign funds.

Civil society plays a critical role in ensuring the transparency of the electoral process. NGOs, monitoring groups and international observers are accountable to voters in overseeing and properly assessing the conduct of elections. The involvement of these actors in overseeing the electoral process demonstrates that their absence would erode already shaky trust in government institutions, which could create the risk of bias or manipulation.

Observers are usually appointed individuals, usually trusted by citizens, who have a good reputation and can, if necessary, document deviations and generate recommendations for improving future elections, thus contributing to strengthening democracy.

Observers and NGOs are important not only for monitoring the elections, but also for ensuring public access to fair and impartial information about the electoral process. They also play a key role in educating and mobilizing citizens, encouraging voter participation and active involvement in political life.

Transparency in the electoral process means not only observers' access to polling stations and vote counting, but also fair and accessible information to citizens about all aspects of the elections. Every citizen has the right to be informed about candidates, electoral procedures and election results. For the process to be truly transparent, electoral authorities and the media must ensure that relevant information is distributed in a timely and accessible manner.

Ensuring the transparency of the electoral process is an essential objective for maintaining public confidence in elections and strengthening democracy. However, the practical implementation of this principle faces a number of major challenges, which affect not only the Republic of Moldova but also other democracies. These

challenges can undermine the legitimacy of the electoral process, diminish turnout and raise suspicions about the fairness of the results. Political involvement and lack of financial resources for election monitoring and logistics are an ongoing problem in Moldova. Insufficient financial resources for election monitoring leads to a lack of observers in rural areas or remote polling stations to supervise in good faith the conduct of the elections and the vote count.

The lack of monitoring mainly affects the vote counting phase, which is crucial to ensure the fairness of the elections. In many polling stations in rural areas, the counting of votes is taking place without sufficient observers, which increases the risk of manipulation of results.

According to the ODIHR Final Observation Report of the 2023 General Local Elections, polling station opening procedures were observed at 106 polling stations, voting at 950 polling stations, counting at 96 polling stations, and tabulation at 89 precinct electoral councils⁵⁰.

Low access to electoral information, either due to lack of adequate digital infrastructure, low levels of information or misinformation, negatively influences the electorate and voter turnout.

In conclusion, we emphasize that ensuring transparency in the electoral process is essential for consolidating democracy, increasing citizens' confidence in elections and preventing any form of abuse or manipulation.

3. GOOD PRACTICES IN ELECTORAL MATTERS

3.1. VENICE COMMISSION STANDARDS AND RECOMMENDATIONS

Venice Commission is the Council of Europe's advisory body on constitutional matters.

The role of the Venice Commission is to provide legal advice to its member states and, in particular, to help states wishing to bring their legal and institutional structures into line with European standards and international experience in the fields of democracy, human rights and the rule of law⁵¹.

The Commission works in three areas:

1. democratic institutions and fundamental rights
2. constitutional justice and ordinary justice
3. elections, referendums and political parties.

The Commission shares the standards and best practices adopted within the countries of the Council of Europe beyond its borders notably in neighboring countries.

⁵⁰ <https://www.osce.org/files/f/documents/5/f/568981.pdf>

⁵¹ https://www.venice.coe.int/WebForms/pages/?p=01_Presentation&lang=EN

The Venice Commission issues recommendations in the form of opinions, reports and guidelines aimed at improving electoral legislation and ensuring that electoral processes comply with international democratic standards. Among the most important documents in this regard is the Code of Good Practice in Electoral Matters⁵², adopted in 2002. This document is an essential guide for countries wishing to improve their electoral regulations and practices.

The main recommendations contained in the Code of Good Practice include:

Electoral system - The Commission recommends that states adopt electoral systems that fairly reflect the will of the voters and ensure fair representation of different political groups. The fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election, or should be written in the constitution or at a level higher than ordinary law. In reference to this recommendation, the Code's Explanatory Note cautions that in adopting amendments, "care must be taken to avoid not only manipulation for the advantage of the party in power, but even the mere semblance of manipulation [...] Even when no manipulation is intended, changes will seem to be dictated by immediate political interests⁵³. Stability of the law is crucial to credibility of the electoral process, which is itself vital to consolidating democracy. Rules which change frequently – and especially rules which are complicated – may confuse voters. Above all, voters may conclude, rightly or wrongly, that electoral law is simply a tool in the hands of the powerful, and that their own votes have little weight in deciding the results of elections. Essential elements of the voting process are also fundamental and should in principle not be changed less than one year before an election⁵⁴.

Independent electoral bodies - The Commission underlines the importance of independent electoral authorities capable of administering elections objectively and impartially. Only transparency, impartiality and independence from politically motivated manipulation will ensure proper administration of the election process, from the pre-election period to the end of the processing of results. The CEC be independent, by appointing impartial and competent members who are not influenced by political interests. The selection process for CEC members should be transparent, based on merit and exclude political pressure. Electoral institutions must also conduct their work transparently, publishing all decisions, procedures and information relevant to the electoral process.

An effective system of appeal - If the electoral law provisions are to be more than just words on a page, failure to comply with the electoral law must be open to challenge before an appeal body. This applies in particular to the election results: individual citizens may challenge them on the grounds of irregularities in the voting procedures. It also applies to decisions taken before the elections, especially in

⁵² [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2002\)023rev2-cor-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2002)023rev2-cor-e)

⁵³ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2024\)022-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2024)022-e)

⁵⁴ Ibid.

connection with the right to vote, electoral registers and standing for election, the validity of candidatures, compliance with the rules governing the electoral campaign and access to the media or to party funding. The procedure must also be simple, and providing voters with special appeal forms helps to make it so. It is necessary to eliminate formalism, and so avoid decisions of inadmissibility, especially in politically sensitive cases. Time-limits for lodging and deciding appeals must be short (three to five days for each at first instance).

Observation of elections - Both national and international observers should be given the widest possible opportunity to participate in an election observation exercise. Observation must not be confined to the election day itself, but must include the registration period of candidates and, if necessary, of electors, as well as the electoral campaign. It must make it possible to determine whether irregularities occurred before, during or after the elections. It must always be possible during vote counting. The places where observers are not entitled to be present should be clearly specified by law.

Funding - Regulating the funding of political parties and electoral campaigns is a further important factor in the regularity of the electoral process. First of all, funding must be transparent; such transparency is essential whatever the level of political and economic development of the country concerned. Transparency operates at two levels. The first concerns campaign funds, the details of which must be set out in a special set of carefully maintained accounts. In the event of significant deviations from the norm or if the statutory expenditure ceilings are exceeded, the election must be annulled. The second level involves monitoring the financial status of elected representatives before and after their term in office.

The Venice Commission's recommendations at the request of a country are usually viable for all members. For example, in its opinion CDL-AD(2021)044⁵⁵ the Venice Commission mentioned the following: „The Venice Commission would like to recall that it provided a detailed analysis of the Istanbul Convention in its Opinion for Armenia on the constitutional implications of the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) CDL-AD(2019) 018, which is also relevant for this amicus curiae brief.”

The Venice Commission has consistently expressed the view that any successful amendment of electoral legislation should be based on at least the following three essential elements:

1. clear and comprehensive legislation that meets international obligations and standards and addresses previous recommendations;

⁵⁵ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2021\)044-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)044-e)

2. adoption of legislation by broad consensus after extensive public consultations with all relevant stakeholders; and
3. political commitment to fully implement such legislation in good faith, with adequate procedural and judicial safeguards and means to allow for timely assessment of alleged violations.

Taking into consideration the fundamental role of political parties in the functioning of a pluralist democracy, the Venice Commission has underlined in its opinions⁵⁶ the importance of some key principles concerning the prohibition or dissolution of political parties:

1. the exceptional nature of prohibition or dissolution to be used only as a means of last resort
2. the proportionality of the dissolution or prohibition in relation to the legitimate aim pursued and
3. the necessity of dissolution in a democratic society and
4. prohibition or dissolution of political parties only through independent court proceedings in which the principles of fairness, due process and openness are guaranteed.

In its previous opinions, the Commission has held that the dissolution of a political party shall only be used as a means of last resort and only after all less intrusive legal instruments available have been utilised. In this context, the Commission recommended that state authorities, when addressing non-compliance with laws and regulations, should make use of a broad spectrum of available sanctions which are limited in scope and dissuasive in nature. Only when the legitimate aim pursued cannot be reached using less restrictive means of regulation, dissolution may be applied as an instrument of last resort. The principle of last resort is also reflected in the Resolution 1308 (2002) of the Parliamentary Assembly of the Council of Europe (PACE), which states in paragraph 11 that, “a political party should be banned or dissolved only as a last resort” and “in accordance with the procedures which provide all the necessary guarantees to a fair trial.”.

Moreover, any limitation on the formation or regulation of the activities of political parties must be proportionate in nature. As the most severe sanction available, dissolution should be considered proportionate only when imposed in extreme cases of the gravest violations. The exceptional nature of this measure requires states to justify the dissolution of a political party by the specific aims pursued by the authorities in line with Art. 11(2) of the ECHR (namely, “in the interests of national

⁵⁶ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2022\)051-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2022)051-e)

security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others”). Art. 22(2) of the ICCPR contains a similar provision. The scope of these legitimate aims must be interpreted narrowly⁵⁷.

The Venice Commission and ODIHR therefore recommend to the Moldovan authorities, if they wish to prevent certain members of parties declared unconstitutional from holding certain elected offices:

1. introducing adequate criteria and an effective individual assessment that would limit restrictions of the right to be elected only to those members and/or elected officials of the party whose activities have endangered the Constitution and the integrity of the democratic State, through their actions and expressions, and/or actively pursued the (illegal) goals of the unconstitutional parties;
2. affording to these persons the full range of procedural safeguards in the assessment process, including a sufficiently reasoned decision and the possibility to challenge the limitation of rights by providing an opportunity to seek judicial review of the decision to deprive them of the right to stand for election.

The implementation of these recommendations is essential to avoid upsetting the balance between the legitimate aim of the protection of the State’s democratic order and national security and the need to protect individual’s electoral rights, without disproportionately undermining the essential role played by all political actors in ensuring pluralism nor threatening the representative nature of the legislature⁵⁸. Further, the Venice Commission and ODIHR reiterate that the consideration of how to further amend the legislation to bring it in line with these recommendations should be through a meaningful consultation process.

It is acknowledged that the principle of stability of electoral law cannot be invoked to prevent the timely implementation of a judgement if it requires legislative changes to comply with constitutional norms and principles. In the opinion of the Venice Commission and ODIHR⁵⁹, amending electoral legislation while the electoral process is ongoing is usually intended, or may appear to be intended, to manipulate the electoral process in pursuance of partisan interests, unless the amendments pursue a prevailing fundamental legitimate interest, such as the protection of the very integrity of the elections.

Also, the Venice Commission has noted that domestic legislation may prohibit donations from foreign states or enterprises. This is consistent with Art. 7 of the Council of Europe Committee of Ministers' Recommendation (2003) on common rules against corruption in the funding of political parties and electoral campaigns, which states that "States should specifically limit, prohibit, or otherwise regulate

⁵⁷ Ibid.

⁵⁸ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2023\)031](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2023)031)

⁵⁹ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2023\)048-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2023)048-e)

donations from foreign donors." The rationale behind this restriction is to prevent undue influence by foreign interests, including foreign governments, in domestic political matters, thereby strengthening the independence of political parties.

The Commission emphasized that the prohibition of foreign funding may be deemed necessary in a democratic society, especially if foreign financing is used to pursue objectives that are incompatible with the country's Constitution and laws. This could undermine the fairness or integrity of political competition, distort the electoral process, or even pose a threat to national territorial integrity.

Moreover, the Commission's research has highlighted the general disapproval of foreign funding for political parties. This disapproval is based on concerns that foreign funding may lead to external actors exerting influence over a country's internal political affairs, creating dependency and undermining domestic sovereignty⁶⁰.

In addition, when allocating airtime for parties and candidates, the recommendation of the OSCE/ODIHR Election Observation Mission to Ukraine on January 17 and February 7, 2010 "to consider any appearance of a candidate holding an official position as election campaigning and to consider this time as allocated for the candidate's election campaign" should be taken into account⁶¹.

3.2. RECOMMENDATIONS OF THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

To ensure high standards in the organization and conduct of elections, the Organization for Security and Co-operation in Europe (OSCE) plays a significant role in monitoring electoral processes and issuing recommendations for their improvement.

In the early 1990's, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) initiated election observation to support the development of democratic processes and institutions in OSCE participating States. Since then, the ODIHR has observed over 300 elections, and the Office's election observation activities have played an important role in promoting transparency and accountability, as well as in enhancing public confidence in electoral processes⁶².

However, election observation is not an end in itself. For observation to have a meaningful impact, the underlying intention must be to assist participating States in implementing their election-related commitments and obligations. Thus, an essential part of election observation is the ODIHR's final assessment and recommendations for improving the conduct of elections. Election observation will only be beneficial to

⁶⁰ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2022\)051-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2022)051-e)

⁶¹ <https://rm.coe.int/countering-misuse-of-administrative-resources-during-electoral-process/1680a3d2d5>

⁶² [Handbook on the Follow-up of Electoral Recommendations, OSCE/ODIHR](#)

the extent that these recommendations are seriously considered and effectively addressed. Otherwise, there is a real risk that electoral weaknesses and vulnerabilities will persist and, in all likelihood, grow.

As a community of States committed to respect for human rights, democracy and the rule of law, the OSCE has emphasized democratic elections as a key pillar of long-term security and stability. All OSCE participating States have committed to invite international observers from other OSCE participating States, the ODIHR and the OSCE Parliamentary Assembly⁶³ to their elections. As such, the States recognize that election observation can play an important role in promoting transparency and accountability, as well as in enhancing public confidence in an electoral process.

The OSCE has a comprehensive approach to election observation, which includes monitoring election campaigns, assessing the legal and administrative infrastructure for elections and verifying respect for voters' fundamental rights.

Among the OSCE's election monitoring objectives are:

- Ensuring the transparency and integrity of electoral processes.
- Encourage equal opportunities for all political parties and candidates.
- Respect for the fundamental rights of citizens, including the right to vote and to be elected.

The OSCE underlines the importance of respecting a set of fundamental principles for the organization and conduct of democratic elections. These principles are considered essential for a fair and transparent electoral environment. Among the principles highlighted by the OSCE are:

The universality of the vote which states that all eligible citizens should have the right to vote and to stand for election. The circumstances in which voting and eligibility rights may be restricted should be laid down by law. Any restriction must be reasonable and clearly justified by exceptional circumstances. Suspension or deprivation of voting rights for a convicted offender should be imposed by a court and should be proportionate to the seriousness and nature of the crime committed. There should be an efficient, impartial, non-discriminatory, non-discriminatory, comprehensive and accurate voter registration procedure which ensures that all eligible citizens have the right to vote. There should be no restrictions on voting by persons belonging to minorities, women or other groups of adult citizens. All voters, including persons with disabilities, should have effective and easy access to polling stations or other voting procedures. There should be provisions for internally

⁶³ This commitment was made in the Charter for European Security (Paragraph 25), at the Istanbul Summit 1999, and reconfirmed in OSCE Ministerial Council, Decision No. 19/06 (Paragraph 10), "Strengthening the Effectiveness of the OSCE", Brussels, 6 December 2006.

displaced persons to vote. In line with good international practice, consideration could also be given to granting the right to vote to voters living abroad⁶⁴.

Requirements for candidates should be reasonable and applied in a non-discriminatory manner. Independent candidates should be guaranteed the right to stand as candidates, including in systems based on proportional representation⁶⁵.

The legal framework must guarantee universal and equal voting rights for every citizen who has reached the age of majority. Citizens may be required to reach an older age in order to have the right to be elected, but this right must be guaranteed to every citizen who reaches the age prescribed by law⁶⁶. There should be no voting fees or registration fees⁶⁷.

The equality of the vote which means that each vote must have the same value. No vote should be worth more than another for geographical reasons or because of the voting method (e.g. voting in person or by post). This principle is essential to ensure that representation in legislative bodies fairly reflects the will of the voters. The ODIHR recommends the implementation of an electoral system that prevents distortions in the distribution of seats and ensures proportional representation. Under proportional representation systems, the number of representatives in each constituency should be proportional to the size of the electorate or population. In majority voting systems, equal suffrage means that the size of the electorate or population of constituencies should be approximately equal. In addition, each voter should have the same number of votes, according to the principle of equal voting rights: "one voter, one vote". To this end, effective safeguards should be put in place to protect against multiple voting⁶⁸.

With reference to equal access to the electoral process, the ODIHR emphasizes eliminating discrimination and ensuring equal access for all eligible citizens. This means that no group should be excluded or have additional barriers to participate in elections. In particular, it emphasizes the importance of supporting vulnerable groups such as people with disabilities, the elderly, migrants and other vulnerable groups. Where alternative voting methods are established, they must be accessible to all, without creating additional difficulties for some voters.

Another essential element in voting equality is the transparency of the electoral process. Votes must be counted correctly and the results presented to the public in a clear and verifiable way. This transparency is essential to maintain public confidence in the integrity of the electoral process. In addition, the ODIHR recommends voter

⁶⁴ [Handbook on the Follow-up of Electoral Recommendations, OSCE/ODIHR](#)

⁶⁵ [Election Observation Handbook Sixth edition, OSCE/ODIHR](#)

⁶⁶ [Guidelines for Reviewing a Legal Framework for Elections, Second edition, OSCE/ODIHR](#)

⁶⁷ [Election Observation Handbook Fifth edition, OSCE/ODIHR](#)

⁶⁸ [Election Observation Handbook Sixth edition, OSCE/ODIHR](#)

education campaigns⁶⁹ to ensure that every citizen is well informed about the voting methods available, understands how to vote and what options they have.

The freedom to choose and to be elected which implies that all citizens enjoy their fundamental rights to freedom of expression, association, peaceful assembly and movement. Voters should be able to vote without intimidation, violence or administrative interference and without fear of reprisals. Voters should be able to freely choose their representatives without undue influence or pressure. No obstacles should prevent candidates from freely presenting their views or voters from engaging in campaign activities or informing themselves about those views. Citizens should be free to meet peacefully to discuss or elaborate political views without unjustified administrative or bureaucratic obstacles. The media should be able to cover the campaign freely, without unreasonable interference or restrictions imposed by the authorities. Domestic observers, including representatives of individual candidates or parties and civil society organizations, should be free to observe all stages of the electoral process before, during and after election day⁷⁰.

Voters should mark their ballot papers by themselves, in the privacy of a voting booth and in such a way that the marked ballot paper cannot be seen before it is cast and cannot be associated with a particular voter afterwards. Exceptions may be made only under certain conditions, such as at the request of voters who need assistance, for example, disabled or illiterate voters. Any voting outside the voting booth compromises the secrecy of the vote. The presence of more than one person in a polling booth should not be allowed as it compromises the secrecy of the vote. Open voting or illegal voting by proxy is a violation of the principle of secrecy of voting. Voting arrangements for military personnel and prisoners should ensure that their votes are secret and not subject to coercion⁷¹.

A fair and honest vote count is the cornerstone of democratic elections. This standard is set out in paragraph 7.4 of the 1990 OSCE Copenhagen Document, which states that votes "shall be counted and reported honestly and the official results shall be made public." ⁷² This requires that votes are counted and tabulated in the presence of observers and that the entire process by which a winner is determined is completely transparent.

The legal framework should provide for the presence of observers - both citizens and foreigners - and representatives of the media, political parties and candidates during the counting and recording of votes⁷³.

Transparency of the electoral process, which requires that elections are conducted in accordance with the legal procedures in force and the basic legal rules that are laid

⁶⁹ [Human Rights Committee, general comment No. 25 \(1996\), para. 11](#)

⁷⁰ <https://www.odihobserver.org/mod/presentation/pdf/6edHandbookCh1-5.pdf>

⁷¹ [Election Observation Handbook Sixth edition, OSCE/ODIHR](#)

⁷² <https://www.osce.org/files/f/documents/9/c/14304.pdf>

⁷³ [Guidelines for Reviewing a Legal Framework for Elections, Second edition, OSCE/ODIHR](#)

down in an open and comprehensive manner. A transparent process limits the possibility of election fraud and therefore the vote count should be visible and verifiable from the polling station level, to any intermediate level of election administration, and ultimately to the national election authority⁷⁴.

ODIHR recommendations for the Republic of Moldova:

In recent years, the ODIHR has issued several recommendations for the Republic of Moldova following parliamentary, presidential and local elections. These recommendations were aimed at improving the electoral process and strengthening the country's democratic standards. Some of the priority recommendations include:

1. The law should be revised to address the issue of organized transportation of voters in connection with vote-buying while duly safeguarding the freedom of movement.
2. Provisions on preventing the misuse of administrative resources, including on ensuring neutrality of the civil service, participation of officials in campaigns, and safeguarding public-sector employees from any undue influence, should be clearly provided in the law and properly enforced.
3. The legal framework for campaign financing should be further strengthened and regulate candidates' own contributions and the limits of donations from political parties, valuation of in-kind contributions and the involvement of third-parties in the election campaigns. To protect political pluralism, consideration could also be given to simplify the regulations related to eligibility for donations by individuals.
4. The framework for campaign finance oversight should be revised to provide for an effective mechanism of monitoring incomes and expenditures and verifying the completeness and accuracy of reporting. The CEC should be equipped with adequate resources and capacities including rules and procedures for meaningful oversight⁷⁵.
5. Any reform efforts should be undertaken well in advance of the next elections and within an inclusive, consultative and transparent process.
6. To instil confidence in the integrity of the electoral process, the competent authorities should promptly and thoroughly investigate credible allegations of vote-buying and illegal inducements of voters and apply appropriate sanctions.
7. In order to monitor implementation of the provisions on balanced and impartial coverage set out by the Audiovisual Media Services Code, quantitative and qualitative monitoring should be conducted also between elections.
8. To enforce existing provisions on impartial coverage during the campaign and to provide for a level campaign playing field, the Audiovisual Council's monitoring

⁷⁴ https://aceproject.org/main/english/ei/eix_m070.htm

⁷⁵ <https://www.osce.org/files/f/documents/1/5/479972.pdf>

reports should be issued in a timely manner and effective measures for violations should be applied immediately. The law should provide for remedies for disadvantaged contestants rather than focusing on sanctioning media outlets⁷⁶.

9. To ensure that voters are able to cast their votes free of pressure and undue influence, authorities could consider extending the prohibition of partisan and campaign activities not only within polling stations, but also in the vicinity of polling stations during voting hours⁷⁷.

10. In line with the jurisprudence of the Constitutional Court, an effective parliamentary control mechanism should be introduced over decisions of the Commission for Exceptional Situations when elections are held during a state of emergency.

11. While methods to preserve the integrity of elections in line with international good practice should be maintained, they should be adjusted to guarantee the right to vote to all voters who change their residence close to election day, either at their old or at their new place of residence.

12. In line with international standards, the education requirement for the right to stand for mayor should be reconsidered.

13. In line with international obligations and standards, decisions concerning the de-registration of candidates should be based on the principles of legality, legitimacy and proportionality. To avoid irreparable harm to the right to stand, the law and institutions should guarantee timely and effective legal remedy.

14. Contestants and high-ranking officials should refrain from using their public office and government-funded projects to gain an unfair electoral advantage during the campaign period. The CEC should apply timely and proportionate sanctions for campaign violations equally to all participants in the election process, despite the status of incumbency or any other considerations.

15. Restrictions to freedom of speech should be appropriate and proportionate to achieve a legitimate aim, using the least restrictive means possible. A suspension or withdrawal of broadcasting rights should be imposed only if the broadcaster is held to be in serious and repeated breach of a legitimate restriction on content by the media regulator or the court.

16. The law should be revised to ensure the independence of the management of both the Audiovisual Council and of Tele-Radio Moldova and the stability of its members' tenure.

17. Prohibition on the dissemination of content should only be permissible in accordance with the test for restrictions on the right to freedom of expression under

⁷⁶ <https://www.osce.org/files/f/documents/0/5/508979.pdf>

⁷⁷ <https://www.osce.org/files/f/documents/8/a/420452.pdf>

international law, namely that it is provided for by law, it serves legitimate aims, and is necessary and proportionate to protect those aims.

18. In order to ensure the right to an effective remedy, the second round of elections should take place only after the final decisions on appeals against election results have been reached. The law could specify a longer delay between the two rounds.

19. Consideration should be given to reviewing criteria for the de-registration of candidates to allow for graduated and proportional sanctions. De-registration should take place only in case of grave violations and as a last resort⁷⁸.

4. ANALYSIS OF THE GENERAL CONTEXT OF ELECTIONS IN THE REPUBLIC OF MOLDOVA

Elections in the Republic of Moldova are an essential aspect of the democratic functioning of the country and give citizens the opportunity to express their political preferences.

The legal framework governing the conduct of elections is essential to ensure transparency, fairness and equitable participation of all citizens. In the Republic of Moldova, the electoral legal framework has developed over the years, adapting to international requirements and the specific needs of Moldovan society.

4.1. PRIMARY LEGISLATION

The primary legislation governing elections in the Republic of Moldova includes the following laws:

The Constitution of the Republic of Moldova, adopted in 1994, which is the foundation of the electoral legal framework. It defines the general principles regarding the conduct of elections and their role in the democratic system. Art. 38 of the Constitution states that the will of the people is the basis of state power. This will shall be expressed through free elections, which shall be held periodically by universal, equal, direct, secret and freely expressed suffrage⁷⁹. This provision is to be correlated with Art. 2 of the Constitution, which states that sovereignty and state power belong to the people of the Republic of Moldova, who shall exercise it directly and through their representative bodies. Elections are the basic modality and the main legal means of forming state institutions and bodies and/or appointing officials with public functions⁸⁰.

The right to vote and to be elected is a central pillar of democracy and the principle of national sovereignty. This right allows citizens to participate actively in the governance of their country, either by voting directly in elections or through their

⁷⁸ https://www.osce.org/files/f/documents/2/5/564925_0.pdf

⁷⁹ [Constitutia Republicii Moldova](#)

⁸⁰ [Dreptul de vot și dreptul de a fi ales în Republica Moldova – Reglementări Constituționale, N. Osmochescu](#)

elected representatives. Citizens thus exercise their sovereign power directly, influencing the political, economic and social direction of the state.

In a democracy, voting is the main mechanism through which the will of the people is expressed and reflected in government decisions. Every vote counts, helping to form a majority that can implement policies in the general interest. The right to be elected also guarantees that every eligible citizen has the opportunity to participate actively in political life, to propose solutions and to hold public office.

Through this electoral mechanism, the power of the state is returned to the citizens, who exercise control over those who govern, thus ensuring the continued legitimacy of political power and respect for democratic values. This is why the right to vote and the right to be elected is essential for maintaining the balance between citizens and those in power, strengthening democracy and ensuring that the interests of the people are fairly represented.

Elections in the Republic of Moldova are held at regular intervals, in accordance with the terms of office of the various public authorities. Ordinary elections for Parliament, local public authorities and the President are fixed according to the length of their terms of office, thus guaranteeing regular elections. This ensures political stability and continuity of democratic governance.

The term of office of the Parliament is established in Art. 63 para. (1) of the Constitution and constitutes 4 years, which may be extended, by organic law, in the event of war or disaster.

International practice is not uniform as regards the four-year term of office, as there are countries where members serve for life, such as the members of the House of Lords in the United Kingdom⁸¹. In Italy, former Presidents of the Republic are senators ex officio and for life, unless they resign. In addition, the President of Italy may appoint as senators for life five citizens who have honored the nation by their outstanding achievements in the social, scientific, artistic and literary fields⁸². However, most European countries have parliamentary terms of 4 or 5 years. In most cases, parliamentary terms are set at 4 years, as is the case in Switzerland⁸³, Romania⁸⁴, Germany⁸⁵ or Greece⁸⁶, while in other states, such as France⁸⁷ or Italy, terms are 5 years.

Obviously, the term of the parliament's activity cannot be set arbitrarily, several factors must be taken into account. First of all, it is necessary to understand that

⁸¹ <https://www.parliament.uk/business/lords/whos-in-the-house-of-lords/members-and-their-roles/>

⁸² https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf

⁸³ <https://www.servat.unibe.ch/icl/sz00000.html>

⁸⁴ https://www.cdep.ro/pls/dic/site2015.page?den=act2_1&par1=3#t3c1s1sba63

⁸⁵ https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0188

⁸⁶ <https://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggliko.pdf>

⁸⁷ <https://www.elections.interieur.gouv.fr/scrutins/elections-legislatives>

succession, or rotation, is obligatory, otherwise power will be monopolized (usurped) and alienated from the people; periodic elections are the way to achieve the broadest possible participation of citizens in the governance of the state⁸⁸.

It should also be taken into account that the term of activity of the parliament must be reasonable, neither too short, which will not allow it to effectively realize the plan of government, nor too long, which will allow it to be abused by high public officials and make it difficult to liquidate the negative consequences, following a failed government. The most successful term is generally considered to be 4 or 5 years⁸⁹.

Similar to the mandate of the Parliament, the mandate of the President of the Republic of Moldova lasts for 4 years and is exercised from the date of swearing in. The term of office of the President of the Republic of Moldova may be extended, by organic law, in the event of war or disaster (Art. 80 para. (1) and (3) of the Constitution).

For comparison, the terms of office of the Presidents of European countries vary: 5 years in France⁹⁰, Germany, Romania, 6 years in Finland⁹¹, Austria⁹², 7 years in Italy.

Also, Art. 80 para. (4) of the Constitution of the Republic of Moldova limits the number of consecutive terms of office that the President of the Republic of Moldova may hold, stipulating that he may hold office for a maximum of two consecutive terms. This constitutional provision is essential to ensure democratic balance and prevent excessive concentration of power in one person, thus avoiding the risk of a dictatorship. In the political history of many countries, it has been observed that the prolonged exercise of executive power by the same person can weaken democratic mechanisms.

The two-term limit has several important roles in ensuring a fair and democratic political system. First, it prevents the exercise of state power by one person for a long period of time, reducing the risk of authoritarian rule.

Secondly, this rule ensures a necessary political rotation in the office of the President, allowing the supreme office in the state to be held over time by different persons and thus by different political parties or formations. This alternation in power contributes to the health of democracy, as it allows new political perspectives and solutions to emerge and prevents the monopolization of power by a single group or leader.

⁸⁸ [Comentariul Constituției Republicii Moldova](#)

⁸⁹ Ibid.

⁹⁰ <https://www.conseil-constitutionnel.fr/le-bloc-de-constitutionnalite/texte-integral-de-la-constitution-du-4-octobre-1958-en-vigueur>

⁹¹ <https://www.finlex.fi/fi/laki/ajantasa/1999/19990731#L5P55>

⁹² <https://www.verfassungsvergleich.de/au00000.html#T001>

However, in comparison with other countries, the Constitution of the Republic of Moldova proves to be more flexible in regulating the exercise of the presidential function. While it strictly limits the number of consecutive terms to two, it allows a person who has already held the office for two terms to stand again, but only after a break of one term. This "break" mechanism is a form of balancing the need to rotate leaders, but it still gives experienced leaders the opportunity to return to the leadership if they regain public trust.

In other countries, such as Romania, the rules are stricter. The Romanian Constitution absolutely forbids the same person from holding more than two presidential mandates, even if they are not consecutive. This type of restriction is designed to strictly prevent the excessive accumulation of power by a single individual in any context, and to guarantee a permanent rotation of leaders in high positions.

The Electoral Code develops the constitutional provisions and lays down specific rules for the organization and conduct of elections at both national and local levels.

In order to improve electoral procedures, including by addressing the legislative deficiencies and shortcomings indicated by the Constitutional Court in its addresses (e.g. CC address no. PCC-01/139e-34/1 of December 13, 2016), to remove ambiguities and contradictions between the Electoral Code and other laws, as mentioned in the opinions of the Venice Commission, as well as to implement the recommendations made in the reports of national and international election observation missions, on December 8, 2022 the Parliament passed the new Electoral Code, which replaces the 1997 Code⁹³.

The Code defines various types of elections, including parliamentary, presidential and local elections. Elections can be general and early. For example, early elections are organized in the event of the dissolution of Parliament or the early termination of the term of office of the President of the Republic of Moldova.

Elections are held within electoral constituencies, which are administrative units in which polling is organized.

Elections are held on a single Sunday, in accordance with Art. 8 of the Code, but may also be held over two days in exceptional circumstances, such as a pandemic or other circumstances that make it impossible to hold elections on a single day. The CEC is responsible for ensuring the organization and fair conduct of the elections, overseeing all stages of the elections, including campaigning, voting and vote counting.

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<https://www.parlament.md/ProcesulLegislativ/Proiectedeactenormative/tabid/61/LegislativId/6117/language/ro-RO/Default.aspx>

The right to vote and to be elected is laid down in the Electoral Code, with specific conditions for Moldovan citizens. Citizens aged 18 and over have the right to vote, except for those deprived of this right by a court decision.

Although in most EU countries the right to vote starts at the age of 18, there are countries where it starts earlier, for example in Greece at 17⁹⁴, Austria⁹⁵, Germany⁹⁶, Belgium⁹⁷ and Malta at 16.

Reducing the voting age would have both advantages and disadvantages. Studies show that involving young people in political life from a younger age increases their interest and political knowledge. In the long term, this can have a positive influence on voter turnout and better representation of their interests. A civic education program, coupled with a lower voting age, could boost the turnout of future generations⁹⁸.

Critics argue that 16 and 17-year-olds are not mature enough to make informed political decisions. Social scientists Dr. Tak Wing Chan and Dr. Matthew Clayton argue that teenagers in this age group would not be suitable voters because "neuroscience research suggests that the brain, particularly the prefrontal cortex, is still undergoing major reconstruction and development during adolescence." They argue that the prefrontal cortex is what "allows us to weigh dilemmas, balance trade-offs and, in short, make reasonable decisions in politics". Lowering the voting age could also expose young people to manipulation as they are influenced by their parents, which could lead to an indirect amplification of parental voting⁹⁹.

At the same time, in the Republic of Moldova in order to stand for election, a person must fulfill certain criteria, such as being a citizen of the Republic of Moldova and having no criminal record.

There are also restrictions for certain categories of people. For example, those who are in military service or who have been convicted of serious crimes are not entitled to stand as candidates.

By Law no. 220/2023 amending some normative acts (implementation of some recitals of the Constitutional Court judgment no. 10/2023 on the constitutionality review of the political party "Shor") an attempt was made to introduce a restriction on the right to run for office for persons who, on the date of the Constitutional Court's ruling on the unconstitutionality of a political party, were members of the executive body of the political party declared unconstitutional, as well as persons who held elective office in the political party declared unconstitutional, for a period

⁹⁴ <https://www.ypes.gr/faqs/apo-poia-ilikia-apoktoun-oi-polites-to-dikaioma-tou-eklegein/>

⁹⁵ https://www.oesterreich.gv.at/en/themen/transparenz_und_partizipation_in_der_demokratie/demokratie-und-wahlen/wahlen/1/Seite.320210.html

⁹⁶ <https://www.recht.bund.de/bgbl/1/2023/11/VO.html>

⁹⁷ https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&table_name=loi&cn=2022060106

⁹⁸ https://cicde.md/wp-content/uploads/2023/03/policy_brief_v5_3754872.pdf

⁹⁹ Ibid.

of 5 years from the date of the Constitutional Court's ruling¹⁰⁰. According to the authors, the draft law was drafted with the primary purpose of adjusting the domestic regulatory framework on the dissolution/liquidation of political parties following the declaration of their unconstitutionality by the Constitutional Court, in the context that the High Court recently issued Judgment No. 10/2023 on the constitutionality of the political party "Shor", thereby establishing the unconstitutionality of the party and dissolving it from the moment of the Court's judgment. In addition, the authors noted that the right to be elected provided for by Art. 38 of the Constitution is not an absolute right, and it is guaranteed to Moldovan citizens with the right to vote, under the conditions of the law. Likewise, the proposed amendment does not violate the principle of the stability of electoral relations (one year before the elections), as it does not concern the electoral system and the manner of constituting electoral constituencies or electoral bodies¹⁰¹.

However, on October 3, 2023, the Constitutional Court declared this restriction unconstitutional by Judgment No. 16¹⁰².

In that judgment, the Court emphasized that nothing in Constitutional Court Ruling No. 10/2023 suggested to Parliament an obligation to impose restrictive measures on the electoral rights of members of the party declared unconstitutional¹⁰³.

Following the declaration of unconstitutionality of Art. 16 para. (2) lit. e) of the Electoral Code, the Parliament on October 4, 2023 adopted Law No. 280/2023 amending the Electoral Code No. 325/2022 and included instead the following restriction:

"f) persons who, on the date of the Constitutional Court's ruling declaring the unconstitutionality of a political party, meet at least one of the following criteria that were relevant in the context of the ruling:

- 1) they are suspected, accused, indicted or convicted of committing offenses that were mentioned by the Constitutional Court as an argument in the context of the declaration of unconstitutionality of the political party;
- 2) have been excluded from a previous election as a result of a violation of electoral legislation, and this was taken into account as an argument for declaring the political party unconstitutional;
- 3) they are guilty of committing acts that have led to their inclusion in the international sanctions lists of international organizations or states, and this fact was taken into account as an argument for declaring the political party unconstitutional;

¹⁰⁰ https://www.legis.md/cautare/getResults?doc_id=138653&lang=ro

¹⁰¹

<https://www.parlament.md/ProcesulLegislativ/Proiectedeactenormative/tabid/61/LegislativId/6555/language/ro-RO/Default.aspx>

¹⁰² https://www.legis.md/cautare/getResults?doc_id=139509&lang=ro

¹⁰³ Ibid. para. 44

4) have committed other acts which, without expressly falling within the actions referred to in points 1)-3), were mentioned as arguments in the judgment of the Constitutional Court declaring the political party unconstitutional." ¹⁰⁴.

As in the case of Law no. 220/2023, in the informative note to the draft law by which Art. 16 para. (2) of the Electoral Code was supplemented with lit. f), the authors indicated "This draft law was drafted in order to bring the current regulatory framework in line with the considerations of the Constitutional Court taken into account when issuing Judgment no. 10/2023 on the constitutionality of the political party "Shor" (thereby establishing the unconstitutionality of the party and its dissolution from the moment of the Court's judgment), and Judgment no. 16/2023 on the constitutionality of Art. 16 para. (2) letter e) of the Electoral Code."¹⁰⁵ The given draft was adopted as a matter of urgency, being registered and voted in 2 readings on the same day.

By Judgment No 9/2024, the Constitutional Court again declared these provisions unconstitutional.¹⁰⁶ This time, the Court found that the contested law contained both procedural and substantive deficiencies. As in Judgment no. 16/2023, the Court reiterated that nothing in Constitutional Court Judgment no. 10/2023 suggested to Parliament an obligation to impose restrictive measures on the electoral rights of members of the party declared unconstitutional.¹⁰⁷

Additionally, the Election Code regulates the electoral campaign, including its financing, the use of administrative resources and the participation of observers.

According to Art. (3) of the Code, candidates in elections, where appropriate, referendum participants who, by virtue of the office they hold, are obliged to comply with the legal regime of conflicts of interest, incompatibilities, as well as other restrictions and limitations provided for by special legal norms, including for the purpose of preventing the unlawful use of administrative resources during the electoral period, shall suspend their activity in the respective office from the moment the electoral campaign begins. The persons covered by these provisions are:

- a) Deputy Prime Ministers, Ministers and ex-officio members of the Government;
- b) the Secretary General of the Apparatus of the President of the Republic of Moldova, the Secretary General of the Parliament, the Secretary General of the Government, the Deputy Secretaries General of the Government, the Secretaries of State, the Secretaries General of the Ministries;
- c) heads and deputy heads of central public authorities and organizational structures within their sphere of competence;
- d) presidents and vice-presidents of the districts;

¹⁰⁴ https://www.legis.md/cautare/getResults?doc_id=139328&lang=ro

¹⁰⁵ ¹⁰⁵

<https://www.parlament.md/ProcesulLegislativ/Proiectedeactenormative/tabid/61/LegislativId/6676/language/ro-RO/Default.aspx>

¹⁰⁶ https://www.legis.md/cautare/getResults?doc_id=143028&lang=ro

¹⁰⁷ Ibid. para. 76

- e) mayors and deputy mayors;
- f) praetors and vice-praetors;
- g) the secretaries of the local councils and of the prices;
- h) officials/employees who are required to suspend their service/work relations in accordance with the special legal rules governing their activity.

It should be noted that, previously, by Constitutional Court Address no. JCC-02/38a of 09.11.2010, the Court drew the Parliament's attention that the categories of officials, who from the moment of their registration as electoral contestants are to suspend their activity in the office held, must include all those listed in the Annex to the Law on the status of persons holding public office no. 199/2010.¹⁰⁸

The rationale of suspending from office during the electoral campaign the persons holding public office included in the lists of candidates is to ensure equal chances for all electoral contestants to realize the right to enter the Parliament, while avoiding the use of administrative resources by them.

Although Art. 21 para. (2) of Law no. 199/2010 stipulates that the exercise of the mandate is suspended on the basis of the dignitary's participation in the electoral campaign¹⁰⁹, the Electoral Code contains an exhaustive list of the categories of persons who are to suspend their mandate, without referring to the Annex to Law no. 199/2010. This can be interpreted that for the rest of the public dignitaries suspension during the electoral campaign is at their discretion. Such an interpretation is at odds with the reasoning of the Constitutional Court and the Code of Good Practice in Electoral Matters adopted by the Venice Commission.

Thus, it can be concluded that the Parliament disregarded the Constitutional Court's address and the Court's findings when adopting the Electoral Code.

As regards the supervision of electoral campaigns, it should be noted that the CEC is entrusted with the task. According to Art. (1) of the Electoral Code, the members of the CEC are appointed as follows:

- a) one member is appointed by the President of the Republic of Moldova;
- b) one member is appointed by the Superior Council of Magistracy;
- c) one member is appointed by the Government, upon the proposal of the Ministry of Internal Affairs;
- d) four members shall be appointed by Parliament as follows:
 - two members proposed by the parliamentary majority;
 - one member proposed by the parliamentary opposition. In the absence of a joint nomination by the opposition, the opposition faction with the largest number of MPs at the date of the constitution of the Parliament shall appoint the committee member;
 - one member proposed by civil society organizations representative of the electoral field.

¹⁰⁸ https://www.legis.md/cautare/getResults?doc_id=14075&lang=ro

¹⁰⁹ https://www.legis.md/cautare/getResults?doc_id=142489&lang=ro

It is worth drawing attention to the fact that, in a situation where the power belongs to a particular party (as it is currently the case), the majority of CEC members will be appointed by that political force. In such a situation, reasonable doubts arise as to the independence and impartiality of this body in the process of monitoring electoral campaigns. However, the CEC monitors compliance with the legal provisions on the conduct of elections and electoral campaigns, including the financing of parties and candidates. The CEC also settles complaints related to the electoral process, including those concerning fraud or other irregularities, and accredits national and international observers to monitor the electoral process and report any irregularities.

The independence and impartiality of the CEC are essential to guarantee the integrity and credibility of the electoral process, or the CEC must organize and supervise elections in a fair and transparent manner, ensuring that the results reflect the genuine will of the voters.

If the CEC is not independent and impartial, there is a risk that the electoral process could be influenced by political factors or other external interests.

An independent and impartial electoral commission ensures that citizens' rights to elect and to be elected are respected equally, without discrimination or favoritism. It ensures that all candidates and political parties have equal access to electoral resources and campaign opportunities.

For citizens to have confidence in the election results, they need to be sure that the process has been administered without external influence.

Given that the role of the CEC is to prevent and sanction electoral fraud, dependence on political influence could lead to ignoring or facilitating such irregularities.

Thus, in order to maintain a democratic, transparent and fair electoral system, it is essential that the CEC operates without external interference.

Art. 109 of the Election Code stipulates that the minimum age to be a candidate for the office of Member of Parliament is 18 years of age, including on election day. According to Art. (1) of Act No. 38/1994 Coll. on the Statute of the Member of the Parliament, the Member of the Parliament is the representative of the supreme legislative power.¹¹⁰ The deputy participates in the free and collective consideration of matters falling within the competence of the Parliament, in the debate and adoption of the bills on the agenda of the sitting of the Parliament. They also have the right of legislative initiative.

The question arises to what extent an 18-year-old is capable of making important political decisions. The MP is responsible for voting on laws that influence the whole of society, and young people at this age may not have the necessary knowledge or be emotionally mature enough to make informed and balanced choices.

¹¹⁰ https://www.legis.md/cautare/getResults?doc_id=136152&lang=ro#

Moreover, 18-year-olds may be more easily influenced by other people or political ideologies due to their lack of experience. This influenceability could lead to decisions that do not always reflect the public good, but personal or group interests.

For comparison, in Romania, candidates must be at least 23 years of age to be elected to the Chamber of Deputies and at least 33 years of age to be elected to the Senate, up to and including election day.¹¹¹ In Italy, the minimum age to be elected to the Chamber of Deputies is 25 and

to be elected to the Senate of the Republic is 40.¹¹² In Poland, the minimum age to be elected to the Sejm (lower house of parliament) is 21 and to be elected to the Senate (upper house) is 30.¹¹³

As regards the requirements for candidates in local elections, the Electoral Code stipulates that citizens of the Republic of Moldova with the right to vote and who have reached the age of 18 years, including on election day, are entitled to be elected as councilors in local councils. Citizens of the Republic of Moldova with the right to vote who have reached the age of 23, including on election day, and have at least the compulsory general education stipulated in Art. 13 of the Education Code No 152/2014.

In setting these age limits, no account was taken of the duties of these functions as laid down in Law No 436/2006 on local public administration. According to Law No 436/2006, the local council is the deliberative authority of the population of the first or second level administrative-territorial unit, elected to solve problems of local interest, and the mayor is the executive authority of the local council.¹¹⁴ Thus, the mayor ensures the execution of decisions of the local council. It is therefore questionable to what extent 18-year-olds have the necessary maturity to solve community problems.

By Law No 109/2024 on the partial implementation of postal voting, for the first time for the Republic of Moldova, an alternative method of voting was introduced for Moldovan citizens living abroad. This law regulates the principles of participation in elections by exercising the right to vote by correspondence using postal/ courier services as an alternative method of voting, the specific electoral procedures for voting by correspondence, as well as the powers of electoral bodies organizing postal voting. The purpose of the law is to create the necessary regulatory framework for the partial implementation of postal voting in order to allow Moldovan citizens to exercise their right to vote by an alternative voting method, as well as to check the appropriateness of implementing this method on a permanent basis.¹¹⁵

¹¹¹ <https://www.cdep.ro/pls/dic/site2015.page?id=339&idl=1&par1=2>

¹¹² https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf

¹¹³ <https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>

¹¹⁴ https://www.legis.md/cautare/getResults?doc_id=144148&lang=ro

¹¹⁵ https://www.legis.md/cautare/getResults?doc_id=143143&lang=ro

Although the law guarantees that postal voting is secret, thus excluding the possibility of influencing the will of the voter, the responsibility for ensuring the secrecy of the vote is placed on the voter. Similarly, the voter is responsible for ensuring that his/her vote is freely cast.

According to Art. 6 of Law no. 109/2024, the right to vote by correspondence is exercised by the voter registered for this procedure at the address indicated by the voter.

In addition, it should be emphasized that, on the one hand, Art. 8 of the Law stipulates the conditions for the partial implementation of postal voting:

"(1) The following criteria shall be taken into account when determining the countries where postal voting will be implemented:

- a) lack of polling stations in the host country or long distance to the nearest polling station previously established;
- b) experience of implementing postal voting in the host country;
- c) pre-registration of at least 30 applications for the previous election;
- d) security and reliability of postal/ courier services.

(2) The right to vote by correspondence may not be exercised in countries with which the Republic of Moldova has not established diplomatic relations, in countries involved in military conflicts and in countries that do not comply with international standards for free and fair elections."

and on the other hand in Art. 35 para. (2) lists the states where this alternative voting method will apply:

"(2) Voting by correspondence, as an alternative method of voting, shall be implemented in the elections for the office of President of the Republic of Moldova held after the entry into force of this law and shall apply to citizens of the Republic of Moldova residing in the territory of the United States of America, Canada, the Kingdom of Norway, the Kingdom of Sweden, the Republic of Finland and the Republic of Iceland. If a republican referendum is held on the same day as the elections for the office of President of the Republic of Moldova, postal voting shall also apply."

According to Art. (5) of the same law, after the completion of the partial implementation of postal voting, the CEC, within 3 months, will prepare and submit to the Parliament a report on the implementation of this alternative method of voting, which will include proposals and provisions on its permanent applicability, with the subsequent submission of the corresponding amendments to the Electoral Code no. 325/2022.

Therefore, Law no. 109/2024 is presumed to be of unique applicability only for the upcoming presidential elections.

4.2. SECONDARY FRAMEWORK

In addition to the primary framework, the CEC approved the secondary framework, which details the implementing rules of the primary legislation.

CEC Decision No. 1098/2023 approving the Rules of Activity of the Central Electoral Commission¹¹⁶

This decision establishes the manner and principles of organization and functioning of the CEC, the areas of activity of the Commission, the powers, rights and obligations of the members of the Commission, the manner of organizing and conducting public meetings, as well as the procedure for adopting administrative acts of the CEC.

According to the Rules, the President, Vice-President and Secretary are elected by secret ballot.

Although, according to item 59 of the Regulation, the CEC is assisted by an apparatus whose structure and staffing limits are approved by it, during the electoral period, regardless of the type of elections, the CEC may, where appropriate, hire, by individual employment contract, staff within the Commission Apparatus for a fixed term, releasing the persons concerned. The employment relations, rights and obligations of contract staff performing auxiliary activities and of staff employed by the Commission shall be laid down in the individual employment contracts concluded between the employer, in the person of the President of the Commission, and the direct employee, and in the internal rules of the Commission Apparatus, approved by order of the President of the Commission (item 65).

The transparency of the work of the CEC shall be ensured, including through its meetings. All meetings of the CEC are public, open to the media and the public.

Physical access to Commission meetings for media representatives and interested persons is allowed within the limits of available space and technical conditions.

At the same time, the meetings of the CEC are transmitted online if the technical means of information held by the CEC are available.

Decisions of the CEC are adopted by an absolute majority of its members.

CEC Decision no. 1101/2023 approving the Rules of Activity of the Polling Station Electoral Bureau¹¹⁷

The Regulation establishes how to set up the polling station's electoral bureau, its attributions and the organization of its activity, the procedures for organizing and conducting the voting.

The members of the polling station's electoral bureau are appointed as follows:

- 1) 3 members are appointed by the local council;
- 2) one is appointed by each political party represented in Parliament.

The electoral boards of polling stations abroad shall be made up of an odd number of members, from a minimum of 5 to a maximum of 15 persons. The members of the polling station electoral bureau of the polling station abroad shall be nominated by the subjects entitled as follows:

¹¹⁶ https://www.legis.md/cautare/getResults?doc_id=137856&lang=ro

¹¹⁷ https://www.legis.md/cautare/getResults?doc_id=144502&lang=ro

1) 2 members shall be proposed by the Ministry of Foreign Affairs and they shall ex officio act as chairperson and secretary of the respective electoral office;

2) one member is proposed by each political party represented in Parliament.

Within 2 days after the polling station polling station is set up, the representative of the electoral council or of the local public authority shall convene the members of the polling station polling station, who shall elect, by open ballot, from among their number the chairman and the secretary of the polling station, and shall adopt a decision to this effect.

The polling station is assisted by a working machine, consisting of the operators of the State Automated Information System "Elections" and other technical staff.

All the meetings of the polling station's electoral bureau, as well as the counting of votes, the operations related to the electoral lists, ballot papers, certificates for the right to vote, the drawing up of the minutes of the vote counting results, have the right to attend, without intervening:

1) members and representatives of the hierarchically superior electoral bodies;

2) representatives of electoral contestants / referendum participants in the respective electoral bodies;

3) national and international observers accredited by the respective electoral bodies, as well as their interpreters, in accordance with the provisions of the Regulation on the status of observers and the procedure for their accreditation, approved by the CEC;

4) journalists legitimized by media institutions and subsequently confirmed by the CEC.

The Rules also include how voting is organized and conducted.

According to Articles 65 and 66, voting is carried out on election day between 7.00 and 21.00. The polling station electoral office is fully responsible for organizing the voting, for the secrecy of the voters' vote, for the arrangement of the polling station premises in such a way as to ensure appropriate conditions for exercising the right to vote, including for people with disabilities.

The polling station decides to extend the voting deadline by a maximum of 2 hours in order to allow voters standing in line at the polling station to exercise their rights, informing the district electoral council and the CEC about the extension.

If the voter, for health reasons or for other legitimate reasons, is unable to travel to the polling station in whose territorial radius he/she is domiciled or temporarily residing, the polling station electoral bureau shall, at his/her written request, designate at least 2 members of the bureau who shall travel with a mobile ballot box and the necessary voting materials to the place where the voter is located in order to carry out the voting (point 86 of the Regulation).

Elections in some electoral constituencies or polling stations may be held, for objective reasons (pandemics, exceptional situations, ensuring the right to vote in unusual conditions, large number of registered voters at polling stations abroad, etc.), over two days (Saturday and Sunday), which is determined by a decision of the CEC at least 25 days before election day.

Only the members of the polling station's polling station electoral bureau have the right to count the ballots.

CEC Decision No 1195/2023 approving the Regulation on the status of observers and their accreditation procedure¹¹⁸

The Regulation sets out the procedure for accreditation as an observer as well as the rights, obligations, guarantees of status and liability of accredited observers.

According to point 5 of the Regulation, observers can be:

- 1) Nationals - citizens of the Republic of Moldova with the right to vote, accredited by the electoral bodies in the manner established by the Election Code and this Regulation, at the request of public associations and electoral training and research institutions of the Republic of Moldova, which have the task to observe the organization and conduct of elections;
- 2) internationals - citizens of the Republic of Moldova with the right to vote, as well as foreign citizens over 18 years of age, representatives of foreign electoral authorities and electoral training and research institutions, international organizations, governments of foreign states and non-governmental organizations abroad, as well as international electoral experts accredited by the CEC under the conditions of the Election Code and these Regulations, who are tasked with observing the organization and conduct of elections.

The application for accreditation of international observers may be submitted if the entity has received an invitation from the CEC to monitor the elections. The invitation of international organizations, representatives of the governments of foreign states and non-governmental organizations from abroad as international experts, international observers may be issued by the CEC on its own initiative or at the request of the entities mentioned in this paragraph, as well as through the Ministry of Foreign Affairs at the request of the CEC. In the case of regional elections, invitations shall be issued by the CEC at the request of the Central Electoral Council of Gagauzia.

The Constituency Electoral Council accredits, upon request, national observers from public associations/non-governmental organizations registered in the Republic of Moldova to monitor the elections only on the territory of the constituency within its territorial radius.

Public associations/non-governmental organizations in the country or abroad may apply for accreditation as observers only if their statutes or other internal acts provide for the conduct of election observation missions and/or activities in the field of defending human rights or democratic values, promoting participatory democracy and/or the interests of certain categories of citizens. These entities must have a permanent governing body, authorized representatives and mechanisms for communication with them.

In carrying out their duties, observers have the right:

- 1) to attend, without being involved in the process, all electoral operations, including all meetings of electoral bodies, verification, sealing and opening of ballot boxes, counting, tallying of votes and centralization of voting results, verification of

¹¹⁸ https://www.legis.md/cautare/getResults?doc_id=138815&lang=ro

documents for registration of candidates, initiative groups / referendum participants, preparation, printing and dispatch of ballot papers and certificates for the right to vote, preparation of all minutes of the voting results;

2) to assist in the process of checking the subscription lists, on the basis of a written request to the electoral body;

3) to acquaint themselves with the electoral lists and to check whether the data on voters are correct, to submit requests for correction of errors made in the registration of data on other voters no later than 7 days before the election day, enclosing the confirming documents;

4) to inform the president of the electoral body about irregularities observed in the electoral process;

5) to have access to all electoral information, electoral lists, minutes of the electoral bodies;

6) obtain copies of the decisions, minutes of the electoral body;

7) to attend, without being involved in the process, the meetings of electoral contestants / referendum participants with voters and the process of collecting signatures by initiative groups;

8) after notifying the president of the electoral body, to make video and audio recordings, to photograph the electoral process, without jeopardizing the secrecy and security of voting or the protection of personal data;

9) inform the public about the findings;

10) if necessary, to be accompanied by interpreters, who shall not interfere in the electoral process or other actions of the electoral bodies;

11) to undertake other actions that do not contravene the Election Code, this Regulation and other normative acts;

12) national observers may lodge complaints about irregularities detected, which are examined by the electoral body, with the mandatory informing of the complainant about the decision taken.

CEC Decision No 1129/2023 approving the Regulation on the status and activity of representatives of electoral contestants¹¹⁹

The regulation establishes the status of the representative of the electoral contestant, the procedure for confirmation of the representative by the electoral body, his rights and obligations, as well as the manner of work within the electoral bodies and participation in the electoral operations conducted by them.

Representatives in electoral bodies are appointed by the subjects with this right, as follows:

a) political party and electoral bloc, registered as electoral contestants;

b) the independent candidate;

c) the referendum participant.

Regardless of the type of election, the subjects referred to in item 3 of the Regulation may designate one representative each in the electoral body that registered them as

¹¹⁹ https://www.legis.md/cautare/getResults?doc_id=138376&lang=ro

electoral contestants or participants in the referendum, as well as in the lower and/or higher electoral bodies.

Political parties and electoral blocs that have registered their candidates/candidate lists in the elections or have registered as participants in the referendum may also appoint a representative to the CEC for the electoral period.

In the case of the simultaneous holding of several types of elections, as well as in the case of registration as a candidate for several elective offices by the same electoral body, the subjects referred to in point 3 of the Regulation shall appoint a representative to the same electoral body. In the case of registration as a candidate and as a referendum participant by the same electoral body, the subjects may designate one or the same representative for each registered capacity.

In an election, the same subject may appoint the same person as a representative to more than one electoral body, subject to the conditions set out in paragraphs 4-6 of the Regulation. More than one subject may not appoint the same person as a representative, regardless of the level of the constituency in which he/she is standing.

CEC Decision No. 1130/2023 approving the Regulation on the status and activity of persons of trust of electoral contestants¹²⁰

The Regulation sets out the status, rights and obligations of the election contestants' trustees, the confirmation procedure and the manner of their work and participation in electoral procedures.

Trusted persons shall be designated by the subjects with this right as follows:

- a) political party and electoral bloc, registered as electoral contestants;
- b) the independent candidate;
- c) the referendum participant.

In the case of parliamentary, presidential elections and republican referendums, the subjects referred to in item 3 of the Regulation may have persons of trust in each electoral constituency, and in the case of local elections and local referendums - only in the electoral constituencies in which they are candidates or registered as participants in the referendum.

CEC Decision No. 1137/2023 approving the Regulation on the coverage of elections by media outlets¹²¹

The Regulation sets out the rights, obligations and status of persons involved in the process of election coverage by media outlets in order to ensure comprehensive, objective and truthful information of the public on the entire electoral process through the media.

Paragraph 9 of the Regulation guarantees the right of media organizations to cover the elections free from any interference by public authorities, electoral contestants or other entities. Journalists, including freelancers (bloggers and vloggers), for general election coverage (protocol filming, including on the premises of electoral bodies with the agreement of the president of the electoral body, interviews, reports, etc.) exercise their duties without the need for any special permit. However, journalists, including freelancers (bloggers and vloggers), who, in addition to general coverage,

¹²⁰ https://www.legis.md/cautare/getResults?doc_id=138377&lang=ro

¹²¹ https://www.legis.md/cautare/getResults?doc_id=144434&lang=ro

intend to make use of the rights provided for in Art. 89 para. (6) of the Election Code must obtain observer status under the procedures established by the CEC.

In order to ensure the access of journalists, including freelancers (bloggers and vloggers) to electoral events for the purpose of realizing the rights provided for in Art. 80 para. (8) lit. (6) of the Election Code, the CEC or the constituency electoral councils are entitled to confirm the journalists legitimized by the media outlets in accordance with the procedure laid down in Chapter II of the Regulation.

The CEC confirms, upon request, journalists accredited by national media institutions and freelancers (bloggers and vloggers), who can cover the electoral process throughout the country, in all district electoral councils and polling stations, including those established for Moldovan voters residing in the administrative-territorial units on the left bank of the Dniester, and in polling stations established outside the Republic of Moldova.

Journalists legitimized by international or foreign media institutions and/or their interpreters are confirmed by the Ministry of Foreign Affairs on the basis of the Government Decision no. 359/1995 on the accreditation of foreign journalists in the Republic of Moldova.

In addition, the Regulation lays down strict rules for election coverage, obliging media service providers to submit a statement on editorial policy to the Broadcasting Council within the first 7 days after the start of the election campaign. The statement must include details about the structure of election-related programs, debates, tariffs for election advertising and a commitment to the principles of fairness, balance and impartiality.

In parliamentary, presidential and republican referendum elections, political advertising is banned and the media must provide candidates with free airtime to promote their election programs. Election advertising spots must be clearly identified and separated from other types of advertising, following strict rules set by the CEC.

The rules also regulate electoral debates, requiring them to be organized during prime time and to respect the same principles of fairness and impartiality. Moderators are obliged to keep debates within the announced topics and to intervene if the rules are not respected.

CEC Decision no. 1155/2023 approving the Regulation on the manner of provision, distribution and dissemination of political and electoral advertising and messages of public interest¹²²

The Regulation establishes the particularities and the manner of providing, distributing and broadcasting political and electoral advertising and messages of public interest in accordance with the provisions of Law no. 62/2022 on advertising and the Electoral Code.

According to item 7 of the Regulation, any written (printed), audio, photo or video material that falls under the notion of "political advertising" as defined in Art. 3 of Law no. 62/2022 on advertising and fulfills the following cumulative conditions is considered electoral advertising:

¹²² https://www.legis.md/cautare/getResults?doc_id=144788&lang=ro

- a) refers directly to a clearly identified subject of election advertising;
- b) is used from the date of the beginning of the electoral campaign, in accordance with Art. 70 para. (3) of the Electoral Code and until the date of confirmation of the election results by the competent authorities;
- c) has an electoral objective and is addressed to the general public;
- d) exceeds the usual limits of journalistic activity of informing the public.

Only CEC-approved public service announcements are broadcast during the general election period.

CEC Decision No 1102/2023 approving the Regulation on the financing of political parties¹²³

The regulation sets out the conditions and modalities of financial support for the activity of political parties, the procedure for submitting reports on financial management, supervision and control of political party financing, as well as liability for violations of the legislation on political party financing.

According to the provisions of the Regulation, the private financing of the political party consists of contributions, donations and other income obtained in accordance with Art. 24 para. (3) of Law 294/2007 on political parties.

The ceiling of a political party's annual income from membership fees and donations is 0.1% of the income foreseen in the state budget for that year. In the event of exceeding this ceiling, the financial resources shall be paid into the state budget on the basis of a decision of the CEC.

Donations made by an individual to one or more political parties in a budget year may not exceed the amount of 6 average monthly salaries on the economy for that year. The amount of donations may not exceed:

- a) 30% of the donor's annual income (income directed to payment) recorded for the previous calendar year. If no income has been recorded for the previous calendar year, the donor may not make donations;
- b) an average monthly salary in the economy for the respective year, in case of citizens of the Republic of Moldova who receive income only from scholarships or other social benefits;
- c) 10% of the donor's annual income (income directed to payment), in the case of citizens of the Republic of Moldova with the status of persons with public dignity, civil servants, including with special status, or employees in public organizations within the meaning of Law no. 133/2016 on the declaration of assets and personal interests.

The Regulation also limits cash donations to an average salary per person in the economy established for that year during a budget year. Donations exceeding this limit will be made exclusively through banking transactions.

Donations made by a legal entity to one or more political parties in a budget year may not exceed the amount of 12 average monthly salaries per month per economy for that year, according to Art. 26 para. (5) of Law 294/2007 on political parties.

The CEC shall verify donations that exceed 3 average monthly salaries for the economy established for the respective year in terms of declaring the sources of

¹²³ https://www.legis.md/cautare/getResults?doc_id=144727&lang=ro

income or tax obligations arising from them. In the event of doubts regarding compliance with tax legislation, the CEC shall carry out checks and, if necessary, take measures to hold the offender liable and/or, where appropriate, refer the matter to the State Tax Service for checks to be carried out within the limits of its functional competences.

Each party is obliged to keep a strict and transparent account of these funds, and financial reports must be submitted semi-annually and annually to the CEC.

While strict rules on political party funding are necessary to ensure transparency, these procedures can become burdensome for small parties or those with limited resources. They have to manage detailed records for membership fees, donations and other types of income, report semi-annually and annually, and respond to multiple bureaucratic requirements. For parties with small teams or modest financial resources, this bureaucracy can become a major burden, limiting their ability to function effectively. In fact, smaller parties risk being disadvantaged in a system that favors large parties with complex administrative structures.

In addition, the procedure laid down in the Regulation may discourage private donations. Strict donor identification rules and requirements for full transparency may make some individuals reluctant to donate to political parties. Donors may be reluctant to contribute financially for fear of exposing their personal data or of being publicly associated with certain parties.

CEC Decision No 2574/2024 on the approval of the Regulation on the particularities of two-day voting¹²⁴

The regulation sets out the electoral procedures for securing voting, preserving and ensuring the integrity of used and unused ballots, rules for ensuring the confidentiality of information from the electoral lists on voter turnout in case of elections or referendums held over two days.

It also allows the CEC to establish, upon request or ex officio, at least 25 days before election day, by a decision, the holding of voting on two days (Saturday and Sunday), if at least one of the following conditions is met:

- 1) if the number of voters who exercised their right to vote in the polling stations set up for voters from the localities on the left bank of the Dniester and abroad in the last 3 national elections, regardless of their type, is equivalent to or exceeds the number of ballots that can be submitted to the electoral body for one polling day;
- 2) if the number of citizens of the Republic of Moldova with the right to vote, who will be abroad on election day and who have pre-registered to vote in polling stations in a given locality, exceeds the number of ballots that can be sent to the electoral body/bodies in that locality.
- 3) if it is not possible to identify a sufficient number of locations abroad for the organization of polling stations, which meet the criteria for obtaining the approval of the competent authorities of the host countries by the Ministry of Foreign Affairs;
- 4) if the legislation of the host country has set the weekly rest day on a day other than Sunday, thus making it difficult for voters to get to the polling station;

¹²⁴ https://www.legis.md/cautare/getResults?doc_id=143709&lang=ro

- 5) if the necessary number of polling stations for Moldovan citizens with the right to vote, who will be abroad on election day, assessed according to the provisions of the Election Code no. 325/2022, exceeds the maximum number of polling stations that can be organized with the consent of the competent authorities of the host countries;
- 6) if the turnout dynamics in the last 3 national elections, regardless of their type, exceeds the usual capacity of election officials to organize the electoral process in good conditions, thus influencing the reasonable waiting time for exercising the right to vote;
- 7) if a public health emergency is declared in the locality where the elections are held in connection with an epidemic or pandemic at local, national or global level;
- (8) with the consent of the authorities of the host country, if a state of emergency, siege or war is declared on its territory;
- 9) other unusual conditions that would jeopardize the smooth conduct of elections.

The first day of voting (Saturday) begins with the preparation of polling stations and at the end of the day unused ballot papers and documents are sealed. The ballot boxes are not opened and the votes are not counted until the end of voting on Sunday. The Regulation gives details of the procedures for securing election documents and equipment between the two voting days, emphasizing the importance of protecting the integrity of the process.

On the second day of voting, polling stations are open and operate according to the same procedures as on the first day, and the votes are counted and the results are established after the end of the electoral process. In case of any non-compliances, these are reported and dealt with by the competent electoral authorities.

The Regulation imposes clear responsibilities for election officials in managing and safeguarding election documents and equipment, emphasizing the importance of security during the two days of voting. In addition, complaints lodged on the first day of voting are examined until the finalization of the electoral process on the second day.

CEC Decision No 2688/2024 on the approval of the Instruction on remote voter identification by digital means¹²⁵

The purpose of the Instruction is to ensure the identification of voters who have pre-registered online for postal voting.

Voter identification is carried out by verifying the identity of voters using automated non-human and human-operated means of verification.

Voter identification by means of human verification is carried out only by authorized persons trained for this purpose.

The voter's identity is verified on the basis of the identity document presented in the attached photo, the comparison of images and the information provided by the individual and/or the information taken from the State Register of Voters and the State Register of Population.

According to item 24 of the Instruction, the operator verifies the identity of the voter as follows:

¹²⁵ https://www.legis.md/cautare/getResults?doc_id=144591&lang=ro

- make sure that the face and identity document in the attached photo match those in the State Population Register;
- ensures that the data contained in the photo ID are correct and valid;
- if applicable, notify the voter to update their information to make identification possible.

Verification of identity is carried out on the basis of comparing/matching the facial features on the voter's attached photograph with the photo from the identity card in the attached photograph and with the most recent photograph of the voter from the State Population Register.

Voter identification is carried out in a single session without interruption. If the information needs to be updated, the verification shall be resumed after the voter has provided the updated information, but no later than 25 days before election day.

If the voter is asked to update the data after the deadline for updating the information has expired, the identity verification result is generated on the basis of the existing information.

CEC Decision No. 2589/2024 approving the Instruction on the procedure of counting, tabulation, centralization and display of the results of postal voting¹²⁶

The instruction sets out the procedure for counting, tabulation, centralization and display of the results of postal voting, as well as the procedure for systematization and transmission of documents (materials) and electoral equipment after the postal votes have been tabulated.

The polling station's polling station office for postal voting starts counting envelopes and votes after all polling stations in the host country have closed.

The procedure for counting the ballot papers is carried out by the members of the polling station's electoral bureau for postal voting.

Before the start of the counting of envelopes and votes, the members of the polling station shall set up the counting area with a sufficient number of tables so that the counting process is within the sight of all members of the polling station's electoral bureau and persons authorized to assist in the electoral operations, present at the procedure.

The counting and tallying of envelopes and votes by the polling station's polling station for postal voting will be done by video recording and the video surveillance camera will be fixed and activated before the counting procedure starts. The procedure for fixing, activating the surveillance camera, setting up the Video Recording System and the video recording procedure will be carried out in accordance with the Regulation on the operation of the Video Recording System in the polling stations.

The following may be present during the counting of the votes without intervening:

- members and representatives of the higher electoral bodies;
- representatives of electoral contestants / referendum participants;
- accredited national and international observers;

¹²⁶ https://www.legis.md/cautare/getResults?doc_id=144672&lang=ro, §10.4

- journalists accredited by media outlets and confirmed by the CEC.

Before the opening of the ballot boxes, the members of the polling station's electoral bureau for postal voting, in the presence of persons authorized to be present at the electoral operations, shall check the integrity of the seals affixed to the ballot boxes. If the seal is damaged or if there are obvious signs that the ballot box has been opened or ballot envelopes have been removed, a written record shall be drawn up and attached to the record of the results of the ballot.

After checking the seals on the ballot boxes, the chairman of the polling station's electoral bureau, in the presence of the members of the electoral bureau and persons authorized to assist in the electoral operations, opens the ballot boxes and the outer envelopes are turned over on a table.

The outer envelopes shall be counted and it shall be verified that the number of envelopes removed from the ballot box coincides with the number of voters on the electoral roll for postal voting from whom the envelopes were received within the deadline for voting. If it is found that there are more/fewer envelopes in the ballot box than the number of voters on the list from whom the outer envelopes were received within the deadline for voting, a record shall be drawn up, stating the difference and indicating the surname and forename of the voter from whom the envelope was received.

Until the outer envelopes have been opened and their contents checked, the polling station electoral office of the postal voting precinct shall seal the ballot boxes into which the inner envelopes will be placed.

Opening the personalized outer envelopes and checking their contents is carried out as follows:

1. check the integrity of the outer envelope;
2. open the outer envelope carefully so as not to damage the contents;
3. after opening the outer envelope, check the presence of the depersonalized inner envelope(s), depending on the type of ballot organized;
4. check that the inner envelope(s) are properly sealed;
5. check whether the completed and signed blank declaration of abstention from multiple voting and confirmation of exercising the right to vote in secret is attached.

When checking the contents of the outer envelopes, if the members of the polling station find that the inner envelope is not properly sealed, is damaged in such a way that the secrecy of the vote is not ensured, the security label is missing or the blank declaration of abstention from multiple voting and confirmation of the exercise of the right to vote in secret is not attached, it is annulled, counted and sealed separately with other similar envelopes. The number of invalid inner envelopes shall be recorded in the report of the polling station and the total number of invalid inner envelopes shall be entered in the minutes.

After unsealing the ballot boxes, the inner envelopes shall be turned over on the counting table so that the counting process is within the sight of all members of the polling station and persons authorized to assist in the electoral operations present at the procedure. Depersonalized inner envelopes shall be counted separately for each type of poll.

After counting, the de-personalized inner envelopes are opened and the contents of each individual envelope are checked. The depersonalized inner envelopes are opened in such a way as to prevent damage to the ballot papers inside. The check is carried out by the chairman or a designated member of the polling station, who checks whether there is only one ballot paper in the envelope for the same type of ballot.

Ballots drawn from depersonalized inner envelopes are declared invalid if:

1. the inner envelope contains two or more ballot papers for the same type of ballot;
2. the inner envelope contains the blank declaration of abstention from multiple voting and confirmation of the exercise of the right to vote in secret;
3. the identification number of the constituency and the identification number of the polling station for postal voting do not correspond to that of the respective constituency and polling station;
4. the ballot paper is of a different model than the one established;
5. the mark confirming the voter's choice has not been affixed in any circle on the ballot paper;
6. the voter's name is written on the ballot paper, which is tantamount to a violation of the secret ballot;
7. on the ballot paper there are several marks in pen, so that the voter's choice is not clear;
8. on the ballot paper was written the mark confirming the voter's option for the electoral contestant who withdrew or was excluded from the electoral race;
9. the ballot paper is distorted or scribbled in such a way that the voter's choice is not clear.

The chairperson of the polling station's polling station for postal voting shall give all its members and persons authorized to be present at the electoral operations the opportunity to examine the ballot paper that is to be declared invalid.

If the members of the polling station's polling station for postal voting have doubts about the validity of the ballot paper, the matter is settled by a vote and the result of the vote is recorded in the minutes of the polling station meeting.

4.3. CONSTITUTIONAL COURT CASE LAW

Art. 38 of the Constitution of the Republic of Moldova explicitly provides for the right to vote and the right to be elected, which are the cornerstones of the country's democratic system. Electoral freedom implies the conduct of elections in a free, fair and transparent manner, so that every citizen has the right to express his or her political will without constraint or pressure.

The Constitutional Court of the Republic of Moldova (CC) plays an essential role in protecting and guaranteeing the right to free elections. The CC is the body of constitutional jurisdiction that ensures respect for constitutional principles and constitutionality review of normative acts regulating electoral processes.

Analyzing the jurisprudence of the CC, we note that freedom of elections has been addressed in multiple aspects, from regulating access to the media to the active participation of citizens in political life.

In the following, we present an analysis of electoral freedom, based on recent judgments and other relevant documents from the jurisprudence of the Constitutional Court.

A central aspect of electoral freedom is equal access to the media and fair coverage of electoral campaigns. The Constitutional Court emphasized this principle in Judgment No. 16/2024, when it declared unconstitutional the provisions of the Electoral Code that limited the access of electoral contestants to audiovisual programs.

The subject of the exceptions of unconstitutionality was the text "may not have direct or indirect interventions and may not be targeted by third parties in audiovisual programs other than those of an electoral nature, expressly set out in the editorial policy statements of media service providers" in Art. 90 para. (2) of the Election Code.

In this judgment, the CC held that limiting the communication of information about electoral contestants in broadcasts other than those intended for the electoral campaign can contribute to maintaining balance and impartiality in the media coverage of elections, avoiding distortions in the reporting about different candidates or political parties and promoting a fair and democratic electoral process. At the same time, by restricting the communication of information about electoral contestants in broadcasts other than those intended for election campaigning, the legislator seeks to limit the excessive influence of certain parties or interests in the media on public opinion and thus contributes to the protection of diversity of opinion in the democratic process (§78).¹²⁷

Similarly, the CC noted that, "[a]t first sight, this separation of electoral and non-electoral media content would be beneficial, because during the election period there is always a risk of dilution of electoral and non-electoral media content, which may affect the interests of information consumers. It is also in the interest of voters to be able to distinguish between election and non-election media content.

89. However, a rigid demarcation cannot be made, given that participants in electoral processes may also be public persons, and media services could also address them in non-electoral broadcasts on issues of general interest. Media services should also demonstrate flexibility in their work.

¹²⁷ https://www.legis.md/cautare/getResults?doc_id=144490&lang=ro

90. In this case, the Court observes that during the election period, the contested rule prohibits media services from targeting participants in electoral processes, either positively or negatively, in non-electoral audiovisual programs. In order to target the participants in the electoral process during the election period, media services may only act in audiovisual programs of an electoral nature, mentioned in the Declaration on Editorial Policy for Election Coverage, communicated in advance to the Audiovisual Council.

91. The Court recognizes that this measure enables the Audiovisual Council to exercise effective control over compliance with the editorial policy of the media services during the election period. At the same time, the Court notes that the conditions laid down in Art. 90 para. (2) of the Electoral Code are too rigid for situations in which, during the election period, media services would wish to target participants in electoral processes in non-electoral audiovisual programs of a non-electoral nature, which they broadcast on a permanent or regular basis, including outside the election period. The Court takes into account that during the election period in non-electoral programs the media services may have a legitimate interest in covering important, topical subjects which have as protagonists the participants in the electoral process. In such cases, restricting the right of media services to target participants in electoral processes only in the audiovisual election programs mentioned in the Declaration on Editorial Policy for Election Coverage is excessive.

92. In these situations, the Court considers that the objective pursued by the legislature can be achieved also by obliging media services to report any election coverage outside the listed programs and to provide the recordings of these programs to the Broadcasting Council as soon as possible. This approach was also endorsed by the Venice Commission in its Opinion CDL-AD(2022)025, at paragraph 93, according to which "the law could include [...] well-defined exceptions to this rule and other mechanisms, such as, for example, an obligation on the media institution to report any election coverage outside the well-defined programs and to provide the recording to the Audiovisual Council as soon as possible".

93. The Court notes that this less intrusive measure allows the Audiovisual Council to continue to exercise effective control over media services' compliance with editorial policy. This conclusion of the Court does not prevent the legislator from identifying and adopting other solutions, while respecting freedom of expression. The Court will send an address to the Parliament.

94. The Court finds that the wording "may not have direct or indirect interventions and may not be targeted by third parties in audiovisual programs other than those of an electoral nature, expressly set out in the editorial policy statements of media service providers" in Art. 90 para. (2) of the Electoral Code is contrary to the right to freedom of expression, guaranteed by Art. 32 of the Constitution, and should be declared unconstitutional."

Thus, CC Judgment no. 16/2024 emphasized the importance of striking a balance between the right to freedom of expression and the need to maintain impartiality and fairness in media coverage of electoral campaigns. The limitation imposed by Art. 90 para. (2) of the Election Code, which prohibited the coverage of electoral contestants in non-electoral programs during the election period, was considered excessive and unjustified. The CC recognized that although the legislator's intention to prevent disproportionate influence in the media is legitimate, the restrictive measures must be proportionate and not unduly impair freedom of expression.

By declaring the challenged provisions unconstitutional, the CC emphasized that freedom of expression, both for electoral contestants and the media, must be respected, even during election periods, without unduly restricting the media's ability to cover issues of public interest. At the same time, the need for regulations that ensure media transparency and accountability, without imposing rigid limitations, was emphasized.

In the part related to the neutrality of the presidential institution, in Judgment No. 35/2017¹²⁸, the CC found that the prohibition of the President of the Republic of Moldova from being a member of a political party is constitutional, emphasizing the importance of the political neutrality of this office. The CC analyzed this restriction in the context of Art.s 32 and 41 of the Constitution, which guarantee freedom of opinion and expression as well as freedom of association in political parties. However, it was clarified that these rights are not absolute and may be restricted by law for certain categories of public functions, according to Art. 41 para. (7) of the Constitution.

As in Decision No. 32/2015 on the nomination of the candidate for Prime Minister¹²⁹, the CC emphasized that the President of the Republic must demonstrate his impartiality and political neutrality, his impartiality and impartiality towards all parliamentary groups. The President has no constitutional right to overlap with parliamentary groups.

The CC noted that the political neutrality of the President of the Republic has an impact on the public's trust in the office.

In Ruling No. 2/2017¹³⁰, the CC noted that the President of the Republic of Moldova is obliged to act in the interests of the whole of society, and not of a part of it, a political group or party. For these reasons, the President of the Republic of Moldova may not be a member of a political party and may not promote the interests of a political party in any way (§31).

¹²⁸ https://www.legis.md/cautare/getResults?doc_id=77874&lang=ro

¹²⁹ https://www.legis.md/cautare/getResults?doc_id=90413&lang=ro

¹³⁰ https://www.legis.md/cautare/getResults?doc_id=100539&lang=ro

Also, in Judgment No. 24/2017¹³¹, the Court emphasized that in parliamentary systems the Head of State plays the role of an arbiter, or neutral power, being detached from political parties. Although no one can prevent the Head of State from having his political opinions and sympathies, the mandate he exercises is limited. The President is an important part of the political system, but he is not a partisan politician. Although election by popular vote tends to strengthen the position of the President, in similar constitutional systems, popularly elected Presidents continue to play the role of a neutral power and do not have broad powers, and the necessary checks and balances are guaranteed by parliamentarianism (§§ 113, 114).

In § 69 of Judgment no. 35/2017, the CC noted that the incompatibility imposed on the President is not aimed at suppressing the freedom of association, but, on the contrary, political incompatibility serves to the benefit of the office, as it contributes to establishing a favorable framework for the exercise of the constitutional powers vested in him, detached from political parties.

The Court emphasized that in other public offices, such as that of Member of Parliament or member of the Government, political neutrality is not required to the same extent as in the case of the President, because these offices are by definition political. Instead, the President must represent all the people and membership of a political party could undermine this role. Therefore, the CC concluded that the prohibition of membership of a political party is not an unjustified infringement of the right of association, but a proportionate measure to protect the impartiality and neutrality of the presidential institution.

Thus, the Court rejected the complaint and recognized the constitutionality of the text of Art. 112 para. (2) of the Electoral Code which provides for this prohibition, considering that it is in conformity with the constitutional provisions and with its previous case law.

The restriction of the right to participate in elections for certain categories of persons was analyzed in CC Judgment no. 16/2023¹³² which concerned Art. 16 para. (2) lit. e) of the Electoral Code.

This provision, applied automatically, prevented some people from exercising their right to vote, without an individualized assessment of the situation of each citizen concerned.

In its analysis, the CC emphasized the fundamental importance of the right to vote in a democratic state.

¹³¹ https://www.legis.md/cautare/getResults?doc_id=100378&lang=ro

¹³² https://www.legis.md/cautare/getResults?doc_id=139509&lang=ro

As a preliminary point, the CC held that, according to point 1.1 lit. d) of the Code of Good Practice in Electoral Matters, the deprivation of electoral rights may take place under the following cumulative conditions: the deprivation must be provided for by law; the principle of proportionality must be respected; the suspension of electoral rights must be based on the recognition of mental incapacity or the conviction of deprivation of liberty by a final judgment of a court for the commission of serious crimes; the suspension of political rights or the finding of mental incapacity may be imposed only by a special judgment of a court (§66).

In the contested provision, the prohibition on being elected operates by operation of law, and there is no need for a judgment of the court to that effect.

In Judgment No. 16/2023 the CC referred to the case law of the ECtHR in which it was consistently held that democracy is a fundamental element of the European public order and that the subjective rights guaranteed by Art. 3 of Protocol No. 1 to the Convention, which includes the right to vote and the right to stand as a candidate in elections, are crucial to the establishment and maintenance of the foundations of a coherent and effective democracy governed by the rule of law (*Karácsony and Others v. Hungary* [MC], 17 May 2016, § 141; *Teslenko and Others v. Russian Federation*, 5 April 2022, § 117; *Kalda v. Estonia* (no. 2), 6 December 2022, §§ 37-38). Although member States to the Convention enjoy a wide margin of discretion when limiting the exercise of electoral rights, the limitation must not affect the very essence of the rights and deprive them of their effectiveness. Moreover, the limitation must pursue a legitimate aim and use means which are not disproportionate (see *Selahattin Demirtaş v. Turkey* (no. 2) [MC], 22 December 2020, § 387; *Kalda v. Estonia* (no. 2), 6 December 2022, §§ 39-40).

In §35 and 36 of the same judgment the CC noted:

"35. In its case law, the European Court of Human Rights has held that Art. 3 of Protocol No. 1 to the Convention enshrines a fundamental principle in a truly democratic political system and is of fundamental importance in the Convention system. The role of the State, as the ultimate guarantor of pluralism, entails taking measures to organise democratic elections in conditions which ensure the free expression of the people's opinion on the choice of the legislature (*Özgürlük ve Dayanışma Partisi (Ödp) v. Turkey*, 10 May 2012, § 27; *Bakirdzi and E.C. v. Hungary*, 10 November 2022, § 42).

36. The rights guaranteed by Art. 3 are not absolute. There is room for "implicit limitations", and Contracting States must have a wide margin of appreciation in this matter (*Labita v. Italy* [C.C.M.], April 6, 2000, § 201; *Vito Sante Santoro v. Italy*, July 1, 2004, § 54). Thus, while the right to stand as a candidate is not absolute, the implicit limitations that may be placed on it must not reduce it to such an extent as to impair its essence or deprive it of its effectiveness. Such limitations must be in conformity with the rule of law and be accompanied by sufficient safeguards to avoid

arbitrariness (*Youth Offensive v. Romania*, December 15, 2015, § 52). The limitation must also pursue a legitimate aim and use means which are not disproportionate (*Kalda v. Estonia* (no. 2), 6 December 2022, § 40)."

The CC also noted that Parliament's power to determine the duration of a ban is not unlimited. Since this measure involves substantial limitations on the constitutional right to stand as a candidate in elections, Parliament must give convincing reasons when it determines the duration of a ban, as well as when it decides to increase its duration. Parliament must justify the extent to which the duration of the prohibition is suitable for pursuing the legitimate aims of the prohibition.

This obligation of the Parliament follows from the general constitutional obligation of the authorities to justify their own decisions, which can be deduced from Art. 54 of the Constitution and from the standards of European constitutionalism, dictated by the culture of justification, in which every exercise of power must be justified (see, *mutatis mutandis*, CC Judgment No 15/2021, § 42).

However, in this case, the CC noted that in the initial version of the draft law of July 10, 2023, which introduced the challenged rule, the authors of the draft law had stated that the ban would apply for a period of three years from the date of the CC's judgment. This duration of the ban was voted in the first reading on July 14, 2023. On July 31, 2023, two Members of Parliament tabled amendments proposing to increase the duration of the ban from three years to five years. These amendments were not accompanied by any reasoning. On the same day, the Committee on Legal Affairs, Appointments and Immunities accepted the proposed amendment and drew up a report on the draft law, which it presented to the full Parliament. On the same day, the draft law, which already included the increase in the duration of the ban, was voted on in second reading.

Analyzing the process of adoption of the contested provision, the CC found that the legislature increased the duration of the contested prohibition in the absence of objective justification.

In addition, the CC observed that the duration of the ban was fixed for both categories of persons concerned and did not take into account the degree of contribution of each person to the acts for which the party was declared unconstitutional. Thus, persons who contributed insignificantly to the acts for which the party had been declared unconstitutional were to be subject to a prohibition of the same duration as persons who actively contributed to or played a determining role in the acts for which the party was declared unconstitutional. The Court held that this approach could lead to the prohibition being applied disproportionately to the candidate's conduct.

Therefore, the CC found that the contested prohibition is not based on objective criteria, is general, is not sensitive to the particular circumstances and is not accompanied by sufficient safeguards to ensure protection against arbitrariness.

As a result the CC declared unconstitutional Art. 16 para. (2) letter e) of the Electoral Code.

CC Judgment No. 25/2018¹³³ is a landmark in the protection of the electoral rights of persons with mental disabilities in the Republic of Moldova. It addresses the exception of unconstitutionality of Art. 13 para. (1) lit. b) of the Electoral Code, which limits the right to vote of persons declared incapacitated by a court decision, raising fundamental questions regarding respect for human rights and the principles of participatory democracy.

The objection of unconstitutionality was raised in the context of the presidential elections of October 30, 2016, when 87 residents of a psychoneurological boarding school in Soroca district were deprived of the right to vote.

At §54-57 CC mentioned the following:

"54. The Court notes that, in the case of a declaration of incapacity, the rationale of protecting a person from the negative consequences of his or her own actions extended to the right to vote. Thus, the prohibition of the right to vote laid down in Art. 13 para. (1) lit. b) of the Electoral Code was based on the mere assumption that an incapacitated person is unconscious in matters of voting. Such a presumption has been and is widely rejected by national and international courts, which have emphasized that, except in well-defined cases, persons with mental disabilities must be entitled to the right to vote.

55. In *Alajos Kiss v. Hungary*, May 20, 2010, the Hungarian government argued that depriving persons under guardianship of the right to vote ensures that society's confidence in the electoral system is maintained. The European Court confirmed the legitimacy of such an aim (§ 40). The Court accepts that this legitimate aim could also be invoked in the case of the electoral legislation of the Republic of Moldova.

56. Although the state has an interest in protecting the integrity of the ballot, the assumption that persons with mental disabilities are routinely subject to gerrymandering is based on a bias (see, *mutatis mutandis*, *Carrington v. Rash*, 380 U.S. 89, 93-94 (1965), § 26). Even if this prejudice would be true of persons confined in medical institutions, it is not warranted in the case of persons living in the community. Moreover, even in the case of those confined in medical institutions, there would be less drastic means than disqualification from voting to prevent their manipulation. For example, the state could allow persons with disabilities free access

¹³³ https://www.legis.md/cautare/getResults?doc_id=111145&lang=ro

to election materials and information sources, thereby reducing the danger of unilateral influence, or encourage, where possible, voting in the community where the person lived prior to institutionalization.

57. In the case of *Alajos Kiss v. Hungary*, which constitutes for the Court an authority of *res judicata*, the mere finding of the automatic and undifferentiated nature of the prohibition of the incapable person's right to vote was sufficient to enable the European Court to find a violation of Art. 3 of Additional Protocol No. 1 to the Convention (§ 43). The Court sees no reason to depart from that finding."

The CC's conclusion was that, since the prohibition on the exercise of the right to vote was applied automatically and indiscriminately, in the absence of a reasoned assessment by a court of law as to the voting capacity of persons with mental disabilities, the contested provision is contrary to Art. 38 of the Constitution, which guarantees the right to vote and the right to be elected.

In Judgment No. 24/2020, the CC examined the constitutionality of certain provisions of Art. (5) of the Law no. 86/2020 on non-commercial organizations, which prohibit the provision of services by non-commercial organizations to electoral contestants during the electoral campaign.

The CC assessed the ban from two perspectives: the provision of free services and the provision of onerous services.

The CC admitted that the provision of free services by non-commercial organizations to electoral contestants during the election campaign can be considered a form of political support within the meaning of Art. 32 of the Constitution. The CC held that the application of the contested prohibition to non-commercial organizations is based on the fact that unlike commercial organizations the former can benefit from financial support, other facilities offered by the state and the mechanism of percentage designation. In order to grant these legal benefits, the legislator intended that non-commercial organizations should manifest political neutrality during the election campaign period. Therefore, the CC held that the legitimate aim pursued by the legislator in prohibiting non-commercial organizations from providing free services to electoral contestants during the election campaign period, which can be deduced from the Law on Non-Commercial Organizations, falls within the notion of "public order" established by Art. 54 para. (2) of the Constitution (§36).

With regard to the prohibition on the provision of onerous services by non-commercial organizations to electoral contestants during the election campaign, the CC noted that the prohibition in question is not equally applicable to commercial organizations. Thus, neither the Election Code nor the Law on Entrepreneurship and Entrepreneurship prohibits commercial organizations from **providing onerous services** to electoral contestants during the election campaign. Thus, in order to

justify the differential treatment created, the contested prohibition must pursue a legitimate aim.

According to the Venice Commission, unequal treatment between the non-commercial organizations sector and other legal persons/non-state entities, e.g. in the business sector, can raise issues where the State does not establish a specific justification for the differential treatment created and does not demonstrate that there are legitimate reasons to impose, for example, additional reporting obligations only on associations (see Report on the Financing of Associations, CDL-AD(2019)002¹³⁴, § 125, 150).

Additionally, the CC noted that both non-commercial and commercial organizations may carry out economic activities [Art. 6 para. (2) of the Law on Non-commercial Organizations and Art. 1 para. (1) of the Law on Entrepreneurship and Enterprise]. Non-commercial organizations may also provide services for potential election contestants outside the election campaign (Art. 6 paragraph (4) of the Law on Non-commercial Organizations). Therefore, the CC did not identify any relevant grounds that would justify the application of the prohibition of the provision of onerous services only to non-commercial organizations, given that the Law allows non-commercial organizations to provide such services outside the election campaign. In most cases, the election campaign is, in fact, a contest in which pre-campaign work materializes. Thus, since the provision of onerous services by non-commercial organizations to political parties is allowed outside the election campaign, there is no legitimate purpose justifying the application of the prohibition of the provision of such services to electoral contestants during the campaign period only to non-commercial organizations.

Therefore, the CC held that the prohibition of the provision of onerous services to electoral contestants during the electoral campaign, established by the contested provisions, unjustifiably and discriminatorily restricts the property rights of non-commercial organizations, contrary to Art.s 16 and 46 of the Constitution.

The CC judgment clarified that non-commercial organizations must respect the principle of political neutrality by prohibiting the provision of free services during the election campaign, but they can carry out onerous economic activities, like any other economic agent, including during the election campaign.

Through this judgment, the CC also emphasized the need to apply proportionate and justifiable measures in regulating the activities of non-profit organizations, thus preventing the application of measures that may unduly restrict the economic activities of these entities.

The issue of the annulment of the registration of electoral subjects in cases of voter corruption was analyzed in CC Judgment No 18/2024.¹³⁵

¹³⁴ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)002-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)002-e)

¹³⁵ https://www.legis.md/cautare/getResults?doc_id=144572&lang=ro

The CC noted that on July 10, 2023, a group of MPs registered with the Secretariat of the Parliament the draft law No. 2321 on the implementation of some considerations contained in the CC Decision No. 10/2023 on the constitutionality review of the political party "Shor" aimed at amending, inter alia, the Electoral Code. This draft law was voted in first reading on July 14, 2023. On July 26, 2023, an amendment was registered with the Secretariat of the Parliament proposing to supplement Bill No. 232 with, inter alia, the text of the contested rules. On July 31, 2023, the amendment was accepted by the committee responsible and Bill No. 232 was passed at the second, final reading, thus becoming Law No. 220/2023.

The CC also noted that the contested provisions allow electoral bodies to cancel the registration of electoral contestants, referendum participants and initiative groups if they find that they have violated the prohibition set out in Art. 54 paragraph. (6) lit. a) of the Electoral Code. The Court held that this measure amounts to interference with the exercise of the right to be elected of persons in breach of the prohibition in question (see *Yabloko Russian United Democratic Party and Others v. Russia*, November 8, 2016, § 74). The Court therefore held that Art.s 23, 38 and 54 of the Constitution were applicable.

At §39 CC noted that the rights guaranteed by Art. 3 of Protocol No. 1 to the ECHR are not absolute. There is room for "implicit limitations", and Contracting States must have a wide margin of appreciation in this matter (*Labita v. Italy [MC]*, April 6, 2000, § 201; *Vito Sante Santoro v. Italy*, July 1, 2004, § 54). Thus, although the right to stand as a candidate is not absolute, implied limitations cannot prejudice its essence or deprive it of effectiveness. Such limitations must be consistent with the principle of the pre-eminence of the right and be accompanied by sufficient safeguards to avoid arbitrariness (*Ofensiva Tinerilor v. Romania*, December 15, 2015, § 52).

The CC found that the contested provisions aim to prevent the participation in the elections of candidates who have used illegal means to influence voters' votes.

In its case law, the CC has held that the Constitution allows the legislature to use mechanisms to prevent candidates from participating in elections if the electoral bodies independently find that they have committed significant electoral misconduct (see CC Judgment No 9/2024, § 53). Thus, the CC recognizes that the contested provisions pursue several legitimate aims referred to in Art. 54 para. (2) of the Constitution (e.g. the protection of public order, the rights, freedoms and dignity of other persons) and that these objectives may be achieved by cancelling the registration of candidates who have committed such violations.

The CC has reiterated that the Constitution does not preclude the cumulation of administrative liability with criminal liability for one and the same act (see, *mutatis mutandis*, CC Judgment No 24/2016, § 81; CC Decision No 41/2023, § 43). Thus, the fact that the annulment of the electoral subject's registration on the basis of the contested provisions as a preventive measure of a non-criminal nature is not conditional on the existence of a final judgment, issued following a criminal trial, proving guilt of committing electoral corruption, does not raise a constitutionality issue, in the CC's view.

With regard to the safeguards to ensure protection against arbitrariness, the CC noted that the acts of electoral bodies can be challenged in the courts. An important guarantee is that if the legality of the electoral body's decision to cancel the registration of voters is challenged, the execution of the decision in question is suspended as of right from the moment of the challenge (see Art. 101 para. (5), second sentence of the Electoral Code).

At the same time, the court decisions issued under Chapter XIII "Judicial Procedures" of the Election Code are final and enforceable from the moment of their pronouncement, except in cases of suspension of their execution (Art. 101 para. (6) and (7) of the Code).

As a result, the CC held that the Electoral Code and the Administrative Code contain sufficient procedural guarantees to prevent abuse of power by the electoral authority in case of annulment of the registration of electoral subjects on the basis of the challenged rules.

5. THE ROLE OF ELECTORAL INSTITUTIONS IN ENSURING FREE AND FAIR ELECTIONS

Free and fair elections are the cornerstone of a genuine democracy. In this context, electoral institutions play an essential role, as they are responsible for organizing and conducting the electoral process in such a way that it is fair, transparent and independent from external influences.

According to the Code of Good Practice in Electoral Matters. Guidelines and Explanatory Report, only transparency, impartiality and independence from any political manipulation will ensure the smooth administration of the electoral process. In particular, in countries with little experience in the organization of multiparty elections, the risk that the executive power may wish to influence electoral management institutions to act in the way that suits it is too high. The creation of independent and impartial electoral institutions, from the national to the polling station level, is indispensable to ensure that elections are conducted properly or at least to remove any serious suspicion of irregularities that could influence the electoral process¹³⁶.

The role of electoral institutions is not limited to the logistical organization of elections, but also includes fraud prevention, voter education and the maintenance of continuous transparency. As technology advances, they need to adopt innovative solutions to meet the challenges of cyber security and information manipulation. In the context of Moldova and democracies in transition, these institutions are pillars of political stability, and their proper functioning is essential to encourage civic participation and respect for democratic principles.

¹³⁶ https://www.undp.org/sites/g/files/zskgke326/files/2023-12/cultura_electoral_a_universitar_tipar.pdf

Only when citizens perceive the electoral process as legitimate, transparent and accountable does the electorate's willingness to participate increase¹³⁷.

Through their work, electoral bodies ensure the legitimacy of elections and contribute to strengthening citizens' trust in the democratic system.

5.1. INDEPENDENCE OF ELECTORAL INSTITUTIONS

The independence of electoral institutions is a key requirement for genuine elections¹³⁸ and a fundamental criterion for the integrity of the electoral process.

In the Republic of Moldova the system of electoral bodies is structured as follows:

1. CEC
2. district electoral councils of the second and first levels
3. polling station electoral bureaus;
4. Central Electoral Council of Gagauzia.

In the system of electoral bodies, the CEC is the highest hierarchically superior electoral body that operates on a permanent basis.

The second level Constituency Electoral Councils are the electoral bodies that operate on a permanent basis, with the exception of the constituency electoral councils constituted for polling stations outside the country and for localities on the left bank of the Dniester.

The first-level district electoral councils and polling station electoral bureaus are the electoral bodies that are established and active during the election period.

The Central Electoral Council of Gagauzia is an integral part of the system of electoral bodies of the Republic of Moldova and exercises the powers of the central electoral body in regional elections under the conditions of this Code and local regulations. The Central Electoral Council of Gagauzia shall exercise the functions of the second-tier district electoral council in the case of elections to the Parliament, elections for the office of President of the Republic of Moldova, elections for local public administration authorities and referendums, under the conditions of this Code.

The CEC, being the main electoral institution in the Republic of Moldova, operates according to the principles laid down in the Electoral Code, including political neutrality and financial autonomy. According to Art. 19 para. (1) of the Code, "(1) In the exercise of its duties, the Central Electoral Commission shall be guided by the principles of impartiality and political neutrality, and shall enjoy organizational,

¹³⁷ <https://rm.coe.int/electoral-dispute-resolution-in-romanian/1680a47dee>

¹³⁸ <https://rm.coe.int/using-international-election-standards-rom/168073448b>

functional, operational and financial independence in accordance with the provisions of this Code."

The CEC is a collegiate body, consisting of 7 members, who serve on a permanent basis for the duration of their term of office.

The procedure for appointing CEC members is set out in Art. 20 para. (1) of the Electoral Code:

"(1) The members of the Central Electoral Commission shall be appointed as follows:

(a) one member is appointed by the President of the Republic of Moldova;

b) one member is appointed by the Superior Council of Magistracy;

c) one member shall be appointed by the Government, upon the proposal of the Ministry of Internal Affairs;

d) four members shall be appointed by the Parliament as follows:

- two members proposed by the parliamentary majority;

- one member proposed by the parliamentary opposition. In the absence of a joint nomination by the opposition, the opposition faction with the largest number of MPs at the date of the constitution of the Parliament shall appoint the member of the committee;

- one member nominated by civil society organizations representative in the electoral field."

Each CEC member has a 6-year mandate, which provides stability and reduces the risk of direct political interference. The Election Code also stipulates that CEC members must be independent from political parties, prohibited during their term of office from being a member of a political party, and have at least 5 years of professional experience in the electoral field or 8 years in the legal or public administration field, thus ensuring that they have the necessary skills to organize elections in a transparent manner.

This mixed structure is presumed to guarantee an objective, equidistant, democratic vision with the ultimate aim of ensuring a fair electoral process.

At the same time, in the Joint Opinion on the draft Election Code of the Venice Commission and OSCE/ODIHR¹³⁹, they noted that the principle of the political composition of the CEC is retained, as political bodies would appoint all but two members. Furthermore, if the President hails from the same political options as the government majority, the proposed model will not ensure against possible domination, or its perception, over the CEC by such a political majority. While the President is elected in a separate election and may therefore exercise his or her powers independent of the political balance in the Parliament, that is not the case for

¹³⁹ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2022\)025-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2022)025-e), §38

the Government. In a parliamentary system such as in Moldova, the Government hails from or at least requires the confidence of a majority in the Parliament. One may therefore question why the Government, being dependent on and usually acting in concert with the parliamentary majority, should appoint members to the CEC. It is questionable whether such a nomination mechanism can address the underlying concern of insufficient impartiality and political neutrality of the CEC and pave the way for its professionalization, which is the stated aim of the legislator.

In addition, in the same Opinion it was drawn attention that the provision of Art. 20(3), which establishes that the CEC is considered to be constituted once at least 5 members are appointed, leaves the possibility of composition without the opposition representative.

According to Article 20(3), the CEC shall be constituted when at least five members are appointed, which leaves a possibility of composition without any opposition representation.

In this regard, it is worth noting the situation of the general local elections, when the Parliament has delayed the appointment of a CEC member nominated by the opposition without adequate justification and despite the ongoing election process, which raised concerns about politically motivated decisions related to the composition of the CEC¹⁴⁰.

5.2. SUPERVISION OF ELECTORAL CAMPAIGNS

Election campaigns are a critical part of the democratic process, and for them to be free and fair, the activities of electoral contestants need to be closely monitored. Supervision of election campaigns by electoral bodies is an essential component of the democratic process. It helps to maintain public confidence in the electoral system and ensures that all parties involved comply with the rules of fair electoral competition.

Election observation is also a valuable tool for improving the quality of elections. Observers help build public confidence in the honesty of electoral processes. Observation can help to promote and protect the civil and political rights of election participants. It can lead to the correction of errors or poor practices, even while the electoral process is still ongoing. It can discourage manipulation and fraud or expose such problems where they do occur. When observers can report positively, it builds confidence in the democratic process and enhances the legitimacy of governments emerging from elections. Election observation by domestic groups encourages civic engagement in the political process. After elections, reports and recommendations from observer groups can lead to changes and improvements in national laws and practices.

Election observation by the United Nations or other intergovernmental organizations can be particularly useful when domestic observer organizations do not have sufficient strength or resources to mount effective monitoring efforts, or when the impartiality of domestic observers is in question, as is often the case in post-conflict

¹⁴⁰ https://www.osce.org/files/f/documents/2/5/564925_0.pdf

countries or new democracies. However, observers generally do not have the power to intervene in the electoral process, but can only observe, assess and report¹⁴¹.

According to Art. 90 (15) of the Election Code, during the election period, the Audiovisual Council shall monitor how media service providers comply with editorial policy statements for election coverage.

The financing of political parties and election campaigns is supervised and controlled by the CEC.

The supervision and control of the financing of political parties, initiative groups and electoral campaigns is aimed at verifying how initiative groups, electoral contestants and referendum participants comply with the regulatory framework during the period of their activity, including by verifying the correctness, completeness of information and the timeliness of submission of financial reports with the necessary annexes, within the limits of what is declared and submitted by the subject.

The purpose of the control of the financing of initiative groups and electoral campaigns is to verify how initiative groups, electoral contestants and referendum participants comply with the regulatory framework during the period in which they operate, including by verifying the content of the financial reports and primary accounting documents, in terms of the adequacy of the campaign activities carried out and the reflection of all income and expenditure during the period of activity of the initiative groups and electoral campaign.

International organizations play a key role in supporting the election monitoring process by contributing expertise, observation staff and information resources. Such collaborations allow access to international expertise and help align local standards with international standards.

The presence of international observers contributes to voters' confidence that the elections are being conducted fairly and that the results accurately reflect the will of the people. In many countries, the presence of these observers is seen as a guarantor of respect for democratic norms, which can help reduce suspicions of fraud and increase acceptance of election results.

By monitoring elections, international organizations promote democratic values and standards, supporting countries in transition to democracy or those in need of strengthening democratic institutions.

In the Republic of Moldova, OSCE and European Union monitoring missions have played an important role in strengthening the electoral framework and enhancing respect for political rights.

6. ANALYSIS OF ELECTIONS IN RECENT YEARS (KEY DATA, RESULTS, TURNOUT)

With the declaration of independence, the Republic of Moldova opened a new stage in the promotion of state policies in all institutions, with democratic representation

¹⁴¹ <https://www.un.org/womenwatch/osagi/wps/publication/Chapter7.htm>

under the motto "the state is the people" as the fundamental principle. Democracy is frequently described by authors as a way in which citizens' preferences are integrated into the collective decision-making process. This system involves both the direct participation of citizens in governance at various levels of society and the representation of the interests of different groups through elected representatives in electoral contests. Democracy therefore cannot function without the active involvement of citizens. Studies show that citizens' participation in the decision-making process is a key factor in strengthening democracy, while the lack of such involvement can undermine democratic development. The relationship between the state and citizens is mainly reflected in the level of political participation, the most common form being voting. Voting is an essential means of political participation in a democratic state, as it is a means by which citizens exercise influence over government. Although elections are a central instrument of political involvement, it is important to continuously stimulate citizens to actively contribute to the formulation of public policy. Greater civic activism can thus improve decision-making and strengthen democracy.

The will of the people is the basis of state power and this will is expressed through free elections, which are held periodically by universal, equal, direct, secret and freely expressed suffrage.

6.1. ANALYSIS OF ELECTORAL PROCESSES

Several types of general elections have been held in the Republic of Moldova since 1994:

- Parliamentary - where members are elected to Parliament;
- Local - where local councilors and mayors are elected;
- Presidential - until 2000 the President of the Republic of Moldova was elected by direct vote, 2000-2016 the election of the head of state is the competence of the Parliament, and since 2016 according to the Constitution - the President of the Republic of Moldova is elected by universal, equal, direct, secret, secret and freely expressed vote.

Regional elections for the People's Assembly and the Governor of Gagauzia are also held within the Autonomous Territorial Unit of Gagauzia (ATU Gagauzia). These elections are organized and conducted in accordance with the Law on the Special Legal Status of Gagauzia (Gagauz Yeri) and the normative acts of the Gagauz Gagauz U.T.A.

As a rule, general elections are held every 4 years, when the mandate of the previously elected authorities expires. If the mandate of the elected authority ends prematurely, early elections may be held under similar rules, but the election campaign may last for a shorter period.

The most important problems of the state and society can be put to referendum, which is organized and conducted in accordance with the Electoral Code. *Republican* referendum - an election in which the people have the opportunity to express their choice and thus contribute directly to the solution of the issues. Republican referendums can be of three types: constitutional, legislative and consultative. *Local* referendums can be organized to consult citizens on local issues of particular interest - an election in which issues that fall within the competence of local public administration authorities and are of particular importance for the locality in question, as well as the recall of the mayor, can be put to the vote.¹⁴²

The process of organizing electoral elections, even ordinary ones, is a managerial challenge both in terms of logistical endowment, human resources, uniform application of legal provisions, and compliance with all deadlines for the implementation of actions. Elections in the Republic of Moldova are usually held on a single day - Sunday.¹⁴³

Moldova's electoral system has evolved considerably over the last decade. After a controversial experiment with a mixed system in 2018, Moldova returned to a proportional system in 2019 in response to domestic and international pressure to ensure fairer representation. The proportional system remains the most widely used in the context of parliamentary and local elections, ensuring a more balanced distribution of votes between large and small parties. According to CEC and CICDE studies, these changes had a direct impact on voter mobilization and influenced the results of political parties.

From an electoral perspective, the Republic of Moldova is an emerging democracy, with electoral processes marked by political polarization between pro-European and pro-Russian forces, which is also reflected in the election results of recent years. Also, the relationship between the central government and the diaspora has played a key role in the electoral dynamics, especially after the diaspora vote became a determining factor in the elections.

After the declaration of independence on August 27, 1991, the Republic of Moldova held 10 parliamentary elections, 9 of which were held under the proportional electoral system. Under this system, the whole country is a single constituency and 101 MPs are elected by proportional representation. Only one exception was made in the elections of February 24, 2019, which were held under the mixed electoral system. Under this system, 50 MPs were elected in national constituencies by proportional representation and the other 51 MPs were elected in single-member constituencies by majority vote. Parliamentary elections were held in 1994, 1998, 2001, 2005, 2009 (two elections - in April and July), 2010, 2014, 2019 (mixed system) and 2021 (early elections). Early parliamentary elections on July 11, 2021

¹⁴² <http://www.e-democracy.md/elections/>

¹⁴³ https://cicde.md/wp-content/uploads/2024/03/Digest_decembrie_2023_X.pdf

were organized after the dissolution of the Parliament due to the political deadlock in forming a stable government.

The return to a full proportional system in the early parliamentary elections in 2021 was a measure designed to address concerns previously expressed by the ODIHR and the Venice Commission¹⁴⁴. These international institutions emphasized the risks associated with the use of a mixed system, considering it inappropriate for the political context of the Republic of Moldova. The proportional system was preferred because of its ability to ensure fairer representation and to prevent possible manipulation or distortion of the vote in single-member constituencies.

The following is a list of the elections that have taken place in the Republic of Moldova since the declaration of independence, with a brief description of turnout and results:

6.1.1. PARLIAMENTARY ELECTIONS

After declaring independence, the Republic of Moldova organized 10 parliamentary elections until 2024. The most relevant are:

1994 - First post-independence parliamentary elections.

-Participation rate: 79.28%¹⁴⁵

-Results: the Agrarian Democratic Party won with 43.18% of the vote, winning 56 seats. This election established the parliamentary basis of the new republic.¹⁴⁶

1998 - Parliamentary elections marked by competition between pro-European and conservative parties.

-Participation rate: 69.12%¹⁴⁷

-Results: the Electoral Bloc "For a Democratic and Prosperous Moldova" obtained 18.16% of the votes, while the Party of Communists won 30.01% of the votes, becoming a dominant force in the following years, the Electoral Bloc "Democratic Convention of Moldova" (19.42%), the Electoral Bloc "For a Democratic and Prosperous Moldova" (18.16%) and the Party of Democratic Forces (8.84%).¹⁴⁸

2001 - Parliamentary elections with results for the Party of Communists of the Republic of Moldova (PCRM).

-Participation rate: 67.52%¹⁴⁹

¹⁴⁴ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)012-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)012-e)

¹⁴⁵ https://old.cec.md/files/files/15%20ani/Cartea_Cec_15_ani_ro_final.pdf

¹⁴⁶ <http://www.e-democracy.md/elections/parliamentary/1994/opponents/pdam/>

¹⁴⁷ https://old.cec.md/files/files/15%20ani/Cartea_Cec_15_ani_ro_final.pdf

¹⁴⁸ <http://www.e-democracy.md/elections/parliamentary/1998/>

¹⁴⁹ https://old.cec.md/files/files/15%20ani/Cartea_Cec_15_ani_ro_final.pdf

-Results: the Party of Communists of the Republic of Moldova (PCRM) obtained 50.07% of the votes, winning 71 seats out of 101, forming a one-party government.¹⁵⁰

2009 (April) - Contested parliamentary elections trigger major protests.

Participation rate: 57.55%¹⁵¹

Results: the PCRM won 49.48% of the votes, but did not get a constitutional majority, the Liberal Party (13.13%), the Liberal Democratic Party of Moldova (12.43%) and the "Moldova Noastra" Alliance (9.77%), which led to political crises and early elections in July 2009.¹⁵²

2009 (July)- Early parliamentary elections

-Participation rate: 58.77%¹⁵³

-Results: the PCRM (Party of Communists of the Republic of Moldova) obtained 44.69% of the votes, but the pro-European alliance (PL, PLDM, AMN) formed a coalition, changing the political direction.¹⁵⁴

2019 - Elections under the mixed electoral system.

-Participation rate: 50.57%¹⁵⁵

-Results: the PSRM (Party of Socialists of the Republic of Moldova) won 31.15% of the votes, while the ACUM bloc, made up of PAS and PPDA, got 26.84%¹⁵⁶.

2021 - Early parliamentary elections.

-Participation rate: 52.30%¹⁵⁷

-Result: PAS (Party of Action and Solidarity) won a major victory with 52.80% of the votes, strengthening the pro-European orientation of the Republic of Moldova.¹⁵⁸

6.1.2. PRESIDENTIAL ELECTIONS

Presidential elections evolved from the direct election system to election by Parliament and back to direct voting in 2016.

¹⁵⁰ <http://www.e-democracy.md/elections/parliamentary/2001/opponents/pcrm/>

¹⁵¹ <http://www.e-democracy.md/elections/parliamentary/2009/>

¹⁵² Ibid.

¹⁵³ https://old.cec.md/files/files/7623_raport_anual_cec_2009.pdf

¹⁵⁴ <http://www.e-democracy.md/elections/parliamentary/20092/results/july-vs-april/>

¹⁵⁵ https://alegeri.md/w/Alegerile_parlamentare_din_2019_%C3%AEn_Republica_Moldova

¹⁵⁶ <https://hotnews.ro/alegeri-r-moldova-rezultate-finale-socialistii-pe-primul-loc-cu-3115-platforma-pro-europeana-acum-pe-locul-doi-la-voturi-dar-pe-trei-la-mandate-dupa-partidul-lui-plahotniu-334174>

¹⁵⁷ https://alegeri.md/w/Alegerile_parlamentare_din_2021_%C3%AEn_Republica_Moldova

¹⁵⁸ Ibid.

Voter turnout and results:

1991 - First direct presidential elections.

Participation rate: 84.65%

Results: Mircea Snegur won by a landslide to become the first independent 98.22% independent President of Moldova.¹⁵⁹

1996 - Direct presidential elections.

Participation rate: 71.61%

Results: Petru Lucinschi won the second round with 54.02% of the votes.¹⁶⁰

2016 - Return to direct voting.

Turnout: 50.95% in the first round and 53.45% in the second round.

Results: Igor Dodon won the runoff election with 52.18% of the votes, ahead of Maia Sandu¹⁶¹.

2020- Direct presidential elections.

-Turnout: 48.54% in the first round and 57.72% in the second round.

-Results: Maia Sandu won with 57.72% of the votes, becoming the first woman President of the Republic of Moldova¹⁶².

6.1.3. LOCAL ELECTIONS

Local elections are held every four years and involve the election of mayors and local councilors in the first and second tier local councils.

1995 - First local elections.

Participation rate: 61.11%

Results: Elections marked by a contest between conservative and new democratic parties with significant regional influence¹⁶³.

2011 - General local elections.

Participation rate: 54.34%

Results: The elections strengthened the positions of pro-European parties at local level, with the PLDM winning a majority in district councils¹⁶⁴.

¹⁵⁹ https://alegeri.md/w/Alegerile_preziden%C8%9Biale_din_1991_%C3%AEn_Republica_Moldova

¹⁶⁰ https://alegeri.md/w/Alegerile_preziden%C8%9Biale_din_1996_%C3%AEn_Republica_Moldova

¹⁶¹ <http://www.e-democracy.md/elections/presidential/2016/>

¹⁶² https://alegeri.md/w/Rezultatele_alegerilor_preziden%C8%9Biale_din_2020

¹⁶³ <https://www.parties.e-democracy.md/electionresults/1995local/>

¹⁶⁴ <https://old.cec.md/index.php?pag=news&id=1231&rid=11410&l=ro>

2019 - Local elections.

Turnout: The turnout was 41.73% in the country and in mun. Chisinau it was 36.05%, substantially lower than in the 2015 elections.

Results: pro-European parties won most mayorships in Chisinau and other big cities¹⁶⁵.

2023 - Local elections.

Turnout: 39.9% .

Results: Data suggest a significant drop in turnout, reflecting socio-economic challenges and political polarization at the local level.¹⁶⁶

The Republic of Moldova has undergone a significant electoral evolution since independence, with a combination of electoral systems and major political challenges. Parliamentary and presidential elections reflect a geopolitical split between pro-European and pro-Russian forces, while local elections indicate political dynamics at regional level.

Thus, since the declaration of independence in 1991, voter turnout in the Republic of Moldova has varied significantly depending on the political and social context, reaching higher levels in the years of democratic transition (1991 and 1994), but showing a downward trend in the local elections in recent years. This decline partly reflects political polarization, citizens' electoral fatigue and socio-economic challenges. The electoral systems and the relationship between pro-European and pro-Russian forces have also played an important role in shaping the turnout and results of each election.

6.2. ANALYSIS OF ELECTIONS IN RECENT YEARS (KEY DATES, RESULTS, TURNOUT)

6.2.1. EARLY PARLIAMENTARY ELECTIONS 2021

Election date: July 11, 2021.

Voter turnout: 52.30%.

Number of voters: 1,481,768 voters took part in the elections. polling stations: 2,142 in the country and 150 abroad.

Diaspora voting: 212,145 Moldovans voted abroad.

¹⁶⁵ https://alegeri.md/w/Rezultatele_alegerilor_locale_generale_din_2019

¹⁶⁶ https://alegeri.md/w/Alegeri_locale_generale_din_2023_%C3%AEn_Republica_Moldova

6.2.1.1. THE POLITICAL CONTEXT BEFORE THE ELECTIONS

After the February 2019 parliamentary elections, the 101-member parliament was composed of the Party of Socialists of Moldova (PSRM), the Democratic Party of Moldova (PDM), the ACUM bloc (made up of the Action and Solidarity Party (PAS) and the Dignity and Truth Platform Party (PPDA)) and the Shor Party.

The new parliament struggled to establish the majority needed for a vote of confidence in a new government. In June 2019, despite their significantly different policies, the ACUM and PSRM bloc parties agreed on a government with Maia Sandu as prime minister.

However, in November 2019, the Sandu government was dismissed by a vote of no-confidence and replaced by a PSRM-PDM coalition under Prime Minister Ion Chicu.

Maia Sandu was elected president in the second round of the November 2020 elections, defeating incumbent Igor Dodon. Before and after the elections, Ms. Sandu repeatedly stated that she would call for early parliamentary elections as soon as possible, while the PSRM, PDM and the Shor party said they would prefer the elections to be held later.

In December 2020, Prime Minister Chicu resigned, with the stated aim of paving the way for early parliamentary elections.⁶ According to the Constitution, the President appoints a Prime Minister after consultations with parliamentary factions. If parliament refuses to approve a new government at least twice, the president can dissolve parliament.

On February 11, 2021, the parliament rejected President Sandu's first nomination of Natalia Gavrilița as prime minister. Factions forming a parliamentary majority declared their support for the nomination of Mariana Durleșteanu as prime minister. However, President Sandu nominated Ms. Gavrilița; a move that was deemed unconstitutional on February 23.

On March 16, Ms. Durleșteanu announced that she no longer wished to be considered for the position of prime minister. President Sandu immediately nominated Igor Grosu, whose nomination was unsuccessfully challenged before the Constitutional Court.⁷ After the majority of MPs did not participate in the vote on Mr. Grosu's candidacy, President Sandu asked the Constitutional Court to verify whether the constitutional conditions for dissolving parliament had been met.

On March 31, the parliament declared a state of emergency citing the COVID-19 pandemic.⁸ It also voted to annul the parliament's August 2019 appointment of the judge and current President of the Constitutional Court and appointed a replacement, both votes were later deemed unconstitutional. On April 15, the Constitutional Court ruled that the President had the right to dissolve parliament. On

April 28, the Constitutional Court annulled the state of emergency. The same day, President Sandu dissolved parliament and called early parliamentary elections for July 11.¹⁶⁷

Thus, early parliamentary elections on July 11, 2021 were called following the dissolution of Parliament by President Maia Sandu, in the context of a prolonged political crisis triggered by the inability to form a stable government after the 2019 elections. These elections were decisive for Moldova's political future, presenting voters with a crucial choice between European integration advocated by the Action and Solidarity Party (PAS) and maintaining the pro-Russian path promoted by the Party of Socialists of the Republic of Moldova (PSRM).

6.2.1.2. OPINION POLLS AND ELECTORAL PREFERENCES AHEAD OF THE 2021 EARLY PARLIAMENTARY ELECTIONS

Throughout 2021, opinion polls reflected a tight competition between the main political forces in the Republic of Moldova, especially between the Action and Solidarity Party (PAS) and the Electoral Bloc of Communists and Socialists (BECS). The International Republican Institute (IRI), the Institute for Public Policy (IPP), the Barometer of Public Opinion, WatchDog.MD and iData published numerous studies tracking the evolution of voting intentions.

In January 2021, polls indicated a leading position for BECS, with support of around 30-35%, while PAS was getting between 25-30%. As the political crisis deepened and early elections were increasingly being discussed, in March-April 2021, PAS started to gain ground, reaching 32-35%, according to polls conducted by iData and IRI. BECS saw a slight drop to around 30%.¹⁶⁸

In May and June 2021, polls conducted by WatchDog.MD, IPP and the Barometer of Public Opinion showed a clear consolidation of support for PAS, reaching between 35-40%, which put it in first place in voting intentions. In contrast, the BECS stagnated at 30-32%, failing to recover lost support.

Smaller parties, such as the Dignity and Truth Platform (DA), the Democratic Party of Moldova (PDM) and the Alliance for the Unity of Romanians (AUR), continued to perform modestly, with most of them below the 5% electoral threshold. These polls anticipated a decisive victory for PAS, reflected in the final election results.

The socio-political barometer conducted by IMAS in March 2021 reflects the electoral trends and preferences of Moldovan citizens in the context of the political

¹⁶⁷ <https://alegeri.md/images/a/ad/Raport-final-osce-alegeri-parlamentare-2021.pdf>

¹⁶⁸ https://www.ipn.md/storage/ckfinder/files/PP_AfterPoll_2021%2001%2007.pdf

crisis and the discussions about early parliamentary elections in July 2021. The report provides a detailed analysis on:¹⁶⁹

1. Voting intentions: the Action and Solidarity Party (PAS) is gaining support, with around 32-35%, while the Electoral Bloc of Socialists and Communists (BECS) is slightly down to 30%. Other parties, such as the Dignity and Truth Platform (DA) and the Democratic Party of Moldova (PDM), register low support, below the 5% electoral threshold.
2. Perceptions of political leaders: Maia Sandu, President of the Republic of Moldova, remains the most popular political figure, enjoying considerable support, which supports the growth of PAS. Igor Dodon and the BECS leaders retain a stable base of supporters, but the general trend indicates a decrease in their influence.
3. Citizens' priority issues: The report shows that the main concerns of citizens are the COVID-19 pandemic, corruption and the economic situation. These issues have strongly influenced political orientations, with PAS perceived as a pro-reform and anti-corruption force and BECS as a more conservative party closer to pro-Russian interests.
4. Social Context: The study shows a polarization of the electorate, with a clear division between supporters of the pro-European orientation and those in favour of rapprochement with Russia. This trend has a major influence on voting patterns and has led to a decline in support for small parties, which have failed to position themselves clearly in this geopolitical equation.

The poll results largely anticipated the results of the early parliamentary elections in July 2021, where PAS won a major victory.

Throughout 2021, several opinion polls have consistently tracked the evolution of electoral preferences in the Republic of Moldova, providing a detailed insight into political trends ahead of the early parliamentary elections on July 11. The polls were conducted by various research institutions, such as ASDM, WatchDog.MD, IPP, Barometer of Public Opinion, iData, and their results showed a gradual shift in voters' preferences, especially with regard to the two main political forces: the Action and Solidarity Party (PAS) and the Electoral Bloc of Socialists and Communists (BECS).

At the beginning of 2021, polls conducted by ASDM in January-February showed the BECS holding a leading position in voting intentions, with support between 30% and 35%, while PAS was quoted with 25-30%. This period was marked by relative stability in electoral preferences, with no major changes between the main parties. At the same time, parties such as the Dignity and Truth Platform (DA) and the Democratic Party of Moldova (PDM) had low support, ranging between 5% and 7%, according to iData and [imas] polls from the same period.

¹⁶⁹ <https://imas.md/pic/archives/31/%5Bimas%5D%20barometrul%20socio-politic%20martie%202021.pdf>

As the political crisis in Moldova deepened and talk of early elections became more frequent, polls conducted in March and April showed a shift in voter preferences. The iData poll in March and the International Republican Institute (IRI) poll in April showed that PAS started to gain ground, garnering around 32-35% of voting intentions. During this period, the BECS suffered a slight drop to around 30%. This upward trend of PAS continued in the following months, buoyed by the popularity of President Maia Sandu and messages focused on reforms and fighting corruption.

In May-June 2021, polls conducted by WatchDog.MD, IPP and the Barometer of Public Opinion confirmed the consolidation of support for PAS. In the polls during this period, PAS reached a high of 35-40%, which placed it in first place in voting intentions. At the same time, the BECS stagnated at 30-32%, failing to regain the support lost in previous months.

Smaller parties such as the Dignity and Truth Platform (DA) and the Democratic Party of Moldova (PDM) continued to perform modestly, below the 5% electoral threshold, according to the May and June polls conducted by ASDM and the Barometer of Public Opinion. In the case of the Alliance for the Unity of Romanians (AUR), polls showed modest support, below the electoral threshold, despite efforts to increase its visibility on the Moldovan political scene.

These developments in the polls reflected a growing polarization of the political scene in the Republic of Moldova, with voters focusing mainly on two major options: PAS, representing the pro-European and anti-corruption orientation, and BECS, supported by a pro-Russian and conservative electorate. The polling data anticipated the results of the parliamentary elections on July 11, 2021, where PAS won a clear victory, reflecting the trends indicated by the polls of the last

6.2.1.3. MASS MEDIA

According to the 2018 Recommendation of the Committee of Ministers of the Council of Europe to member states on media pluralism and transparency of media ownership¹⁷⁰, political affiliation of mainstream media reduces political pluralism, influences the agenda of public debate and undermines the media's oversight function. Interference in editorial autonomy results in journalists' self-censorship and renders self-regulation ineffective. Independent news production and investigative journalism rely heavily on international funding.

Similarly, the Statement on Preliminary Findings and Conclusions of the International Election Observation Mission to the Republic of Moldova, Early Parliamentary Elections, July 11, 2021¹⁷¹, draws attention to the fact that while a large number of broadcasters and online media operate in a limited advertising market.

¹⁷⁰ <https://rm.coe.int/1680790e13>

¹⁷¹ https://www.osce.org/files/f/documents/d/f/492646_0.pdf

The political affiliation of major media outlets reduces political pluralism, influences the agenda of public discourse and weakens their oversight role. Numerous debates organized by national broadcasters have given all parties the opportunity to present policies and have provided voters with information about competitors. However, the Broadcasting Council did not adequately implement the provisions on impartial media coverage during the campaign. Monitoring by the ODIHR revealed that two of the monitored TV stations, including the national public broadcaster, provided fairly balanced coverage of the campaign in their news programs, while three others showed bias in favor of or against certain contestants.

This dynamic is also reflected in the work of the Audiovisual Council (AC) during the electoral campaign for the 2021 early parliamentary elections, when the institution closely monitored the media to ensure compliance with the rules of fairness and balance. However, the AC reports revealed significant misconduct on the part of some media outlets, which were sanctioned for failing to ensure impartial coverage of the campaign.

On the other hand, TV and radio stations were obliged to provide equal access to all candidates and to refrain from broadcasting election content outside the permitted period. However, some TV channels in particular were criticized for excessively promoting certain parties, especially the BECS.

In this context, the final report prepared by the Independent Press Association (API) on the media behavior in the electoral campaign for the early parliamentary elections of July 11, 2021, entitled "Media in the Republic of Moldova in the electoral campaign for the early parliamentary elections of July 11, 2021¹⁷²", presents a detailed analysis of how the media outlets in the Republic of Moldova have covered the electoral campaign. The report focuses on the behavior of traditional media, such as television and print, as well as online.

In terms of TV channels, the report monitored 10 major TV channels, including Moldova 1, Prime TV, Publika TV, NTV Moldova, Jurnal TV, TV8, Pro TV Chisinau, RTR Moldova, Primul în Moldova and Canal 2. They were assessed on the basis of impartiality and balance in their coverage of the election campaign. The report found that:

- Prime TV and Publika TV have visibly favored the Electoral Bloc of Socialists and Communists (BECS), giving this party predominantly positive coverage.
- NTV Moldova and First in Moldova have openly supported the BECS, reflecting parties and leaders on the left side of the political spectrum in a favorable light.
- At the other end of the spectrum, channels such as Jurnal TV and TV8 offered more balanced coverage, but had a slight bias in favor of the Action and Solidarity Party (PAS), the presidential party.

¹⁷² <https://alegeri.md/images/7/79/Raport-final-mass-media-api-alegeri-parlamentare-2021.pdf>

- Moldova 1, the public TV channel, tried to maintain a neutral position, but in some cases it had an unbalanced coverage, depending on the topics covered.

Print media also reflected media polarization. Publications such as Ziarul de Gardă and Timpul were favorable to PAS, while Komsomolskaia Pravda and other Russian-language publications reflected a more supportive stance for BECS.

The report notes that online has become increasingly influential in the election campaign. Platforms such as Unimedia, Agora, Deschide.md and NewsMaker were the most accessed and provided diversified coverage, often more balanced than TV channels. However, some sites, such as Sputnik Moldova, took a partisan approach, favoring BECS and criticizing pro-European political forces.

The report also highlights the use of online election advertising and sponsored posts. Most parties, including PAS, BECS and the Shor Party, have invested significantly in promotion on platforms such as Facebook and Instagram.

In the Report of the International Election Observation Mission to the Early Parliamentary Elections of 11 July 2021, Republic of Moldova, published by ENEMO - European Network of Election Monitoring Organizations¹⁷³, it is pointed out that several ENEMO interlocutors reported that during the campaign, the parties did not use paid advertising as expected. However, not all media outlets complied with this rule, and did not mark clearly placed content, thus making it impossible to differentiate between journalistic and advertising content in order to avoid confusing voters and not conveying realistic information about political platforms. According to the law, the public media must provide free airtime to all electoral contestants or space in print media to inform and influence voters, including ensuring equal media coverage and access to electoral debates. According to several of ENEMO's interlocutors, the organization of the debates was a difficult process due to the broadcasting schedule as well as the inability of the media to communicate with representatives of political parties or candidates, especially at the local level. Many ENEMO interlocutors from the media sector complained about significant difficulties in interacting with the contact persons of political party representatives or candidates. While parties have the right to choose their communication platforms, it is also good practice for politicians to be willing to scrutinize journalists. A contrary situation could affect voters' ability to make an informed choice due to lack of access to objective and diverse information. The first debates took place from 15 to 17 June, while most TV channels launched the round of debates from 21 to 22 June and some media service providers organized debates over the weekend. In addition, some ENEMO interlocutors expressed their disappointment with the conditions created by the CEC and CA for media and voters. According to them, the bar for the debates was significantly lowered in terms of the profile of some candidates who showed no respect for the rules, moderator, viewers and displayed inappropriate behavior.

¹⁷³ <https://enemo.org/post/final-report-ieom-to-moldova-for-the-early-parliamentary-elections-2021-119>

Similarly, the report notes that ENEMO used the CrowdTangle platform as well as Facebook media to monitor the activities of political parties. During the election campaign ENEMO monitored 18 pages of political parties that used social networks and online space to disseminate political content. During this period the parties published 3080 pieces of content on Facebook, of which individually BERU (Renato Usatii electoral bloc) had 345 posts, PAS - 334, Party of Common Action - Civic Congress - 323, PACE - 282, Democratic Party of Moldova 248, BECS 235, Political Party "Democracy at Home" - 231, Shor Party 185, DA Platform - 161, Party of National Unity - 128, Party of Development and Consolidation of Moldova - 120, Green Ecologist Party - 112, AUR - 111, "People's Power" - 85, Party of Law and Justice - 81, Party of Change - 53, "New Historical Option" - 46, Patriots of Moldova - 0. These posts registered a total of 1.96 million interactions on Facebook, of which 1.15 million were for the "Democracy at Home" Party and 424.2 thousand for PAS. Parties communicated mainly through photos (35.68%), videos (35.19%) and Facebook Live (17.03%). In the period of one month after the elections, the total number of content published by political parties on Facebook decreased significantly to 539 posts, of which individually, BERU (Renato Usatii electoral bloc) had 17 posts, PAS - 137, Party of Common Action - Civic Congress - 64, PACE - 39, Democratic Party of Moldova 29, BECS 49, "Democracy at Home" Political Party - 43, Shor Party - 49, DA Platform - 26, National Unity Party - 6, Party of Development and Consolidation of Moldova - 6, Green Ecologist Party - 22, AUR - 12, "People's Power" - 9, Law and Justice Party - 11, Party of Change - 7, "New Historical Option" - 12, Patriots of Moldova - 1. These posts registered a total of 488,754 interactions on Facebook, of which 312,487 only on the posts of the "Democracy at Home" Party and 138,662 on the posts of the PAS Party. In the post-election period, parties also communicated mainly through photos (37.29%), videos (18.55%) and Facebook live (23.19%).

6.2.1.4. HATE SPEECH

It is worth noting that the Promo-LEX 2021 Report,¹⁷⁴ clearly highlights that several political parties have used hate speech and discrimination in the electoral campaign to polarize the electorate and attract specific segments of supporters.

Hate speech has been used as a tactic to mobilize conservative voters, especially in rural and less developed regions, in order to attract votes by appealing to social fears and prejudices. The discriminatory messages targeted in particular ethnic and religious minorities and the LGBTQ+ community, but also included attacks against international organizations or European political institutions in an effort to undermine support for pro-European forces. During the electoral period for the early parliamentary elections of July 11, 2021, the criteria underlying hate speech and incitement to discrimination in the public space and media in the Republic of Moldova were: political affiliation, sex/gender, sexual orientation/gender identity,

¹⁷⁴ https://promolex.md/wp-content/uploads/2021/09/raport_APA_2021.pdf

age, opinion, etc. These data essentially reflect the general atmosphere in society at the time of monitoring. Maintaining the criterion "political affiliation" at the top of the list is determined both by the electoral context and by the tendency of electoral contestants, members of political parties, their sympathizers and politicians to continue to use electoral rhetoric based on messages that denigrate, stigmatize, humiliate, dehumanize and insult their opponents.

Promo-LEX drew attention to the lack of reaction from the AC and other responsible authorities, which failed to prevent and sanction these practices. Electoral legislation, which prohibits hate speech, was poorly enforced and sanctions for spreading discriminatory messages were almost non-existent. Thus, these parties continued to use hate speech and polarization tactics without real consequences.

The report also identified the important role of social networks in amplifying these messages. In particular, Facebook was the main platform where hate speech and discriminatory messages were disseminated, both by official accounts of political parties and affiliated pages, contributing to increasing social and political divisions.

Thus, the Electoral Bloc of Socialists and Communists (BECS) and the Shor Party have been identified as the main parties that have used hate rhetoric as an electoral strategy to strengthen their support base and weaken the position of pro-European parties. At the same time, Promo-LEX underlines the importance of strengthening the hate speech legislation and strictly sanctioning these practices in order to prevent the perpetuation of a toxic and divided political climate in the Republic of Moldova.

According to that report, during the electoral period for the early parliamentary elections of July 11, 2021, 390 cases of hate speech and incitement to discrimination were identified, of which 299 cases occurred in an electoral context. Most cases were identified in social media (in particular on the profile accounts of politicians, electoral contestants, party members or their sympathizers). Cases were also reported in TV programs, electoral debates, interviews and public events (press conferences, protests, marches, meetings with voters, etc.).

As a result, the Moldovan media played a controversial role in the 2021 election campaign, reflecting deep polarization and obvious political influences. Many media outlets contributed to the spread of discriminatory rhetoric and hate messages, especially on social networks. Despite the rules in place, regulators failed to apply adequate sanctions, which undermined media pluralism and affected fair access to information, with a negative impact on the integrity of the democratic process.

6.2.1.5. THE VOTER TURNOUT IN THE 2021 EARLY PARLIAMENTARY ELECTIONS

The voter turnout in the 2021 early parliamentary elections was a significant indicator of citizens' involvement in the democratic process. According to the Promo-LEX Report for the 2021 Early Parliamentary Elections, voter turnout reflected both

domestic and diaspora mobilization, highlighting a number of important socio-political trends. Voter turnout was 52.30%, lower than in previous elections. The Diaspora made a significant contribution, accounting for about 15% of the total votes, with a strong mobilization in Western Europe, which substantially influenced the final election results.

Determinants influencing voter turnout included the level of social discontent, the electorate's sense of desired change and the effects of migration. Mobilization was lower in rural areas, where access to information was limited and electoral campaigns were less effective. The low turnout in some areas can also be attributed to the COVID-19 pandemic, which reduced citizens' willingness to participate in the electoral process.

The high diaspora turnout showed a significant interest in influencing politics in the Republic of Moldova, especially among those in European countries, where access to information and the organization of voting was more effective. This was one of the largest diaspora turnouts in the parliamentary elections in the Republic of Moldova, underlining the crucial role that communities abroad play in shaping national political outcomes.

In the parliamentary elections of July 11, 2021, the turnout was 52.30%, with a total of 1,481,768 citizens expressing their electoral choices. This turnout rate is higher than that of the 2019 parliamentary elections, when the turnout was 49.22%, demonstrating an increased interest from the electorate in these early elections.

The increase in turnout was largely driven by the volatile political context, the promise of reforms and the strategic importance of the elections for the country's future orientation between Europe and Russia. Voters had to choose between the Action and Solidarity Party (PAS), a supporter of European integration and anti-corruption reforms, and the Electoral Bloc of Socialists and Communists (BECS), a left-wing alliance in favor of closer relations with Russia.

6.2.1.6. DIASPORA

An important element of these elections was the diaspora vote. Of the total votes, 212,145 came from Moldovans living abroad, which represents 14% of the total turnout. Compared to the 2019 elections, when around 76,000 citizens voted abroad, the number of diaspora voters in 2021 has increased considerably, thanks to better organization and increased involvement from citizens abroad.

The mobilization of the diaspora played an essential role in the final results, as the majority of votes from abroad went to PAS, the party with a pro-European agenda. The organization of 146 polling stations in 36 countries abroad, such as Italy,

Germany, the United Kingdom and the Russian Federation, facilitated access to the vote for citizens in the diaspora.¹⁷⁵

The reasons for the strong diaspora mobilization include disappointment with the domestic political situation and a desire for political and social change. The Moldovan diaspora, being largely based in Western Europe, was particularly receptive to the pro-European messages of PAS, which promised reforms and a clear European path for the Republic of Moldova. Some 70% of diaspora votes went to PAS, consolidating the party's victory in the elections.

Another factor contributing to the high diaspora turnout was the efficient organization of the voting process abroad. Although there were difficulties in some locations due to insufficient ballot papers, in general, the process went without major incidents. The Moldovan authorities, in cooperation with diplomatic missions, managed to organize an adequate number of polling stations, in particular in countries with a massive diaspora presence, such as Italy and Germany.

This election underlined the importance of the diaspora in the Moldovan electoral process and the need to further improve access to voting for citizens abroad. In the long term, diaspora involvement may become a determining factor in the political stability of the Republic of Moldova, given the large number of Moldovans living abroad and their pro-European orientation.

6.2.1.7. GENDER AND AGE DISTRIBUTION

Vo turnout also reflected some important demographic trends. According to data provided by the CEC, women accounted for 53% of all voters, while men made up 47%. This gender disproportion can be partly explained by the more active involvement of women in the electoral process, especially in rural areas, where awareness and mobilization campaigns had a greater impact on this segment.

In terms of age distribution, the 45-64 age group was the most active segment of voters, accounting for 38% of all voters. This age group is often perceived as more politically engaged, with a more conservative view of political and social stability. On the other hand, young people aged between 18 and 29 were underrepresented, constituting only 12% of all voters. These data suggest that mobilizing the young electorate is a challenge for future elections, while the older generation continues to play a decisive role in electoral outcomes.

6.2.1.8. GEOGRAPHICAL VARIATIONS IN VOTER TURNOUT

¹⁷⁵ <https://mfa.gov.md/ro/content/alegerile-parlamentare-anticipate-din-11-iulie-2021>

Vo turnout varied considerably by region. Rural areas generally had a higher turnout than urban areas. This can be explained by several reasons, including a more efficient organization of the electoral process in rural areas and a greater awareness of the importance of voting among the older population in these areas. Chisinau, for example, had a lower voter turnout compared to villages in the central and southern districts of the country.

Voter turnout was influenced by several factors, including:

- **Political and social context:** The 2021 parliamentary elections took place in a tense political climate after the resignation of the government and the dissolution of parliament. This led to a greater mobilization of the electorate, which saw the elections as an opportunity for political change.
- **The impact of the COVID-19 pandemic:** Although the pandemic affected the logistical organization of the elections, measures to prevent the spread of the virus were in place at the polling stations, which allowed the elections to be conducted safely.
- **Mobilizing the diaspora:** Awareness-raising campaigns among Moldovans in the diaspora, including in EU countries, increased their participation in the elections. The diaspora was also a key vector in promoting PAS' pro-European agenda.

6.2.1.9. THE CHALLENGES OF VOTER TURNOUT IN MOLDOVA

Despite a relatively high turnout in the 2021 elections, there are still challenges that need to be addressed to ensure a wider and more representative turnout. One of these is absenteeism among young people, who, as mentioned above, were under-represented at the polls. The reasons behind this absenteeism include political apathy, distrust of the political class and the perception that their vote does not have a meaningful impact.

Another challenge is mobilizing voters in urban areas, where turnout was lower. In big cities, citizens tend to be more skeptical of political institutions and often do not feel represented by the political offers on offer.

The turnout in the early parliamentary elections in 2021 reflects a growing interest in politics and increased mobilization among citizens, especially in the diaspora. However, there are still challenges related to youth engagement and increasing participation in urban areas. Electoral reforms and civic mobilization campaigns will play a key role in strengthening voter turnout in the upcoming elections in the Republic of Moldova.

6.2.2. PRESIDENTIAL ELECTIONS 2020

Tour I

Election date: November 1, 2020.

Voter turnout: 48.54%.

Number of voters: approximately 1 364 597 voters

Diaspora vote: More than 150,000 Moldovans voted in the diaspora, a record at the time. The overwhelming majority of diaspora votes went to Maia Sandu¹⁷⁶.

Tour II

-Election date November 15

Participation rate: 57.72%

Number of voters - 1,650,131 voters participated in the second round, representing 57.72% of all eligible voters.

Diaspora voting - the diaspora had an even higher turnout than in the first round, with around 263,000 Moldovans voting from outside the country¹⁷⁷.

Results: Maia Sandu won with 57.72% of the votes, becoming the first woman president of the Republic of Moldova

The 2020 direct presidential elections in the Republic of Moldova were a particularly important election in the context of the country's political and geopolitical developments. Held in a polarized political and social climate, these elections culminated in the election of Maia Sandu as President of the Republic of Moldova, after two rounds of voting marked by high turnout both in the country and in the diaspora.

The elections took place in a challenging political and social context marked by internal and external tensions. Although the country operates in a parliamentary system, where the powers of the President are limited in relation to those of the Prime Minister and the Parliament, the 2020 elections took on a far greater significance than the traditional role of the presidential function. These elections are the fourth electoral exercise since the declaration of Moldova's independence, in which citizens directly elect the country's president. The return to direct voting has

¹⁷⁶ https://alegeri.md/w/Rezultatele_alegerilor_preziden%C8%9Biale_din_2020

¹⁷⁷ Ibid.

aroused much greater public interest, giving the future president a mandate of popular support and strong legitimacy.¹⁷⁸

The elections took place in a climate of heightened political instability. The ruling coalition lost the support of the parliamentary majority due to changes of affiliation by some MPs, making governing a difficult task. In this context, there has been intense speculation that early parliamentary elections could follow once the presidential elections are over to restore political balance. This uncertainty added a parliamentary dimension to the presidential elections, turning them into a kind of preamble to what was to be a generalized political confrontation.

At the same time, public dissatisfaction with the direction in which the country was heading was growing. Opinion polls showed that the majority of Moldovans believed the country was on the wrong track and were deeply disappointed with the government's performance. In addition, corruption, lack of transparency and the influence of oligarchs on political decisions remained key problems affecting citizens' trust in state institutions. Over the years, Moldovans have repeatedly rejected the idea that political decisions should be made by agreements and deals of ruling political parties, and these presidential elections were perceived as a test for the future of Moldovan democracy.¹⁷⁹

The 2020 elections were also heavily influenced by the COVID-19 pandemic. This further strained an already fragile economy, forcing the authorities to find solutions to protect both public health and the democratic rights of citizens. The government had to ensure safe elections by introducing strict security measures at polling stations in an attempt to prevent the spread of the virus. At the same time, the pandemic deepened the economic crisis and increased the country's dependence on international financial support, which heightened geopolitical tensions between pro-Western and pro-Russian orientations.

The pandemic context and the effectiveness of government policies in this area were one of the main topics debated in the public space during the pre-election period. The conduct of the elections during the COVID-19 pandemic period influenced the content of the electoral discourse of the contestants, as well as the conditions of the electoral campaigns of each contestant. The political context of the presidential elections was also marked by the return of geopolitical issues to the political agenda. Compared to the general local elections of October 2019, when the electoral agenda was dominated by issues such as oligarchization/capturization of state institutions, the elections for the President of the Republic of Moldova saw the return

¹⁷⁸ https://alegeri.md/w/Alegerile_preziden%C8%9Biale_din_2020_%C3%AEn_Republica_Moldova

¹⁷⁹ [https://www.ipn.md/ro/sondaj-nemultumirea-cetatenilor-de-guvernare-si-pandemia-au-marcata-alegerile-8004_1077745.html%20\(IPN.md%20-%20Sondaj%20de%20opinie%20despre%20nemul%C8%9Bumirea%20fa%C8%9B%C4%83%20de%20guvernare%20](https://www.ipn.md/ro/sondaj-nemultumirea-cetatenilor-de-guvernare-si-pandemia-au-marcata-alegerile-8004_1077745.html%20(IPN.md%20-%20Sondaj%20de%20opinie%20despre%20nemul%C8%9Bumirea%20fa%C8%9B%C4%83%20de%20guvernare%20)

of the traditional geopolitical issues ("East - West", "Russian Federation - EU", etc.).¹⁸⁰

Although Moldova has a relatively positive experience in organizing democratic elections, certain problems related to the integrity of the electoral process persisted in 2020, including difficulties related to the full participation of citizens in the diaspora, the financing of electoral campaigns, the prevention of corruption and voter intimidation, especially in the Transnistrian region.

The 2020 presidential elections were not just an electoral exercise, but a test of Moldovan democracy and the country's commitment to European values. The winner of the election would receive a strong mandate, reflecting the will of the voters and influencing the country's political future. These elections demonstrated once again that Moldova is at a critical point, oscillating between pro-European and pro-Russian forces, and the outcome of the elections had the potential to determine the future course of Moldovan politics, either consolidating democracy and European integration or a more eastward orientation under Russian influence.

6.2.2.1. THE ELECTORAL CONTEXT AND DIASPORA INVOLVEMENT

The Diaspora had a significant impact on the election result, registering a record number of votes. In the second round, some 260,000 Moldovans abroad voted, more than 90% of whom supported Maia Sandu.

The highest turnouts in the diaspora were registered in:

Italy: 46 516 votes

United Kingdom: 16,907 votes

Germany: 12,932 votes

France: 15,639 votes

Romania: 19,530 votes

These results played a decisive role in Maia Sandu's victory, as diaspora votes offset the major support Igor Dodon had in rural regions and Gagauzia.

6.2.2.2. OPINION POLLS AND ELECTORAL PREFERENCES BEFORE THE ELECTIONS

The August 2020 IRI¹⁸¹ poll for the Republic of Moldova provides a detailed picture of the electoral landscape ahead of the presidential elections. 65% of Moldovans

¹⁸⁰ https://promolex.md/wp-content/uploads/2021/02/Raport-Final_MO-Promo-LEX_2020.pdf

believed the country was heading in the wrong direction, with the economy being the main concern, followed by corruption and the COVID-19 pandemic. Igor Dodon and Maia Sandu were the main favorites, with Dodon having a slight lead. Support for pro-European parties was on the rise, while support for pro-Russian parties was falling. The poll also shows low trust in political institutions and a preference for European integration¹⁸². Thus, according to the August 2020 IRI poll:

- 65% of Moldovans thought the country was heading in the wrong direction.
- 31% of respondents saw the economy as the biggest problem, followed by 21% who mentioned corruption.
- 29% trusted Igor Dodon and 20% trusted Maia Sandu.
- 52% of citizens supported European integration, while only 20% were in favor of joining the Eurasian Union.

Polls in the run-up to the 2020 presidential elections showed a significant shift in electoral preferences. Maia Sandu has enjoyed a steady increase in support, especially from young voters and the diaspora. Igor Dodon, although initially favored, lost ground to Maia Sandu, especially in urban areas and among pro-European voters. His campaign relied on rural and pro-Russian voters, but dissatisfaction with the government has lowered his overall popularity.

The IMAS Socio-Political Barometer of March 2021 shows that the majority of Moldovans were dissatisfied with the direction in which the country was heading. Maia Sandu enjoyed increased support, being perceived as a pro-reform and pro-European figure, while trust in pro-Russian parties and leaders was declining. The economy and corruption were the main concerns, and the COVID-19 pandemic amplified the sense of insecurity¹⁸³.

6.2.2.3. MASS MEDIA

According to the OSCE Final Report on the 2020 Presidential Elections¹⁸⁴, the media landscape was generally diverse, comprising at least 62 TV channels, 55 radio stations, 90 newspapers, 77 magazines and 180 online news portals. Most media outlets are directly or indirectly sponsored and depend on different political forces and align their editorial policies to a particular political agenda. The limited advertising market further undermines the independence and impartiality of the media.⁷⁴ Although legislation requires transparency of broadcasters' ownership, despite previous ODIHR recommendations, there are no such requirements for

¹⁸¹ https://www.iri.org/wp-content/uploads/legacy/iri.org/iri_poll_-_august_2020_cleaned_for_release_2.pdf

¹⁸² https://www.iri.org/wp-content/uploads/legacy/iri.org/iri_poll_-_august_2020_cleaned_for_release_2.pdf

¹⁸³ https://imas.md/pic/archives/31/%5Bimas%5D%20barometrul%20socio-politic_martie%202021.pdf

¹⁸⁴ <https://alegeri.md/images/5/5f/Raport-final-osce-alegeri-prezidentiale-2020.pdf>

online media. Television remains the main source of political information. The media mainly use either the state or Russian language or both. News programs were often accompanied by subtitling and sign language. Print media are losing popularity and are also disadvantaged by limited circulation opportunities due to high distribution costs. The role of online media and social networks as platforms for political discourse is growing.

During the 2020 presidential elections, the API report highlighted positive and negative aspects of the Moldovan media. Pro-Dodon broadcasters such as Prime TV, NTV Moldova and Accent TV provided clearly biased coverage, favoring the incumbent president through partisan news and disinformation campaigns. There were also massive attack campaigns against Maia Sandu using geopolitical narratives, often amplified by pro-Russian online media.

At the same time, civil society watchdog groups, diplomats and some CSO media representatives have pointed out gaps in these safeguards. The Broadcasting Council is responsible for enforcing the requirement of a balanced approach to news, with measurable fines. Interlocutors noted that in practice the Council's enforcement of the rules is politicized and the fines are too low to be effective. The few free minutes are insignificant, given the different possibilities for candidates to buy advertising time. NDI has noted that the price for airtime is similar to that in wealthy Western countries, which limits access for some candidates. President Dodon stated that he will not participate in electoral debates, at least before the first round, which will reduce the information value of these events. Fair access to the media is most jeopardized by the concentration of media ownership in a few hands and the practice of the biggest TV channels to broadcast extensive news favorable to candidates sympathetic to the owner. Opposition groups claim that they have difficulty accessing these TV channels. Civil society media monitors have confirmed that broadcasters, perceived to be close to the incumbent President, are giving him disproportionate and overwhelmingly positive coverage as a candidate¹⁸⁵.

The online press and independent TV stations have tried to ensure informational balance. TV8, Jurnal TV, Pro TV Chisinau, together with websites such as Ziarul de Gardă, Agora.md, and Unimedia, provided a more balanced platform, trying to counterbalance the disinformation and propaganda present in other channels.

Among the main violations noted in the report were:

- Use of administrative resources in favor of Igor Dodon. The report showed that state resources were clearly used to support the incumbent President's campaign, through public appearances in state-controlled news programs and media support provided by pro-government TV stations.

¹⁸⁵ <https://alegeliber.md/raport-nr-1-de-monitorizare-a-presei-on-line-in-perioada-electorală-pentru-alegerile-prezidentiale-2020-3068.html>

- Misinformation campaigns: Fake news and manipulative messages have been circulated, especially on social networks and certain online platforms. Maia Sandu has been the main target of these attacks, with unfounded accusations about foreign ties and actions that would undermine the country's sovereignty.

However, the report also highlighted progress in the media:

- Independent broadcasters such as Jurnal TV, Pro TV Chisinau and TV8 tried to provide fair coverage, presenting electoral debates and promoting pluralism of opinions. These channels emphasized electoral transparency and exposed multiple irregularities in the electoral process.
- Online media, such as Agora.md, Ziarul de Gardă and Unimedia, have managed to provide a platform for fair discussions, combating some false narratives and bringing to the forefront objective investigations and news. They contributed to the growth of access to verified information, especially among young people and the diaspora, who played a crucial role in the final outcome

The report on the volume of electoral broadcasting (sports, debates and election material broadcast within the specially created columns for the coverage of the election campaign, informational broadcasts), including information on the voter education/voter information spots in the second round of the presidential elections, set for November 15, 2020, in the Moldovan media outlets placed by media service providers, for the period: 04-13 November 2020¹⁸⁶ analyzes the impact of voter turnout and voting behavior in the rounds of the presidential elections. According to the report, turnout in the diaspora played a decisive role in Maia Sandu's victory, marking a record turnout. The analysis also reveals a clear division between urban voters, who supported Sandu in the majority, and rural voters, who were more favorable to Igor Dodon. The report underlines the importance of diaspora mobilization and its effect on the final result.¹⁸⁷

6.2.2.4. HATE SPEECH

In its Report¹⁸⁸, Promo-Lex analyzed the electoral campaign through the prism of hate speech and discrimination messages, which gives a clear picture of the undemocratic and illegal practices that took place, such as hate speech and discrimination messages. These have negatively impacted the electoral atmosphere and public confidence in the democratic process. Promo-LEX emphasizes the lack of adequate measures by the authorities and the need for stricter regulations to prevent such practices, ensuring fairness and equity in elections. According to the report, 420 cases of hate speech and incitement to discrimination were recorded in the context of

¹⁸⁶ <https://alegeri.md/images/7/7c/Raport-volum-electoral-ca-alegeri-prezidentiale-2020-4.pdf>

¹⁸⁷ <https://alegeri.md/images/9/90/Analiza-ndi-alegeri-prezidentiale-2020.pdf>

¹⁸⁸ <https://promolex.md/19447-raportul-final-misiunea-de-observare-a-alegerilor-pentru-functia-de-presedinte-al-republicii-moldova-din-1-15-noiembrie-2020/?lang=ro>

the presidential election campaign. Of these, 199 were cases where candidates incited hatred through their messages. The electoral contestants who generated intolerant messages in the public space are: Renato Usatii (PN) - 152 cases; Igor Dodon (CI) - 23 cases; Andrei Nastase (PPPDA) - 14 cases; Dorin Chirtoaca (BE Unirea) - 7 cases; Maia Sandu (PAS) - one case; Octavian Tcu (PUN) - one case and Violeta Ivanov (PPȘ) - one case. According to the monitoring data, in 221 cases candidates were directly targeted by hate speech. Thus, Igor Dodon (CI) - 112 cases - and Maia Sandu (PAS) - 80 cases - were the candidates most affected by hate speech and incitement to discrimination during the electoral campaign. Also Violeta Ivanov (PPȘ) was targeted in 9 cases, Renato Usatii (PN) was mentioned in 7 cases, Dorin Chirtoaca (BE Unirea) was targeted in 6 cases, Andrei Nastase (PPPDA) was targeted in 5 cases and Octavian Țicu (PUN) was mentioned in 2 cases. The rhetoric of the electoral candidates contained various forms of intolerant discourse, and messages of hatred and incitement to discrimination were conveyed both through television, print and online media. Cases of hate speech generated by electoral candidates were based on stereotypes and prejudices with reference to various social groups (women, disabled people, LGBT people, etc.), which were used to denigrate or ridicule the political opponent. Hate speech and incitement to discrimination also took the form of irony, threats, incitement to rape, etc. during the election campaign and fueled various social fears that promoted intolerance in the public space.

The elections were monitored by international observers, including the OSCE, which found the electoral process largely fair and well organized. However, cases of irregularities were also reported, including the use of administrative resources by incumbent Igor Dodon and the manipulation of information through affiliated media. The Promo-LEX report also pointed to various abuses, such as the organized transportation of voters and lack of transparency in some polling stations in Transnistria.

6.2.2.5. THE VOTER TURNOUT

Election Day (rounds I and II). MO Promo-LEX¹⁸⁹ notes the high level of civic activism of voters who turned out at the polls, even in times of pandemic crisis, which was higher than in the 2016 elections. In particular, voters who voted in polling stations set up abroad were particularly noteworthy. MO Promo-LEX reiterates the need to implement additional and alternative voting mechanisms for eligible citizens abroad. The SVs opened and closed in a generally orderly manner. The counting of votes was mostly quick, orderly and calm. The provision of heating was poor, particularly in the SV outside mun. Chisinau. MO Promo-LEX repeatedly reports that part of the BESV did not comply with all the regulatory requirements regarding the vote counting process. During the two rounds of voting, observers reported 980 incidents (first round - 499, second round - 481), slightly decreasing

¹⁸⁹ Ibid.

compared to the 2016 presidential (1053) and 2019 parliamentary (1118 incidents) elections, but in these two elections the process was monitored by several observers.

6.2.2.6. GENDER AND AGE DISTRIBUTION

In the 2020 presidential elections in the Republic of Moldova, voter turnout varied significantly by gender, age and geographical regions. By gender, women accounted for about 51% of voters and men 49%. By age, the 18-35 age group was more active in the diaspora, while the 55+ segment had a strong presence in rural areas. Geographically, urban voters, especially in Chisinau and other big cities, supported Maia Sandu in the majority, while Igor Dodon dominated in rural regions and in the autonomy of Gagauzia¹⁹⁰.

After analyzing the decisions to set up the 2,143 polling stations' electoral bureaus, we note a higher presence of women than men.

6.2.2.7. GEOGRAPHICAL VARIATIONS IN VOTER TURNOUT

Geographical distribution of the vote¹⁹¹:

Urban vs. rural:

Maia Sandu won the majority of votes in urban areas, including Chisinau, Balti and other big cities. In Chisinau, Sandu won 59.7% of the vote, compared to 40.3% for Igor Dodon. Chisinau's suburbs also saw major support for Maia Sandu, with percentages above 70%.

Igor Dodon dominated in rural areas, with clear victories in districts such as Gagauzia and Transnistria, where he won more than 94% of the vote. Also in many districts in the north and south of the country, Dodon obtained percentages between 50-80%.

North Region:

In Balti, Igor Dodon got 61.08% of the votes, while Maia Sandu got only 38.92%.

Districts such as Briceni, Dondușeni, and Ocnita provided strong support for Dodon, with percentages between 70-85%.

¹⁹⁰https://alegeri.md/w/Rezultatele_alegerilor_preziden%C8%9Biale_din_2020#Turul_II.2C_15_noiembrie_2020

¹⁹¹ Ibid.

South Region and Gagauzia:

Gagauzia was one of the regions with the highest support for Dodon, where he obtained 94.59% and Maia Sandu only 5.41%.

The election results showed a clear division between urban and rural areas, between diaspora and domestic votes, and between pro-European and pro-Russian regions. The massive diaspora and urban vote was key to Maia Sandu's victory, while Igor Dodon remained the favorite in rural areas and in pro-Russian-oriented regions such as Gagauzia and Transnistria.

6.2.2.8. THE CHALLENGES OF VOTER TURNOUT IN MOLDOVA

The presidential elections were professionally organized, despite the challenges posed by the COVID-19 pandemic and legislative loopholes that undermined the effectiveness of campaign finance oversight and electoral dispute resolution. In a competitive campaign, voters had distinct political alternatives from which to choose, although allegations of vote buying persisted throughout the process. While polarization and media scrutiny remain a concern, the electoral candidates were covered by the media, for the most part, in a balanced manner, which helped voters make an informed choice. On election day, allegations of organized transportation of voters caused road blockades and tensions that affected voters' freedom of movement and access to polling stations. In the limited number of polling stations observed, procedures were generally followed, but inadequate polling spaces often led to overcrowding¹⁹².

The State Register of Voters is maintained and continuously updated by the CEC on the basis of the population register. In general, the accuracy of the voter lists has not been questioned. Recent improvements in population and voter registration, in particular with regard to voter identification and the prevention of multiple voting, have been noted by a number of MLOA ODIHR stakeholders. However, the presence of deceased voters on the lists continues to be a challenge, particularly for citizens residing abroad, due to difficulties in obtaining documents for their de-registration

Limited access to polling stations in the diaspora: Although the number of diaspora polling stations was expanded to 139, they were not enough to cope with the large number of voters abroad. Particularly in countries such as Italy, Germany, the UK and France, there were long queues and many citizens were unable to vote due to ballot papers running out.

¹⁹² <https://www.osce.org/files/f/documents/6/9/481306.pdf>

6.2.3. GENERAL LOCAL ELECTIONS 2023

2023 - General local elections.

Turnout: 39.9% (1st round), 33.2% (2nd round).

Number of voters: approximately 1,276,000 voters in the first round and 1,061,000 in the second round.

Results: Data suggest a significant drop in turnout, reflecting socio-economic challenges and political polarization at the local level.¹⁹³

6.2.3.1. THE POLITICAL CONTEXT BEFORE THE ELECTIONS

According to the law, the CEC has set the date for general local elections for all district and local councils and mayors' offices for November 5, 2023. These elections take place in a complex political and social context. In 2019, in the last local elections, the Party of Socialists (PSRM) won the majority of seats as councilors and mayors, followed by the PAS-PPDA electoral bloc, the Modern Democratic Party (PDM) and the Shor Party. In the 2021 early parliamentary elections, PAS won a parliamentary majority, winning 63 out of 101 seats and forming the current government (www.alegeri.md).

In November 2022, the Government asked the Constitutional Court to examine the constitutionality of the Shor Party, citing the criminal convictions of its leader and sanctions for repeated violations related to illegal campaign financing and vote buying. In June 2023, the Constitutional Court declared the Shor Party unconstitutional and ordered its dissolution, stipulating that the five deputies and other elected officials continue their work as independents (www.alegeri.md).

The 2023 elections are taking place against the backdrop of the state of emergency declared on February 24, 2022, due to the security risks posed by the war in Ukraine. These elections are influenced by tensions between the ruling party and the opposition, bans imposed on some members of the former Shor party and investigations into illegal campaign financing. They are also seen as crucial in establishing local political presence ahead of the 2024 presidential and 2025 parliamentary elections (www.alegeri.md).

In recent years, the government has implemented anti-corruption and justice reforms, but these have been criticized by the opposition, which accuses PAS of abuse of power. In June 2022, Moldova was granted candidate status for membership of the European Union, thus influencing the country's geopolitical direction (alegeri.md).

¹⁹³ https://alegeri.md/w/Alegeri_locale_generale_din_2023_%C3%AEn_Republica_Moldova

Women's participation in politics has increased, even if it has not yet reached parity. The Republic of Moldova has a female president and 6 out of 17 ministries are headed by women (35%). At local level, women hold 23% of mayoral posts, 27% of district and municipal councillorships, and 37% of city, commune and village councillorships. Representation of national minorities is also considered good in communities with a significant ethnic presence¹⁹⁴.

In another vein, a factor quite relevant to the 2023 local elections is identified by Promo-LEX Observers¹⁹⁵ who reported significant changes in the political affiliation of mayors elected in 2019. Currently, about 39% of 2019 mayors have changed their party. Most, about 36%, have migrated to PAS. In 2023, 68% of the mayors initially elected on PSRM lists kept their party affiliation, but some of them became independents or switched to other parties. Likewise, almost 40% of independent mayors elected in 2019 became politically affiliated, with the majority supporting PAS.

6.2.3.2. OPINION POLLS AND ELECTORAL PREFERENCES AHEAD OF THE GENERAL LOCAL ELECTIONS

According to the pre-election polls, PAS and BCS were the main political parties with a chance of winning, but support for PAS saw a slight decrease compared to the 2021 parliamentary elections, while BCS saw a moderate increase, especially in rural regions. Other parties, such as the Shor Party, showed a surprising increase, capitalizing on social discontent and promises of direct economic support for voters/

According to the socio-political poll organized in mun. Chisinau prepared by Watch Dog¹⁹⁶, citizens indicate the main concerns: high prices for services, corruption and poor infrastructure, trust in political leaders: Maia Sandu enjoys high trust, although support is divided between PAS and other parties.

Electoral preferences: Preferences are divided, with PAS and other major parties competing closely.

Foreign policy: Support for European integration remains a strategic priority for citizens.

Throughout the campaign, electoral preferences remained relatively constant, with polls indicating a split between voters who support the pro-European policy promoted by PAS and those who prefer a more conservative and Russia-oriented approach, specific to BCS and the Shor Party. The evolution of these preferences has

¹⁹⁴ <https://alegeri.md/images/2/20/Raport-interimar-osce-alegeri-locale-2023.pdf>

¹⁹⁵ <https://alegeri.md/images/b/bc/Raport-promo-lex-alegeri-locale-2023-3.pdf>

¹⁹⁶ <https://watchdog.md/wp-content/uploads/2023/10/Prezentare-13.10.2023.pdf>

been closely monitored by the media and pollsters, providing a clear picture of the fragmentation of the Moldovan electorate (www.alegeri.md).

The August 2023 Barometer of Public Opinion (BOP) survey¹⁹⁷ indicates the trends and priorities of Moldovan voters ahead of the 2023 local elections. The main concerns are high living costs and corruption. In terms of electoral preferences, there is strong support for PAS in urban areas due to its pro-European orientation. At the same time, the Bloc of Communists and Socialists attracts rural, more Russia-oriented voters. Support for European integration remains generally strong.

IMAS September 2023 report¹⁹⁸ highlights socio-political perceptions and attitudes towards media in Moldova. Citizens' main concerns are high costs, corruption and political instability. On the electoral front, PAS and the Bloc of Communists and Socialists are the main choices, reflecting clear geopolitical divisions. On the media, citizens show a decreasing trust in traditional sources, with a growing preference for social networks as the main information channel.

6.2.3.3. MASS MEDIA

The IJC's report on media monitoring of the electoral campaign for the 2023 local elections¹⁹⁹ observed partisan tendencies in the media coverage of the campaign, especially on NTV Moldova, First in Moldova and Prime TV. These channels favored the candidates of the Bloc of Communists and Socialists (BCS) and the Shor Party through positive and extensive coverage. PAS candidates were also treated negatively, being criticized or ignored compared to the opposition. In print media, local publications promoted similar parties, reinforcing the perception of partisanship. The IJC recommends media impartiality in order to provide voters with a balanced picture of candidates and their programs.

The Declaration of the Civic Coalition for Free and Fair Elections on the general local elections of November 5 - November 19²⁰⁰, specifies that the behavior of the media and the suspension of the licenses of six TV stations. With some exceptions, broadcasters had a relatively balanced behavior during the election campaign, providing access in the news to most of the electoral contestants whom they covered fairly and evenly. At the same time, the majority of TV stations monitored did not ensure pluralism of opinion in the news, which was also highly unbalanced from a gender perspective. Some media outlets favored or disadvantaged certain contestants through indirect election-related news about the positive or negative activity of the central or local public administration. Also, the suspension on October 30, 2023, by

¹⁹⁷ https://ipp.md/wp-content/uploads/2023/09/BOP_08.2023.pdf

¹⁹⁸ https://imas.md/pic/archives/41/%5bimas%5d%20realitatea%20socio-politica%20si%20perceptia%20mass%20media_septembrie%202023.pdf

¹⁹⁹ <https://cji.md/monitorizarea-mass-mediei-in-campania-electoral-pentru-alegerile-locale-generale-din-5-noiembrie-2023-raport-nr-3-24-octombrie-4-noiembrie-2023/>

²⁰⁰ <https://alegeri.md/images/8/82/Declaratia-calc-alegeri-locale-2023.pdf>

the Commission for Exceptional Situations (CSE) of the broadcasting licenses of six audiovisual media services appears to be a disproportionate restriction on freedom of expression, in the absence of extensive explanations of the factual and legal circumstances justifying the restrictive measures.

The report on the media in the electoral campaign for the 2023 local elections, published by CJI²⁰¹, highlights, in the first round of the 2023 local elections, the CJI report shows that the media favored candidates of the Bloc of Communists and Socialists (BCS) and the Shor Party. Outlets such as NTV Moldova and First in Moldova provided extensive favorable coverage, while PAS was reflected negatively. In the second round, these trends continued, with increasingly biased coverage. The IJC's recommendation for both rounds was to ensure fairness in the coverage of the candidates in order to support accurate reporting.

6.2.3.4. HATE SPEECH

Promo-LEX's report on the 2023 local elections documents several examples of hate speech, prevalent online and in traditional media. Among the incidents noted, candidates and supporters of the Shor Party and the Bloc of Communists and Socialists (BCS) used hate rhetoric against the Action and Solidarity Party (PAS), targeting PAS leaders with direct attacks. The speeches included messages about ethnicity and geopolitical orientation, escalating political tensions.

People from the LGBT community continue to be the target of hate speech and incitement to discrimination by some electoral competitors, such as Maxim Morosan, the PSRM candidate for mayor of mun. Balti, and Alexandru Gustoi, candidate of the political party "Party of Communists of the Republic of Moldova" for the mayor of mun. Balti.

6.2.3.3. THE VOTER TURNOUT IN THE 2023 LOCAL ELECTIONS

According to the data presented on the official website www.alegeri.md, in the first round of local elections on November 5, 2023, the turnout was 39.9%. This percentage represents a moderate mobilization of the electorate, showing a relatively low interest in local elections. In the second round, turnout dropped significantly to 33.2%, showing a decrease in motivation among voters. Compared to other electoral cycles, this decrease between rounds suggests citizens' disenchantment with the current political offer and may also be correlated with a lack of active mobilization of candidates.

6.2.3.6. VOTE DISTRIBUTION

²⁰¹ <https://alegeri.md/images/0/0a/Raport-mass-media-ca-alegeri-locale-2023-9.pdf>

An important aspect to mention is the distribution of voter turnout by gender, where a slight predominance of female over male participation was observed. This trend reflects a more active involvement of women in electoral processes at the local level, which may indicate a greater degree of interest in local decisions or community issues that affect the daily lives of families. The data show that, in general, women tended to participate more actively in urban and semi-urban environments, while men were more active in rural areas. Rural-urban differences are significant. In rural areas, turnout was generally higher than in urban areas. This dynamic can be explained by the fact that, in rural areas, opposition parties such as the Bloc of Communists and Socialists (BCS) and the Shor Party gained more consistent support, mobilizing voters on social and economic issues that are priorities for the inhabitants of these regions. In contrast, in urban areas, where the population is more diverse in terms of political options, the Action and Solidarity Party (PAS) registered stronger support but with a generally lower turnout, possibly due to the limited political offer and disinterest in local elections.

The low turnout can also be attributed to the socio-political context. These elections took place in a tense political climate, where part of the urban electorate and young people did not find satisfactory options in the political offer. At the same time, economic factors such as rising prices and economic instability discouraged voter turnout, especially among the young and active population. Voters showed general disenchantment with the political class and absenteeism can be interpreted as a sign of passive protest against the current parties. In the southern and northern regions of Moldova, the parties' strategy of mobilizing voters through organized transportation to polling stations had a notable impact, according to Promo-LEX. This practice, although controversial, increased voter turnout in some communities. Also, in regions where the Shor party has stronger support, support was influenced by direct promises of economic aid. By contrast, in urban and semi-urban regions, mobilization campaigns failed to compensate for general apathy towards the local electoral process.

6.2.3.7. GEOGRAPHICAL VARIATIONS IN VOTER TURNOUT

In the local elections of November 5, 2023, the **Rezina** district had the highest voter turnout in the Republic of Moldova, exceeding 50% of voters. In contrast, the southern regions and Gagauzia had a lower turnout, ranking at the bottom of the turnout list.

The voter turnout rate is only 41.4% nationwide, lower than in the previous local elections in 2019, when the turnout rate was 41.7%.

Preliminary data from the Central Electoral Commission shows that only in one district did more than 50% of eligible voters vote today, and that is Donduseni (50.15%). The lowest turnout was recorded in the Cimislia

district - only 35.26%.

However, the fewest people voted in Basarabeasca district - just over 8 670.

In most districts, turnout was above 40%.²⁰²

6.3. ASSESSING THE INTEGRITY AND FAIRNESS OF ELECTIONS. CASES OF ABUSES AND IRREGULARITIES IN THE ELECTORAL PROCESS

6.3.1. EARLY PARLIAMENTARY ELECTIONS

The early parliamentary elections of 2021 represented a turning point for democracy in the Republic of Moldova, both in terms of the unstable political context that led to their organization, and from the perspective of the need to strengthen public confidence in the electoral process. Assessing the integrity and fairness of the 2021 elections involves analyzing a number of key factors: compliance with the legal framework, management of administrative resources, the role of the media, the transparency of the campaign, the participation of the diaspora and the handling of incidents of possible irregularities and fraud.

According to the official page of www.alegeri.md, the CEC accredited 2,442 election observers to monitor the early parliamentary elections of 11 July 2021, including 1,800 national and 642 international observers from eight public associations in the country, 20 diplomatic missions accredited to the Republic of Moldova, 15 international organizations and 10 foreign electoral authorities. Election monitoring in polling stations set up abroad was carried out by 252 observers, most of them from electoral contestants²⁰³.

International observers, including the OSCE, ENEMO and the Council of Europe, assessed the 2021 early parliamentary elections in Moldova as generally fair and in line with international standards, although some specific problems were noted. The Council of Europe²⁰⁴ noted a number of irregularities in the election coverage by the media, highlighting that some TV stations, such as those affiliated to the BECS, were biased in favoring certain parties. In this regard, the Council of Europe's main recommendations include strengthening legislation on campaign financing, stricter monitoring of the media and sanctions for violations of impartiality in election coverage

²⁰² https://www.ziarulnational.md/topul-prezentei-la-vot-singurul-raion-din-r-moldova-unde-au-votat-peste-50-din-alegatori-la-alegerile-locale-generale-din-5-noiembrie-2023-regiunile-de-la-coada-clasamentului/#google_vignette

²⁰³ https://alegeri.md/w/Alegerile_parlamentare_din_2021_%C3%AEn_Republica_Moldova#Monitorizarea_alegerilor

²⁰⁴ <https://rm.coe.int/action-plan-2021-2024-romanian/1680a3ff23>

Measures were also suggested to investigate cases of misuse of administrative resources, which were reported during the campaign, especially in relation to the organized transportation of voters, an issue that raised suspicions of vote influencing. Another key point for the future is to improve the organization of diaspora voting, as 2021 saw a significant turnout of Moldovans abroad, but incidents were reported at polling stations in London and Moscow.

In the context of the early parliamentary elections in 2021, concerns have been raised about the transparency of the electoral process and the prevention of possible irregularities. In a submission to the CEC, the implementation of measures to ensure the functioning of the video surveillance system throughout the voting day, not only at critical moments, was requested in order to increase public confidence in the integrity of the elections. The need to combat the organized transportation of voters, a practice that could improperly influence the voting results, was also underlined. These measures are seen as essential to prevent fraud and ensure a fair and transparent electoral process.²⁰⁵

The submission to the CEC, published on the Free Elections platform, calls for the implementation of stricter measures to ensure the transparency of the electoral process in the Republic of Moldova. Among the proposals put forward is the uninterrupted operation of the video-recording system throughout the voting day as a way to prevent potential electoral fraud. It also draws attention to the need to combat the organized transportation of voters, a practice often used to influence voting results. These measures are essential to ensure the integrity and fairness of the electoral process and prevent abuses.²⁰⁶

6.2.1.7. PRESIDENTIAL ELECTIONS 2020

In the following we propose an analysis of the significant challenges in the 2020 presidential election process in the Republic of Moldova, highlighting the factors that influenced its fairness and impartiality, as well as the efforts undertaken to document and reduce abuses. Various organizations and observation missions monitored the electoral process, providing detailed reports on irregularities identified.

In the 2020 presidential elections in the Republic of Moldova, the electoral process was marred by multiple irregularities and violations, which partially affected its fairness and integrity. OSCE and other monitoring organizations identified various abusive practices and administrative obstacles that affected the electoral competition and public confidence in the democratic process.

²⁰⁵ -<https://alegeliber.md/demers-catre-comisia-electoral-centrala-sa-intreprinda-masuri-pentru-a-permite-functionarea-sistemului-de-inregistrare-video-pe-tot-parcursul-zilei-votarii-si-a-preveni-transportul-organizat-al-alega-3443.html>

²⁰⁶ <https://alegeliber.md/demers-catre-comisia-electoral-centrala-sa-intreprinda-masuri-pentru-a-permite-functionarea-sistemului-de-inregistrare-video-pe-tot-parcursul-zilei-votarii-si-a-preveni-transportul-organizat-al-alega-3443.html>

A report by the Election Observation Mission (ENEMO) has documented pressure on election officials to facilitate preferential access for certain voters. According to this source, officials in various polling stations were pressured by political representatives to allow priority access to supporters of certain candidates. In some cases, this pressure also came in the form of threats or promises of rewards, which affected the impartiality of the electoral process²⁰⁷. Intimidation of voters and election officials was reported in several polling stations, in particular in the context of pressure exerted by PSRM supporters on voters and election staff. Such actions created a climate of fear and affected the possibility of a free and impartial electoral process (OSCE Final Report).

Vote buying was one of the most serious irregularities documented, particularly in rural areas. Supporters of candidate Igor Dodon, backed by the Party of Socialists (PSRM), were accused of offering material benefits such as money and food in exchange for votes of citizens from economically disadvantaged areas. This practice undermined the voters' freedom of decision and raised questions about the legality and fairness of the elections (OSCE Final Report Presidential Elections 2020).

The OSCE report also noted that the non-admission of candidates and difficulties in registration were a major obstacle for several independent and small party candidates. Andrian Candu, the Pro Moldova candidate, was excluded from the electoral race after the CEC invalidated a considerable number of supporting signatures, preventing him from reaching the minimum threshold required. In Candu's case, his attempt to challenge the decision failed, highlighting the limitations of appeal mechanisms in ensuring a fair contest. Likewise, Dorin Chirtoaca, leader of the Unirea Political Movement, encountered similar difficulties, but managed to stay in the race after the support lists were completed

Unequal access to media resources was another problematic aspect, with an imbalance in media coverage of the electoral campaign. While Maia Sandu, the candidate of the Action and Solidarity Party (PAS), received limited media support, Igor Dodon was repeatedly promoted and favored by PSRM-affiliated media outlets. This media bias influenced public opinion and affected citizens' access to balanced information²⁰⁸.

According to the OSCE Report, throughout the election period, various "communications" addressed to the CEC were treated inconsistently, due to unclear admissibility criteria, and sometimes non-transparent. Some of them were registered and posted with the correspondence received, while others appeared in the complaints register and others were not posted at all. Of the 19 complaints registered in the complaints register, only one was considered in a meeting, while others were dealt with by letters, mostly citing lack of legal status or insufficient evidence.

²⁰⁷ <https://alegeri.md/images/5/5f/Declaratia-enemo-concluzii-preliminare-alegeri-prezidentiale-2020.pdf>

²⁰⁸ <https://alegeri.md/images/8/8b/Pozitia-calc-alegeri-prezidentiale-2020.pdf>

Contrary to good international practice, the CEC formally interpreted admissibility requirements and avoided substantive examination of complaints. The inconsistent handling of complaints by the CEC undermined transparency, timeliness of complaint resolution and the availability of effective legal remedies, in contradiction with international standards²⁰⁹.

ProTV²¹⁰ has also reported on a controversial practice of "organized mobilization" of voters, whereby voters were transported to polling stations by supporters of particular candidates. In the context of clear political support, this practice has raised questions about the fairness of elections and the degree of influence that political actors can have on voters in rural and suburban areas

The media played a decisive role in influencing public perceptions of the candidates. According to the Independent Journalism Center's report²¹¹ (IJC), politically affiliated TV stations disseminated false or manipulative information. For example, Jurnal TV accused some TV stations of favoring a candidate by broadcasting biased information, thus rejecting standards of journalistic impartiality and objectivity. Such tactics included repeating negative news about certain political figures and omitting their achievements, with the aim of manipulating public opinion and directly influencing the electoral decision. Unimedia²¹² highlighted another notable case in which news websites and social media pages were used to spread rumors and false information about candidates, especially those perceived as a threat to the interests of political parties. Such practices have led to increased voter polarization, creating a climate of mistrust and political tension.

A serious problem highlighted in the API and ENEMO reports is vote buying in some regions, a practice whereby citizens have been offered money or goods in exchange for voting for a specific candidate. Ziarul de Gardă reported on cases where voters in economically vulnerable areas received money or food from candidates' supporters. In one incident in Orhei district, citizens said they were offered money to support the candidate of an influential party in the area. Such vote influencing tactics, although difficult to document, directly undermine the principle of free and fair elections.

Vote buying has been a worrying phenomenon, explicitly mentioned in reports²¹³ by the Independent Press Association (API)²¹⁴²¹⁵ and the Election Observation Mission (ENEMO), which detailed practices used to influence the vote in certain economically vulnerable regions. In the context of the 2020 Presidential elections in

²⁰⁹ Paragraph 5.11 of the 1990 OSCE Copenhagen Document states that "administrative decisions against a person shall be fully reasoned and shall, as a rule, indicate the usual available remedies

²¹⁰ <https://protv.md/>

²¹¹ <https://alegeri.md/images/5/52/Raport-mass-media-cji-alegeri-prezidentiale-2020-1.pdf>

²¹² <https://unimedia.info/2020/prezidentiale>

²¹³ <https://alegeri.md/images/4/4e/Raport-mass-media-api-alegeri-prezidentiale-2020-1.pdf>

²¹⁴ <https://alegeri.md/images/0/08/Raport-final-mass-media-api-alegeri-prezidentiale-2020.pdf>

²¹⁵ <https://alegeri.md/images/4/4e/Raport-mass-media-api-alegeri-prezidentiale-2020-1.pdf>

the Republic of Moldova, citizens in economically distressed areas were exposed to influencing strategies by offering material incentives, such as money or food, in exchange for supporting a particular candidate.

The API report noted that these practices have been identified predominantly in rural areas, where economic conditions are poorer and the social needs of the population are more acute. This has created an environment conducive to manipulation through the provision of material resources. The API notes that in some polling stations, citizens were approached by representatives of political parties in the very vicinity of the polling stations and offered money in exchange for support for a particular candidate. Reports also revealed that some voters were transported to polling stations in an organized manner, receiving incentives to exercise their right to vote in a way that favored a particular party. These tactics raised serious questions about the freedom to cast one's vote, setting the stage for an election that fell short of democratic standards.

ENEMO, in its preliminary findings,²¹⁶ emphasized that such practices affect not only the fairness of the electoral process, but also public confidence in electoral democracy. According to the ENEMO report, cases of vote buying are particularly dangerous as they are difficult to document and sanction in the absence of proper monitoring. The ENEMO mission recommended stepping up monitoring efforts and introducing clear investigative mechanisms to address such practices in the future.

Furthermore, the API final report states that these tactics were used systematically in certain regions and were designed to take advantage of the difficult social and economic conditions of voters, thus undermining the principle of free and fair elections. This not only affects the integrity of the process, but also influences the outcome of the elections, particularly in areas where material support has a direct impact on the voting decision. Vote buying has thus become a worrying phenomenon that undermines electoral democracy and the recommendations of the reports include the implementation of rigorous monitoring and sanctioning measures to prevent such abuses in the future.

These irregularities, documented in detail by OSCE, Promo-LEX and CALC, had a significant impact on public perception and confidence in the fairness of the elections. The monitoring organizations recommended reforms to ensure equal access to media resources, combat vote-buying and simplify candidate registration procedures in order to ensure a fair and transparent electoral contest²¹⁷.

6.3.1. GENERAL LOCAL ELECTIONS 2023

²¹⁶ <https://alegeri.md/images/5/5f/Declaratia-enemo-concluzii-preliminare-alegeri-prezidentiale-2020.pdf>

²¹⁷ <https://alegeri.md/images/5/50/Numararea-paralela-promo-lex-tur2-alegeri-prezidentiale-2020.pdf>

Promo-LEX and OSCE reports underline that the elections were conducted in accordance with the law, but with some challenges related to democratic standards

The assessment of the integrity and fairness of the 2023 local elections highlighted notable deviations from democratic standards. Promo-LEX and OSCE reports observed the conduct of the elections according to the law, but documented cases of organized transportation of voters, especially in rural areas, which raised suspicions of vote influencing (Promo-LEX).

Vote buying has also been reported in some regions, where financial or material incentives were offered by party supporters. Pressure on election officials affected the voting process, creating a climate of tension and uncertainty about the fairness of the vote (OSCE).

At the media level, outlets such as NTV Moldova and First in Moldova showed a lack of fairness, favoring certain parties such as the Bloc of Communists and Socialists (BCS) and the Shor Party, while PAS was treated in a critical manner. This media bias undermined the informational balance, which could influence public perception and voting choice (CJI).

In order to improve the integrity of the electoral process, the reports recommend tougher measures against vote buying, sanctioning cases of organized transportation, and regulating media impartiality for fair and impartial coverage of candidates and their platforms. These measures are essential to ensure a free and fair electoral climate in the upcoming elections, strengthening public confidence in the democratic process.

6.3.1. COMPLIANCE WITH THE LEGAL FRAMEWORK AND ORGANIZATION OF THE ELECTIONS

Moldova's electoral legislation provides a rigorous framework for the conduct of parliamentary elections, and the proportional electoral system used in 2021 has been reintroduced to ensure a fair representation of the electoral will. According to the OSCE Final Report on the 2021 Elections mentioned above and the ENEMO 2021 (European Network of Election Monitoring Organizations) Mission Report, the electoral legislation was generally respected and the authorities organized the elections efficiently. Monitoring of the electoral process by international institutions confirmed that the elections were conducted in line with international standards for free and fair elections.

Also, the CEC implemented special measures to ensure the safe conduct of the elections in view of the COVID-19 pandemic. Sanitary standards were respected in polling stations, which allowed for a safe and sanitary organization. In addition,

substantial efforts were made to expand access to voting in the diaspora, with a significant number of polling stations organized abroad.²¹⁸

The ENEMO mission assessed that the electoral process was organized in a transparent manner, but reported cases of inappropriate use of administrative resources, especially in rural areas, where local authorities facilitated the organization of campaigns for certain parties. There were also cases of organized transportation of voters, which raised questions about the influence of the voting process. ENEMO underlined the need to improve the legal framework for monitoring campaign financing and election advertising.

6.3.2. ROLE AND IMPARTIALITY OF THE MEDIA IN THE ELECTORAL CAMPAIGN

Media play an important role in informing citizens and ensuring a fair electoral process. However, the Promo-LEX Report and the OSCE Report pointed out that in the 2021 election campaign, access to the media was unbalanced and some TV stations quite clearly favored certain political parties. For example, NTV Moldova and First in Moldova were biased towards the Electoral Bloc of Socialists and Communists (BECS), while Jurnal TV and TV8 gave more favorable coverage to the Action and Solidarity Party (PAS).

Media polarization affected the integrity of the electoral process as it limited voters' access to fair and balanced information. The Audiovisual Council (AC) tried to regulate media impartiality, but the application of sanctions was insufficient to correct the existing imbalance.

6.3.3. CAMPAIGN FUNDING AND USE OF ADMINISTRATIVE RESOURCES

The Promo-LEX report²¹⁹ highlighted discrepancies in the use of financial resources between electoral contestants, emphasizing that certain political parties, such as BECS and the Shor Party, benefited from higher funding, which gave them a clear competitive advantage. There were also cases of misuse of administrative resources, especially in rural areas, to promote local candidates.

Such practices have raised questions about the fairness of the electoral process and underlined the need for stricter regulations to prevent the use of public resources for electoral purposes. Promo-LEX has documented several such cases, suggesting that the authorities should investigate and apply appropriate sanctions.

At the same time, according to him, although there is a relatively well-developed legislative framework for campaign financing and the use of administrative resources, its implementation remains problematic. Discrepancies in access to

²¹⁸ <https://alegeri.md/images/9/99/Raport-final-enemo-alegeri-parlamentare-2021.pdf>

²¹⁹ <https://alegeri.md/images/9/96/Raport-final-promo-lex-alegeri-parlamentare-2021.pdf>

resources between large parties, such as PAS and BECS, and smaller parties were evident, which created an une level playing field of electoral competition. In addition, the use of administrative resources for electoral purposes has been identified as a practice that undermines the integrity of the electoral process, requiring additional monitoring and sanctioning measures to prevent such abuses in the future

The Council of Europe underlined that although the elections were free and fair, there were problems with partisan media coverage, especially in the case of some TV stations that visibly favored certain political parties, such as BECS. Observers recommended that media legislation be strengthened and sanctions be applied to broadcasters that do not respect impartiality in their election coverage.

Promo-LEX, the domestic monitoring organization, highlighted a number of problems in the electoral process, including inadequate voter mobilization in the Transnistrian regions and the diaspora. Long queues and tensions were observed at polling stations in London and Moscow, and reports noted that the organization of polling stations abroad was poor. Promo-LEX also reported cases of electoral gifts and the use of administrative resources to promote certain parties.²²⁰

The ENEMO mission assessed that the electoral process was organized in a transparent manner, but reported cases of inappropriate use of administrative resources, especially in rural areas, where local authorities facilitated the organization of campaigns for certain parties. There were also cases of organized transportation of voters, which raised questions about the influence of the voting process. ENEMO underlined the need to improve the legal framework for monitoring campaign financing and election advertising.

6.3.4. VOTING DAY IRREGULARITIES AND INCIDENTS

Domestic and international observers, as well as contestants' representatives, have the right to observe the electoral process, including in SVs abroad.¹²⁶ The CEC, together with other authorities, facilitated the presence of international observers despite the challenges related to COVID-19. For these elections, the CEC accredited 1,800 domestic observers and 642 international observers. The inclusive registration of observers generally increased the transparency of the electoral process. However, no data has been made public on the accreditation of observers from political parties by the ECCC. Observers from political parties were present in almost all of the SVs on election day, and domestic observers were present in about half of the SVs visited by the IEOM.²²¹

International observers noted that the voting day was generally orderly, with respect for electoral procedures. The OSCE report and the ENEMO report found that

²²⁰ <https://alegeri.md/images/9/96/Raport-final-promo-lex-alegeri-parlamentare-2021.pdf>

²²¹ <https://alegeri.md/images/a/ad/Raport-final-osce-alegeri-parlamentare-2021.pdf>

reported incidents, such as cases of organized transportation of voters and attempts to buy votes, did not significantly affect the election results.

However, some isolated irregularities, such as the crowding of polling stations in the diaspora and the organized transportation of voters to polling stations in Transnistria, were reported and documented. These incidents raised concerns about the integrity of elections in these sensitive regions.

Promo-LEX has reported cases of suspected multiple voting, where some people voted more than once in different polling stations. Cases of electoral corruption were also reported, where money or goods were allegedly offered in exchange for votes.

In large Western European cities like London and Paris, in particular, there were large crowds at polling stations, which caused delays and tensions between voters.

6.3.5. DIASPORA PARTICIPATION AND TRANSPARENCY OF VOTING ABROAD

The organization of diaspora voting was considered one of the most efficient so far, with 150 polling stations open in different countries. However, logistical difficulties were reported in managing overcrowding in some polling stations in Western Europe, as well as complaints about insufficient ballot papers in some cases.

Diaspora participation in the early parliamentary elections in 2021 was one of the most remarkable components of the electoral process, with a record number of polling stations organized for Moldovans living abroad. 150 polling stations were opened in several countries, including Italy, Germany, France, the United Kingdom and the Russian Federation. This represented a considerable effort on the part of the authorities to facilitate access to the electoral process for citizens in the diaspora.

However, logistical difficulties in managing the crowds were reported in some polling stations in Western Europe, where large numbers of citizens turned out to vote. In London and other major European cities, long queues and waiting times led to voter dissatisfaction. In some cases, such as polling stations in Germany and Italy, there were complaints about insufficient ballot papers, causing many citizens to be unable to exercise their right to vote.

The Promo-LEX report stressed the importance of improving the organization of diaspora voting for future elections, recommending better logistical planning and a more efficient allocation of ballot papers according to the estimated number of voters in each country. It also called for an increase in the number of polling stations in states with a large number of Moldovan citizens in order to avoid overcrowding and logistical problems in 2021.

6.3.6. INTERNATIONAL OBSERVATIONS AND RECOMMENDATIONS FOR THE FUTURE

International observers, including the OSCE, ENEMO and the Council of Europe, considered that, despite some irregularities and one-off problems, the 2021 parliamentary elections were fair and reflected the will of the voters. However, a number of recommendations for the future were made, including:

- The need to improve campaign finance regulations to prevent major discrepancies between candidates.
- More effective media monitoring and sanctions to ensure impartiality and fairness in election coverage.
- Investigating and sanctioning misuse of administrative resources.
- Extend and improve the organization of diaspora voting to facilitate access to the electoral process for Moldovans living abroad.

6.3.7. CONCLUSIONS

The assessment of the integrity and fairness of the early parliamentary elections in 2021 revealed that, in general, the electoral process was organized in a transparent and democratic manner in line with international standards. However, there were problems related to unequal access to media, use of administrative resources and management of financial resources. These issues point to the need for further reforms to ensure a fully fair electoral process in the future. Despite these challenges, the election results reflected the will of the voters and were internationally recognized as fair.

In the context of the 2021 early parliamentary elections in the Republic of Moldova, a number of abuses and irregularities have been identified that affected the integrity of the electoral process, although they were not considered sufficient to change the final outcome of the elections.

At the national level, reports by international and local observers, including Promo-LEX and the OSCE, have reported cases of organized transportation of voters to polling stations, raising suspicions of vote influencing. In addition, unequal access to resources and media among political parties was another point of criticism. Small parties reported difficulties in getting their messages across due to lack of media exposure compared to large parties, which benefited from financial support and extensive media coverage

Both reports noted a number of irregularities, including:

1. The use of administrative resources to the advantage of some parties, which has created unequal competition.
2. Organized transportation of voters, especially in rural areas and in the Transnistrian region, which raised suspicions of vote influencing.

3. Overcrowding in polling stations in the diaspora and lack of ballot papers in some locations, thus affecting the access of Moldovans living abroad to the electoral process.
4. Unequal access to media, especially for small parties, while TV stations affiliated to political groups visibly promoted certain parties, such as BECS.

In the order in which they have been presented, according to both the analyzed Reports, recommendations have been presented which we consider appropriate to mention,

1. Improving campaign finance legislation: Stricter regulation of campaign financing is needed to prevent major discrepancies between candidates and to ensure transparency of spending and donations.
2. Monitoring and sanctioning the use of administrative resources: it is recommended to define in detail the term "administrative resources" and to extend the period of prohibition of their use, both in the electoral campaign and in the pre-electoral period, in order to prevent abuses of the "administrative resource".
3. Fair access to the media: Regulators need to monitor the media more rigorously to ensure fair access for all political parties. Prompt sanctioning of those who violate impartiality.
4. Organization of diaspora voting: It is recommended to expand and improve the organization of diaspora voting by opening more polling stations and increasing the number of ballot papers to avoid overcrowding and logistical problems. It is also suggested to implement alternative voting methods, such as electronic voting or extending the number of voting days.
5. Revision of criteria for polling stations abroad: it is recommended to clarify the mechanism of organizing polling stations for the diaspora, taking into account the geographical distribution of Moldovan citizens.
6. Clarification of the legal rules on electoral complaints: the Electoral Code should be amended to clearly specify how complaints and appeals should be filed and resolved, both in the pre-election period and on and after election day.
7. Prohibition of the use of images of state institutions and religious denominations in campaigning: It is recommended to clearly prohibit the use of images of state institutions and religious denominations for electoral purposes, in order to prevent voter manipulation and distortion of electoral messages.
8. Regulation of the organized transportation of voters: it is necessary to complete the Electoral Code to regulate and sanction the organized transportation of voters to polling stations by competitors or third parties.

9. Increasing the number of election observers: It is recommended to increase the presence of observers in polling stations in order to increase public confidence in the transparency and fairness of the electoral process.

10. Harmonization of legislation on political donations: Harmonization of legislation, including the detailing of donor information and its publication, is needed to increase the transparency of donations and prevent corruption.

Another problematic aspect was related to election advertising. According to reports, some TV stations and websites affiliated to political groups did not fully comply with impartiality rules and over-promoted certain candidates. This affected the fairness of the electoral process, especially in rural areas where access to diverse information is already limited

However, regulators, including the Broadcasting Council, have been criticized for their slow reaction and lack of effective sanctions, thus contributing to the perpetuation of abusive practices without real consequences.

6.4. IDENTIFYING GOOD PRACTICES

The identification of good practices in the 2021 early parliamentary elections in the Republic of Moldova reflects both local and international organizations' efforts to improve the transparency, accessibility and fairness of the electoral process. Among the positive practices that have been implemented and can serve as a model for future elections are the following:

1. Increase in the number of polling stations in the diaspora

In the 2021 elections, a record 150 polling stations were organized for Moldovan citizens in the diaspora. This was an important measure to ensure broad access to the electoral process for Moldovans abroad, particularly in countries such as Italy, Germany, France and the United Kingdom, where Moldovan communities are large. This outreach has contributed significantly to a higher turnout of diaspora voters and allowed more citizens to exercise their right to vote, even in the face of the COVID-19 pandemic

2. Active monitoring of the electoral process

Promo-LEX, together with other international organizations, carried out an extensive election monitoring campaign. The presence of observers in the polling stations contributed to increased transparency and the prevention of possible fraud. The observers collected information on the conduct of the voting, identified irregularities and made recommendations to improve the electoral process. This effort helped to build public confidence in the fairness of the elections

3. Implementation of anti-COVID-19 measures in polling stations

The COVID-19 pandemic posed a major challenge for the organization of the elections. However, the electoral authorities managed to implement adequate sanitary protection measures in polling stations, such as physical distancing, wearing masks and regular disinfection of surfaces. These measures contributed to the safe conduct of polling and allowed citizens to vote without fear of contracting the virus

4. Promoting voter education

Another good practice was the intensive voter education campaign conducted by the CEC and its partners. This campaign included information spots, voter guides and information sessions targeting both the domestic and diaspora populations. The aim of the campaign was to educate citizens about their electoral rights and to clarify the voting process, especially in the pandemic context, where the rules were stricter

5. Use of modern technologies in the monitoring and transmission of results

In the 2021 elections, significant progress has been made in the use of modern technologies to monitor and centralize election results. Data from polling stations was transmitted quickly and in real time to the central authorities, allowing for a transparent and efficient counting process. The publication of the results in digital format also provided wide access to citizens and observers, contributing to increased confidence in the final outcome of the elections

It is worth noting that the Promo-LEX report mentions that, for the first time since the last national elections, no complaints or appeals have been filed regarding violations of the right to vote, such as voting restrictions or ballot paper exhaustion. Also of note was the score of the Action and Solidarity Party (PAS), which won 63 seats, enough to constitute a parliamentary majority, marking a first since the 2009 parliamentary elections. After the publication of the preliminary results, the NOI political party lodged a complaint with the CEC, claiming that the results had been fraudulent and asking for the recount of the ballots and the annulment of the election results. However, the Constitutional Court rejected this request by Decision No. 116 of July 20, 2021, citing a lack of evidence that the voting results were affected.

These moments underline both the fairness of the electoral process and the consolidation of the parliamentary majority by a single party, PAS, following these early elections in 2021.

7. EUROPEAN COURT OF HUMAN RIGHTS CASE-LAW PERTINENT TO THE SUBJECT OF THE REPORT

The ECtHR plays a key role in protecting fundamental rights, including the right to free elections.

The right to free elections became part of the system of the ECHR relatively late. The first judgment was not delivered until 1987 and the ratio of judgments dealing with the right to free elections is very low also today. However, on the one hand, the number is increasing from year to year, and on the other, these decisions' significance is fundamental to the democratic system of the Council of Europe's member states. The ECtHR has played a crucial role in the way Art. 3 of Protocol No. 1 is interpreted, which process led from the institutional obligation to protect individual rights. Today nobody is likely to question that the right to vote and the right to stand for election are fundamental rights that can be invoked by individuals²²².

Through its interpretations, the ECHR has created a solid framework for international standards in electoral matters, ensuring that democratic processes are respected and that every citizen is able to exercise their right to vote freely and fairly. The Court's jurisprudence reflects its efforts to protect political rights and to strike a balance between individual rights and the public interest.

Article 3 of Protocol No. 1 to the ECHR²²³ provides that the High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature. This article is essential for the protection of the democratic process in Council of Europe member states.

The ECtHR has interpreted this article not only as a simple right to vote, but also as a protection against electoral practices which might undermine the freedom and fairness of elections. Thus any limitation imposed by states must respect the principle of proportionality and be justified by a significant public interest.

“According to the Preamble to the Convention, fundamental human rights and freedoms are best maintained by ‘an effective political democracy’. Since it enshrines a characteristic principle of democracy, Article 3 of Protocol No. 1 is accordingly of prime importance in the Convention system”²²⁴.

The rights in question are not absolute. There is room for “implied limitations”, and the Contracting States must be given a wide margin of appreciation in this sphere. The concept of “implied limitations” under Art. 3 of Protocol No. 1 is of major importance for the determination of the relevance of the aims pursued by the restrictions on the rights guaranteed by this provision. Given that Art. 3 is not limited by a specific list of “legitimate aims” such as those enumerated in Art. 8 to 11, the Contracting States are therefore free to rely on an aim not contained in that list to justify a restriction, provided that the compatibility of that aim with the principle of

²²² <https://law.unimelb.edu.au/centres/ernn/about/past-events/european-human-rights>

²²³ https://www.echr.coe.int/documents/d/echr/convention_ENG

²²⁴ [Mathieu-Mohin and Clerfayt v. Belgium, para. 47](#)

the rule of law and the general objectives of the Convention is proved in the particular circumstances of a given case.

The concept of “implied limitations” also means that the ECtHR does not apply the traditional tests of “necessity” or “pressing social need” which are used in the context of Art. 8 to 11. In examining compliance with Art. 3 of Protocol No. 1, the ECtHR has focused mainly on two criteria: whether there has been arbitrariness or a lack of proportionality, and whether the restriction has interfered with the free expression of the opinion of the people. In addition, it underlines the need to assess any electoral legislation in the light of the political evolution of the country concerned, which means that unacceptable features in one system may be justified in another (Mathieu-Mohin and Clerfayt v. Belgium, 1987, § 52; Ždanoka v. Latvia [GC], 2006, §§ 103-104 and 115)²²⁵.

When an individual or group has been deprived of the right to vote, the ECtHR is particularly attentive. Deprivation of the right to vote must then pursue a legitimate aim but also pass a more stringent proportionality test. The ECtHR has thus had occasion to examine a number of cases in which the deprivation of voting rights was part of a criminal investigation. The case of Labita v. Italy [GC], 2000, concerned the automatic temporary loss of civic rights imposed on an individual suspected of belonging to the mafia. The ECtHR agreed that the measure pursued a legitimate aim. However, taking into account the fact that the measure had only been applied after the applicant’s acquittal, it found that it had been disproportionate as there was no actual basis on which to suspect him of belonging to the mafia. In Vito Sante Santoro v. Italy, 2004, the applicant had also been deprived of his right to vote for a limited period on account of his placement under police surveillance. However, more than nine months had passed between the order placing him under surveillance and the deletion of his name from the electoral roll. As a result, the applicant had been prevented from voting in two elections, which would not have been the case if the measure had been applied immediately. The Government had not provided any reason to justify that time lapse. The ECtHR thus found that there had been a violation of Art. 3 of Protocol No. 1.

The question of the loss of civic rights does not only arise in a criminal context. The case of Albanese v. Italy, 2006, concerned the suspension of the applicant’s electoral rights for the duration of bankruptcy proceedings against him. The ECtHR pointed out that bankruptcy proceedings came within the ambit of civil rather than criminal law and therefore did not imply any deceit or fraud on the part of the bankrupt person. The aim of the restrictions on the person’s electoral rights was therefore essentially punitive. The measure thus served no purpose other than to belittle persons who had been declared bankrupt, reprimanding them simply for having been

²²⁵ https://www.echr.coe.int/documents/d/echr/convention_ENG

declared insolvent irrespective of whether they had committed an offence. It did not therefore pursue a legitimate aim for the purposes of Art. 3 of Protocol No. 1²²⁶.

Fundamental principles from ECHR case law:

Access to vote and representativeness - In the case of *Hirst v. the United Kingdom*²²⁷, the ECtHR emphasized that limitations on the right to vote for prisoners must be strictly regulated and justified. The ECtHR found that the blanket ban on voting for prisoners was disproportionate, setting a precedent for the protection of the voting rights of marginalized citizens.

The ECtHR found that the United Kingdom's automatic and blanket ban on voting rights for convicted prisoners was disproportionate. The Chamber noted that this ban affected all convicted prisoners, regardless of the severity of their crime, length of sentence, or individual circumstances, making it arbitrary and failing to serve any continuing punitive purpose once the punitive period had ended.

The UK government argued that the ban was limited in scope, affecting fewer prisoners than previously claimed, and applied only to those convicted of serious crimes deserving imprisonment. The government emphasized the legislative decisions that justified the disenfranchisement based on the severity of the crimes.

However, the ECtHR determined that even with these justifications, the ban was still broad and indiscriminate. It stripped a significant category of people of their voting rights without considering the nature of their offenses or sentences. The ECtHR also highlighted that the UK's law was more restrictive than many other European states, where only a minority imposed similar blanket restrictions.

Ultimately, the Court concluded that the restriction exceeded the acceptable "margin of appreciation" for states and violated Art. 3 of Protocol No. 1 of the ECHR, which guarantees the right to free elections. While the ECHR acknowledged the UK Parliament's authority to legislate on this issue, it stressed that any measures must be proportionate and aligned with modern human rights standards. The ECtHR did not prescribe specific reforms but left it to the state to decide how to comply with the ruling.

Proportionality of restrictions - The ECtHR examines the measures taken by Member States to ensure that they are proportionate and do not impose an undue burden on fundamental rights. In *Ždanoka v. Latvia*²²⁸, the Court looked at restrictions imposed on a candidate who was involved in political activity considered subversive. The ECHR ruled that restrictions must be reasonably applied and necessary in a democratic society.

²²⁶ Ibid.

²²⁷ [Hirst v. the United Kingdom](#)

²²⁸ [Ždanoka v. Latvia](#)

The ECtHR explored the disqualification of the applicant from standing for election to the Latvian parliament due to her involvement with the Communist Party of Latvia during a turbulent period in 1991, focusing on whether the Latvian authorities' decision was justified. The ECtHR acknowledged that certain historical events from that time were disputed but clarified that its role was not to reinterpret these events; instead, it focused on ensuring that the national courts' decisions were reasonable and not arbitrary. It emphasized that democracy is fundamental to the European public order and that states have the right to take protective measures when democratic order is threatened. States may impose restrictions on certain political rights if necessary to safeguard the integrity of the democratic process. This protection aligns with the principles of the CEDO, which allows for a balance between individual rights and the needs of a democratic society.

The ECtHR examined the specific restriction under Art. 3 of Protocol No. 1, which guarantees the right to free elections. It recognized that, while these rights are essential to democracy, they are not absolute, and states have a degree of discretion in organizing electoral systems. Considering Latvia's unique historical context, particularly the Communist Party's involvement in anti-democratic activities, the ECtHR found that the exclusion of individuals who had been actively involved in the CPL was justified and proportionate. In this case, the Court noted that the restriction was not punitive but preventive, aiming to protect the democratic order rather than to penalize the applicant for her past actions.

Although the restriction had been in place for some time, the ECtHR recognized that the Latvian parliament had periodically reviewed the legislation and that the Constitutional Court had validated the measure in 2000. Nonetheless, it urged the Latvian authorities to continue reassessing the necessity of this restriction, given the country's current political stability and integration into Europe.

Transparency and fairness of the electoral process - Another key aspect of ECHR case law is the protection of the electoral process against fraud and manipulation. In *Dicle and Sadak v. Turkey*²²⁹, the ECtHR ruled that the annulment of the parliamentary mandates of democratically elected candidates violated the right to free elections, emphasizing the need for transparency and fairness at all stages of the electoral process.

The ECtHR differentiated between the active right to vote and the passive right to stand for election, stating that while these rights are crucial, they are not absolute and may be subject to implied limitations, allowing states a margin of appreciation when establishing election criteria.

In this case, concerning two applicants whose candidacies were rejected for parliamentary elections due to their criminal records, the ECtHR found that their right to stand for election had been interfered with. The interference resulted from a

²²⁹ [Dicle and Sadak v. Turkey](#)

decision by the Turkish Higher Electoral Council, which referenced a criminal sentence that had been challenged and reopened in domestic courts after a prior ruling by the ECHR.

The ECtHR determined that the application of national legislation regarding the conditions for candidacy was not "prescribed by law." The conflicting interpretations between Turkish courts concerning the applicants' eligibility created uncertainty in the law's foreseeability. As a result, the ECtHR concluded that this legal uncertainty impaired the essence of the applicants' right to stand for election, violating Article 3 of Protocol No. 1.

Therefore, the ECtHR found that there had been a violation of the applicants' right to participate in free elections under the ECHR.

Freedom of association and participation in elections - The ECHR has repeatedly confirmed that freedom of association, including the right to establish political parties, is essential for the protection of democracy. In the case **United Communist Party of Turkey and others v. Turkey**²³⁰, the ECtHR ruled that the dissolution of a political party that did not promote violence was a violation of the right to freedom of association. This decision emphasized the importance of pluralist participation in political and electoral life.

Minority rights and participation in elections - In several cases, the ECtHR emphasized the need to protect minority rights in the electoral process. In the case of **Sejdić and Finci v. Bosnia and Herzegovina**²³¹, the ECHR found that the prohibition of members of ethnic minorities from standing for certain public offices was discriminatory and contrary to the Convention. The ECtHR thus emphasized that the participation of all citizens in the electoral process, regardless of ethnic or religious origin, is essential for a functioning democracy.

ECHR decisions have a direct impact on national laws, obliging Member States to adopt measures to ensure compliance with European standards on political rights.

7.1. CASE-LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS IN RELATION TO THE REPUBLIC OF MOLDOVA

The Republic of Moldova, being a signatory state to the ECtHR, is subject to the jurisdiction of the ECHR. Over the years, many Moldovan citizens have lodged complaints with the Court, alleging violations of their fundamental rights guaranteed by the Convention, including essential political and civil rights such as the right to free elections, freedom of expression and freedom of association. In this context, the ECtHR has delivered a number of judgments which have had a significant impact on the way Moldovan legislation has evolved and adapted to European standards.

²³⁰ [Communist Party of Turkey and others v. Turkey](#)

²³¹ [Sejdić and Finci v. Bosnia and Herzegovina](#)

Representative cases

The ECtHR examined the Moldovan authorities' handling of the exclusion of the candidates from the electoral race and concluded that the measures taken by the Moldovan authorities were not proportionate to the aim pursued and infringed the applicants' right to participate in the elections. In its analysis, the ECtHR emphasized that any restriction imposed on the right to stand as a candidate in elections must be clearly justified and proportionate to the aim pursued in order not to distort the democratic process. In the present case, the Moldovan authorities failed to provide sufficient reasons to justify the exclusion of the complainants from the race.

This judgment had a significant impact on the way electoral procedures are regulated and managed in the Republic of Moldova. It was a strong signal to the authorities that any restrictive measures imposed in the electoral context must be transparent and justified, otherwise they risk being considered unconstitutional and contrary to the ECHR. This has helped to change the electoral legislation in the Republic of Moldova, bringing it closer to international standards.

Another pivotal case in the context of electoral law in the Republic of Moldova is **Tanase v. Moldova**²³², in which the Court examined the restrictions imposed on Moldovan citizens with multiple nationality to participate in national elections. Moldovan legislation imposed bans on dual nationals from standing for public office, which was challenged by the applicants.

In this case, the applicants argued that these restrictions were disproportionate and violated their right to participate in elections. The ECHR analyzed the national legislation and concluded that the bans imposed were not adequately justified and violated the applicants' right to participate in the political life of their country. The Court found that the limitations on multiple nationality and political participation did not meet the standards of the European Convention and were not necessary in a democratic society.

This judgment prompted the Republic of Moldova to review its legislation on multiple nationality and political participation, contributing to increased political inclusion. The judgment recognized that citizens with multiple nationality can contribute to the political life of the country and that any restriction on this right must be proportionate and justified.

The case **Political Party “Patria” and Others v. the Republic of Moldova** (2020)²³³ addressed the exclusion of the political party *Patria* from the Moldovan parliamentary elections in 2014, just three days before the vote. The CEC disqualified *Patria* on the grounds of allegedly using undeclared foreign funds, specifically financial support purportedly linked to the party leader, Renato Usatîi. The exclusion

²³² [Tanase v. Moldova](#)

²³³ [Political Party “Patria” and Others v. the Republic of Moldova](#)

was based on claims from the Moldovan police that Mr. Usatîi had introduced substantial amounts of foreign currency into Moldova, which were allegedly used to support the party's campaign. The Moldovan courts upheld this decision without allowing Patria to effectively challenge the allegations or examine supporting evidence, leading the party to claim that it was unfairly targeted due to its popularity and political stance.

The ECtHR found that the disqualification violated Art. 3 of Protocol No. 1 of the ECHR, which guarantees the right to free elections. The ECtHR held that the Moldovan authorities acted arbitrarily, as they had based their decision on unsubstantiated allegations without proper procedural safeguards, such as adequate notification and opportunity for Patria to defend itself. The ECtHR emphasized that the CEC's and domestic courts' decisions lacked sufficient reasoning, were arbitrary, and failed to meet the proportionality required in restricting electoral rights.

As a result, the ECtHR concluded that Moldova's actions constituted a breach of the right to participate in free elections.

In the case of **Christian Democratic People's Party (PPCD) v. Moldova**²³⁴, the ECtHR examined whether the temporary suspension of PPCD's activities by the Moldovan Ministry of Justice violated the party's rights to freedom of expression and assembly under Art. 10 and 11 of the ECHR.

The issue arose when PPCD organized a series of public demonstrations in response to a government proposal to make Russian language education mandatory. Although PPCD argued that these gatherings were legitimate meetings with their constituents, the Moldovan authorities classified them as unapproved demonstrations. Consequently, the Ministry of Justice suspended the party for a month, citing the need to ensure public order and claiming that PPCD violated the national law on gatherings by not obtaining the required permits.

The ECtHR found that the temporary suspension had a chilling effect on PPCD's freedom of expression and assembly, impacting its ability to fulfill its political role. The Court acknowledged that while the state has a degree of discretion in restricting rights for public order, such restrictions must be lawful, necessary, and proportionate. In this case, the ECtHR noted that the suspension was excessive and lacked sufficient justification, as PPCD's activities were peaceful and did not endanger public order.

Thus, the Court concluded that Moldova had violated PPCD's rights to freedom of expression and assembly, emphasizing the importance of proportionality and necessity in state-imposed restrictions on political parties, especially in a democratic society.

²³⁴ [Christian Democratic People's Party \(PPCD\) v. Moldova](#)

In the case of **Rosca, Secăreanu and Others v. Republic of Moldova**²³⁵, the plaintiffs I. Rosca, Ș. Secăreanu, P. Buburuz, A. Roșcovan, A. Eremia were members and/or sympathizers of the Christian Democratic People's Party (PPCD), a parliamentary political party in the Republic of Moldova which, at the time of the events, was in opposition. Before the Court, the applicants argued, in particular, that their right to freedom of assembly had been violated as a result of the sanctions imposed on them for organizing and/or participating in an unauthorized assembly. The Court decided to rely on its findings in *Christian Democratic People's Party v. Republic of Moldova*. Therefore, in view of the fact that the applicants were members and/or supporters of the PPCD who had organized and/or participated in its peaceful assemblies, it came to a similar conclusion as in *Christian Democratic People's Party v. Republic of Moldova*, namely that the interference with the freedom of peaceful assembly was not proportionate to the aim pursued and that it did not represent "an overriding social necessity". Consequently, the Court found a violation of Article 11 of the Convention²³⁶.

In the case of **Gorizdra v. Moldova**²³⁷, the applicant, Valentin Gorizdra, claimed that his right to participate in the 1998 parliamentary elections as an independent candidate had been unduly restricted. He invoked Art. 3 of Protocol No. 1 to the ECHR, which guarantees the right to free elections, and Art. 14 of the Convention, which prohibits discrimination. Gorizdra argued that the electoral threshold of 4% of the votes cast required for access to Parliament disadvantaged him as an independent compared to other types of candidates (political parties or electoral blocs).

The ECtHR rejected this claim, pointing out that Art. 3 of Protocol No. 1 does not require states to adopt a specific electoral system and that they have a wide margin of discretion in choosing the system that ensures democratic representation. The 4% electoral threshold system, although restrictive, is legitimate within the meaning of the Convention, as it promotes effective representation and political coherence in Parliament, even if it may limit the access of independent candidates.

The ECtHR also emphasized that the choice of this threshold and its application did not violate the principle of equal treatment and did not lead to discrimination within the meaning of Art. 14, given that its objective was to promote a representative and stable Parliament. Thus, the applicant's application was declared inadmissible on the ground that the 4% electoral threshold was in conformity with Art. 3 of Protocol No. 1.

ECtHR case law in relation to the Republic of Moldova highlights a number of challenges faced by the State in the process of consolidating democracy and respect for fundamental rights. The Court's judgments have had a significant impact on the development of national legislation, in particular as regards the protection of the right to free elections and other related rights. They have contributed to the

²³⁵ [Rosca, Secăreanu and Others v. Republic of Moldova](#)

²³⁶ <https://www.inj.md/sites/default/files/Conventia%20Europeana.pdf>

²³⁷ [Gorizdra v. Moldova](#)

adaptation of the Republic of Moldova to European standards and have provided a reference framework for the improvement of the electoral system.

7.2. THE RIGHT TO FREE ELECTIONS AND RELATED RIGHTS

The right to free elections is a fundamental element of a democratic state and is explicitly regulated by Article 3 of Protocol No. 1 to the ECHR, which requires states to hold free elections at reasonable intervals which reflect the will of the people through universal suffrage. This right is closely linked to other fundamental rights, such as freedom of expression, freedom of association and the prohibition of discrimination, which are essential to guarantee a fair and just electoral process.

The right to free elections is deeply intertwined with other essential human rights, including freedom of expression, freedom of association, and the prohibition of discrimination. These rights are critical in fostering an inclusive, transparent, and accessible electoral environment, allowing all individuals to participate equally and meaningfully in the electoral process. For elections to truly reflect the democratic values of a state, these interconnected rights must be protected and upheld, as they form the basis of a fair and just electoral process.

In developing its jurisprudence on the right to free elections, the European Court of Human Rights (ECtHR) has established a comprehensive framework through its interpretations and rulings. The ECtHR's case law has set crucial standards for member states of the Council of Europe, providing guidance on safeguarding electoral rights.

The ECtHR has developed a broad and complex jurisprudence in interpreting the right to free elections and related rights, setting important standards for all Council of Europe member states. Through its judgments, the ECHR has clarified not only the limits of the imposition of restrictions on these rights, but also the conditions under which these rights can be effectively exercised in a democratic context.

The ECtHR has repeatedly emphasized that the right to free elections cannot be limited to the formal organization of elections. In its cases, the ECtHR has emphasized that the electoral process must be a real and functional one, ensuring that all the conditions necessary for the free and informed participation of citizens are met. For example, in **Mathieu-Mohin and Clerfayt v. Belgium**²³⁸, the Court clarified that Art. 3 of Protocol No. 1 ensures not only the right to vote, but also the right to stand as a candidate, so that all citizens have equal access to the political processes.

The Court's judgment in this case also underlined the need for electoral systems to be designed in such a way that they do not prevent citizens from accessing public office or from participating actively in the political life of their country.

In the context of the Republic of Moldova, **Tanase v. Moldova**²³⁹ is a landmark case in which the ECHR addressed limitations on dual nationality and the right to

²³⁸ [Mathieu-Mohin and Clerfayt v. Belgium](#)

²³⁹ [Tanase v. Moldova](#)

stand as a candidate in elections. The Court found that the prohibition of dual nationals from holding public office violates Article 3 of Protocol No. 1 and other fundamental rights.

The decision emphasized that any restriction on political participation must be adequately justified and not disproportionate. The Republic of Moldova has had to adjust its national legislation to comply with this decision, removing prohibitions on dual nationals from standing as political candidates.

In 2009, the Parliament of the Republic of Moldova repealed the law prohibiting MPs and several civil servants from holding dual nationality, following the Grand Chamber judgment in this case. However, at first, the Constitutional Court of the Republic of Moldova failed to apply the Convention standard established in this case by the judgment of the Chamber (*Tănase and Chirtoacă v. Republic of Moldova*). In this judgment, although not final, the ECtHR held that the means used by the Government of the Republic of Moldova to ensure loyalty to the State were disproportionate and therefore constituted a violation of Art. 3 of Protocol No. 1 to the CEDO. In its first Judgment No. 9/2009, the Constitutional Court considered that the prohibition of dual nationality was in conformity with the Constitution of the Republic of Moldova and the Convention. The failure of the Constitutional Court to recognize the effects of the *Tănase and Chirtoacă* judgment was criticized and seen as favoring the Party of Communists. However, in 2014, the Constitutional Court revised its 2009 judgment and brought it in line with the findings of the ECtHR²⁴⁰.

In **Hirst v. the United Kingdom** (No. 2)²⁴¹, the ECtHR examined restrictions on the right to vote imposed on imprisoned persons. It concluded that such a prohibition, applied automatically and without individual consideration, did not comply with the principle of proportionality and therefore violated Article 3 of Protocol No. 1. In **Scoppola v. Italy**²⁴² case the Court arrived to similar conclusions. The Court stressed that states must carry out a case-by-case analysis to determine whether restrictions are proportionate and necessary.

In the case of **Aziz v. Cyprus**²⁴³, the applicant, a Turkish Cypriot, was denied the right to vote in the 2001 parliamentary elections of Cyprus due to his community status. According to the Constitution of Cyprus, members of the Turkish-Cypriot community were not permitted to register on the Greek-Cypriot electoral roll. Consequently, the applicant's exclusion was based solely on his ethnic and community affiliation, despite his residing within the Greek-Cypriot-controlled area of Cyprus and being subject to its laws and policies.

The ECtHR found a violation of Art. 14 of the ECHR, in combination with Art. 3 of Protocol No. 1. These articles, taken together, prohibit discrimination in the enjoyment of voting rights. Although the Court notes that States enjoy considerable latitude to establish rules within their constitutional order governing parliamentary elections and the composition of the parliament, and that the relevant criteria may

²⁴⁰ https://www.constcourt.md/public/files/file/suport_ue_cc/Com_Rep_ROM.pdf

²⁴¹ [Hirst v. the United Kingdom](#)

²⁴² [Scoppola v. Italy](#)

²⁴³ [Aziz v. Cyprus](#)

vary according to the historical and political factors peculiar to each State, these rules should not be such as to exclude some persons or groups of persons from participating in the political life of the country and, in particular, in the choice of the legislature, a right guaranteed by both the Convention and the Constitutions of all Contracting States.

In this case, the applicant's exclusion from the electoral roll was solely due to his identity as a Turkish Cypriot. The ECtHR noted that, although the political and constitutional framework of Cyprus was complex and strained due to historical and ongoing intercommunal conflict, the rights of Turkish Cypriots residing in the Greek-Cypriot-controlled area to participate in democratic processes had to be respected.

The Court concluded that the distinction between Greek and Turkish Cypriots in this context was neither reasonable nor objective. The Turkish Cypriot community members in the Republic of Cyprus were left in a situation where, due to constitutional provisions, they had no effective way to participate in the democratic processes of their state of residence. As a result, the applicant was unjustifiably deprived of his electoral rights, which amounted to a discriminatory exclusion from voting.

This judgment underscored the importance of inclusive electoral laws that do not exclude certain groups based on ethnic or community grounds, affirming the principle that democratic rights must be universally accessible to individuals under a state's jurisdiction. The Court's ruling highlighted that Cyprus, as a signatory of the ECHR, must ensure equal treatment of all its citizens in electoral matters, regardless of ethnic origin, thus reinforcing the European standard for non-discrimination in democratic participation.

In **Sejdić and Finci v. Bosnia and Herzegovina**²⁴⁴, the applicants, Mr. Sejdić, of Roma origin, and Mr. Finci, of Jewish origin, argued that they were barred from running for certain high-level public offices solely because of their ethnic origins. Specifically, they were ineligible to stand for election to the House of Peoples of the Parliamentary Assembly and the State Presidency of Bosnia and Herzegovina. The Constitution of Bosnia and Herzegovina, established following the 1995 Dayton Peace Agreement, distinguishes in its Preamble between two groups: the "constituent peoples" (Bosniaks, Croats, and Serbs) and "others," which includes Jews, Roma, other national minorities, and those who do not declare an ethnic affiliation. According to this constitutional framework, only members of the constituent peoples could run for seats in the House of Peoples or for positions in the State Presidency, effectively excluding minority groups.

The ECtHR held that Bosnia and Herzegovina's constitutional arrangements, though originally justified by the need to maintain peace in a post-conflict society, had led to discrimination against minority groups. This case was unprecedented in highlighting

²⁴⁴ [Sejdić and Finci v. Bosnia and Herzegovina](#)

the challenges of balancing peace-building measures with human rights obligations. The Court noted that the constitutional system, which limited eligibility for the highest offices to members of the three constituent peoples, pursued the initial legitimate aim of securing a fragile peace by formally recognizing the ethnic balance in a post-war environment.

The ECtHR, however, pointed out that the circumstances had changed significantly since the Dayton Peace Agreement, as Bosnia and Herzegovina had achieved greater political and social stability. Despite these improvements, the constitutional exclusion of “others” from the House of Peoples and the Presidency remained intact, denying individuals like Sejdić and Finci the right to participate in the political life of their country based on their ethnic background.

In its assessment, the Court found that while the aim of the constitutional provisions might have been legitimate during the initial peace process, the continued exclusion of minorities was no longer reasonable or objectively justified. The rigid ethnic criteria not only prevented these individuals from running for high office but also perpetuated a system of exclusion that contradicted modern European human rights standards.

The ruling underscored the evolving nature of constitutional arrangements that were initially adopted to prevent conflict but which, over time, can impede democratic principles and the equal treatment of all citizens. The ECtHR emphasized that the country needed to shift from a model based on ethnic division to one that fosters inclusivity, allowing individuals from all ethnic backgrounds to participate fully in political life.

The right to free elections cannot be exercised effectively without the protection of other related rights, in particular freedom of expression and freedom of association. In several judgments, the ECtHR has emphasized that a fair electoral process presupposes that all political parties, candidates and citizens are able to express their views freely, without unjustified interference by the authorities.

In **Erdoğdu and İnce v. Turkey**²⁴⁵, the ECtHR analyzed how the interview of a sociologist on the political situation in south-eastern Turkey was interpreted by the Turkish authorities as a threat to national stability. The local authorities justified the restriction on the grounds that such information could intensify Kurdish nationalist feelings and affect public safety. However, the Court argued that such a viewpoint, even if it might be unpopular, is an important aspect of freedom of expression in a democratic society.

The ECtHR considered that the public has the right to access and understand different perspectives on complex issues, such as the tensions in south-east Turkey. The Court emphasized that public debate on such issues contributes to a better understanding and informed opinion among citizens.

²⁴⁵ [Erdoğdu and İnce v. Turkey](#)

In addition, the ECtHR said that penalizing the two for expressing alternative views not only violates the right to freedom of expression but also creates an intimidating effect. This effect may discourage both journalists and researchers from addressing sensitive issues of public interest for fear of possible legal repercussions.

In addition to the right to vote, the ECtHR also looked in detail at the right to stand as a candidate for public office, considering this right to be a fundamental component of political participation. In **Podkolzina v. Latvia**²⁴⁶, a candidate was excluded from the electoral list on the basis of a language test. The Court concluded that this exclusion was unjustified and violated the right to stand as a candidate, emphasizing that any criteria limiting access to public office must be applied clearly and fairly.

ECHR case law has set clear standards for the protection of the right to free elections and related rights, emphasizing the importance of proportionality, transparency and non-discrimination in the electoral process. In the Republic of Moldova, the Court's decisions have had a significant impact, leading to the revision of legislation and the adaptation of electoral practices to European standards. Related rights, such as freedom of expression, freedom of association and fair access to the media, play an essential role in guaranteeing a democratic and fair electoral process and any restriction imposed on these rights must be clearly and proportionately justified.

7.3. INTERPRETATION OF RESTRICTIONS ON ELECTORAL RIGHTS

The ECtHR has emphasized that restrictions imposed on fundamental rights, such as the right to free elections (Art. 3 of Protocol No. 1), freedom of expression (Art. 10) and freedom of association (Art. 11), must meet the following criteria: they must be provided for by law, pursue a legitimate aim and be necessary in a democratic society. These principles are elaborated in the case law of the ECtHR and provide a strict framework for the assessment of any measure which interferes with the exercise of these rights.

Restricting the right to vote for persons lacking the capacity to exercise their right to vote is a complex issue in the jurisprudence of the ECtHR, as it involves a balance between the protection of the fundamental rights of the individual and the need to ensure a fair electoral process. In the light of Art. 3 of Protocol No. 1 of the ECHR, which guarantees the right to free elections, the ECtHR has analyzed several cases to assess the legitimacy of restrictions imposed on persons who are legally incapable.

Strøbye and Rosenlind v. Denmark (2021)²⁴⁷

This case involved two people who were deprived of the right to vote following the withdrawal of their legal capacity. The ECHR found that the restriction applied to the applicants had been lawful and proportionate, as it pursued the legitimate aim of

²⁴⁶ [Podkolzina v. Latvia](#)

²⁴⁷ [Strøbye and Rosenlind v. Denmark](#)

ensuring that voters have the necessary mental competence to make informed decisions. The Court also appreciated the Danish state's efforts to constantly adapt its legislation to balance the protection of individual rights with democratic requirements. It emphasized that the measure was applied in a proportionate manner, having regard to the judicial review carried out by the Danish courts.

Caamaño Valle v. Spain (2012)²⁴⁸

This case involved a person under guardianship who was prevented from voting because Spanish law provided for the automatic restriction of the right to vote for persons with legal incapacity. The ECtHR concluded that the Spanish legislation, which did not provide for an individualized assessment of each case, was problematic. Although it ruled that there was no violation of Art. 3 of Protocol No. 1, the Court encouraged the State to adopt a more flexible and case-by-case approach, thus ensuring better protection of fundamental rights.

The Court has established that States have a certain margin of discretion in how they regulate the right to vote for persons lacking the capacity to exercise their right to vote. However, this margin is not unlimited and the ECtHR intervenes in cases where the measures applied do not respect the principle of proportionality. For example, in *Alajos Kiss v. Hungary*, the ECtHR held that the margin of appreciation had been exceeded by the automatic application of a restriction which did not take account of the specific circumstances of each case.

Alajos Kiss v. Hungary (2010)²⁴⁹

In this case, Alajos Kiss, a person diagnosed with a mental disorder and placed under state guardianship, was automatically deprived of the right to vote under Hungarian law. The ECtHR ruled that the automatic prohibition imposed on all persons under guardianship, without an individual assessment, constituted a violation of Article 3 of Protocol No. 1. The ECtHR emphasized that the measure was disproportionate as it did not take into account the individual capacity of the person and violated the fundamental right to vote of persons under guardianship. Thus, the Court emphasized the importance of an individualized approach in depriving persons deprived of the right to vote of persons lacking the capacity to exercise their right to vote.

Through its jurisprudence, the ECtHR has emphasized that while states have a margin of discretion in regulating the voting rights of those lacking full legal capacity, this discretion is not unlimited. Restrictions must be applied proportionately and based on individualized assessments, as evidenced in cases such as *Alajos Kiss v. Hungary*. Automatic and blanket bans fail to consider the unique capabilities and

²⁴⁸ [Caamaño Valle v. Spain](#)

²⁴⁹ [Alajos Kiss v. Hungary](#)

circumstances of each individual, risking disproportionate infringement on fundamental rights.

As regards the restriction of the right to vote for prisoners, the ECtHR emphasized the following:

Hirst v. United Kingdom (No. 2) (2005)²⁵⁰

This is one of the most notable cases in ECHR case law on the restriction of voting rights of convicted persons. In this case, John Hirst, a UK prisoner, challenged the blanket ban on all prisoners from voting, arguing that it violated his right to free elections.

The ECtHR ruled that this general prohibition constituted a violation of Art. 3 of Protocol No. 1 and considered it disproportionate, being applied automatically and without regard to the nature of the crime, the length of the sentence or other specific circumstances. The ECHR emphasized that each state has a certain margin of discretion, but the UK has exceeded these limits by imposing an absolute and generalized prohibition. The decision encouraged the regulation of measures to allow for individualized cases and take into account the circumstances of each prisoner.

Kalda v. Estonia (no. 2) (2022)²⁵¹

In this case, the ECtHR considered a general voting ban imposed on prisoners in Estonia. The applicant, who was serving a life sentence for serious crimes, was prevented from voting in the 2019 European Parliament elections because of the ban.

The Court ruled that there was no violation of Art. 3 of Protocol No. 1 to the ECHR, which guarantees the right to free elections. In this decision, the ECtHR granted a considerable margin of appreciation to the Estonian authorities and national courts in assessing the proportionality and legitimacy of the measure. The Court emphasized that, in the specific context of the applicant's case, the Estonian courts made a careful assessment of the circumstances of the case and examined the proportionality of the voting ban in relation to the applicant's personal situation.

The ECHR noted that the Estonian courts had properly assessed:

- The number of offenses committed by the complainant,
- The gravity and nature of the offenses for which the applicant was sentenced to life imprisonment,
- The proportionality of the prohibition in relation to his circumstances.

²⁵⁰ [Hirst v. United Kingdom](#)

²⁵¹ [Kalda v. Estonia](#)

The ECtHR emphasized that the measure of disqualification from voting was justified and proportionate in the applicant's case, given the very serious crimes of which he was guilty and their impact on society. The ECHR also recalled that Member States have a certain margin of discretion in setting limits on access to the right to vote for convicted persons, in particular when applied to serious crimes and offenses carrying a life sentence.

Scoppola v. Italy (No. 3) (2012)²⁵²

In the Scoppola case, the ECtHR dealt with a less drastic ban on prisoners' voting rights, applied according to the seriousness of the crime and the length of the sentence. Domenico Scoppola, an Italian citizen convicted of a serious crime, challenged the ban, arguing that he had been deprived of the right to vote without individualized justification.

The Court ruled that in this case there was no violation of Art. 3 of Protocol No. 1, considering that Italy had applied a proportionate restriction, specific to serious crimes and for the duration of the sentence, without imposing a general prohibition. The ECHR emphasized that this approach is acceptable in a democratic society, as it allows for an analysis of the circumstances of each case, is proportionate and based on the gravity of the facts.

With reference to residence-based restrictions on the right to vote and the exercise of the right to vote for non-resident citizens, the ECtHR has consistently held that such measures may be acceptable, but must meet certain general conditions. Restrictions of this kind must be proportionate, pursue a legitimate aim and reflect a significant link between the citizen and the political life of the home state. Legitimate aims accepted by the ECHR include maintaining a link with the social and political realities of the state, as well as ensuring that voters have a direct link with domestic issues and policies.

The ECtHR has given a considerable margin of discretion to states in regulating voting for non-resident citizens, given that each state can decide whether and how diaspora citizens should vote. However, this discretion is not absolute. The ECtHR has emphasized the importance of regular evaluation of such measures to ensure that restrictions remain proportionate and reasonable, reflecting the need to preserve a meaningful link between non-resident citizens and their home state.

In the cases considered (**Sitaropoulos and Giakoumopoulos v. Greece**²⁵³, **Shindler v. United Kingdom**²⁵⁴, **Oran v. Turkey**²⁵⁵), the ECtHR has held that,

²⁵² [Scoppola v. Italy](#)

²⁵³ [Sitaropoulos and Giakoumopoulos v. Greece](#)

²⁵⁴ [Shindler v. United Kingdom](#)

²⁵⁵ [Oran v. Turkey](#)

in general, states are entitled to impose such rules, but has recommended flexibility and a case-by-case approach to avoid unfair exclusion of diaspora citizens who, although living abroad, continue to be actively involved in the political and social life of their country of origin. ECtHR case law thus suggests that restrictions on the right to vote of non-resident citizens are permissible, but only in so far as they do not infringe the essence of the right to free political expression and within the limits of well-justified proportionality.

The case of **Ždanoka v. Latvia** (2006)²⁵⁶ is an important case in the jurisprudence of the ECtHR, addressing the limitations imposed on the right to be elected in the context of protecting the democratic order and state security. Tatjana Ždanoka, a Latvian citizen and former active member of the Communist Party of Latvia, was prevented from running for the Latvian Parliament because of a ban on those who actively participated in anti-democratic organizations.

After Latvia regained its independence in 1991, the authorities implemented laws restricting access to public office for former active members of the Communist Party and those involved in movements supporting the Soviet Union's annexation of Latvia. Ždanoka, a former member of the Communist Party of Latvia and a participant in its activities even after the declaration of independence, was deemed ineligible to stand as a candidate under Latvian law. She argued that the ban violated her right to free elections, guaranteed by Art. 3 of Protocol 1 to the ECHR.

The ECtHR examined the ban applied in the light of the balance between the protection of democracy and respect for individual rights. The Court ruled that there had been no violation of Art. 3 of Protocol No. 1, finding that Latvia had acted legitimately to protect the fragile democratic order and state sovereignty, given the country's recent history and the risks to democratic stability. The ECtHR recognized that states have a margin of discretion in taking such measures in order to prevent persons with undemocratic backgrounds from obtaining influential public positions.

In supporting its decision, the ECtHR emphasized:

1. The specific situation of Latvia, a country that was occupied by the Soviet Union and needed to protect its fragile democracy after regaining independence.
2. The ban had a legitimate aim, namely to protect the democratic order by preventing those who supported an anti-democratic regime from taking public office.
3. The ban was proportionate as it did not prohibit all former Communist Party members from taking part in the elections, but only those actively involved in anti-democratic movements.

²⁵⁶ [Ždanoka v. Latvia](#)

The decision in *Ždanoka v. Latvia* underlined the principle that states have the right to protect their democratic order and national security through restrictive measures when justified by the historical and political context.

In a number of cases, the ECtHR has considered whether states can impose limitations on political speech during elections, especially when that speech risks inciting violence, hatred or spreading misinformation that may negatively influence the electoral process. The Court emphasized that freedom of expression is essential to a democratic electoral process, but it is not absolute. For example, speech that promotes discrimination, violence or anti-democratic ideologies may be restricted in order to protect public order and the rights of other citizens to participate in elections in a fair and respectful atmosphere.

A relevant example is **Refah Partisi (Prosperity Party) and Others v. Turkey**²⁵⁷

In this case, the applicants alleged that the dissolution of Refah Partisi (the Welfare Party) and the temporary prohibition barring its leaders - including Mr Necmettin Erbakan, Mr Şevket Kazan and Mr Ahmet Tekdal - from holding similar office in any other political party had infringed their right to freedom of association, guaranteed by Article 11 of the Convention, the relevant parts of which provide:

"1. Everyone has the right to freedom of peaceful assembly and to freedom of association ...

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. ..."

Taking into account the importance of the principle of secularism for the democratic system in Turkey, the ECtHR considers that Refah's dissolution pursued several of the legitimate aims listed in Article 11, namely protection of national security and public safety, prevention of disorder or crime and protection of the rights and freedoms of others.

The Court has also defined as follows the limits within which political organizations can continue to enjoy the protection of the ECHR while conducting their activities:

"one of the principal characteristics of democracy [is] the possibility it offers of resolving a country's problems through dialog, without recourse to violence, even when they are irksome. Democracy thrives on freedom of expression. From that point of view, there can be no justification for hindering a political group solely because it seeks to debate in public the situation of part of the State's population and

²⁵⁷ [Refah Partisi \(Prosperity Party\) and Others v. Turkey](#)

to take part in the nation's political life in order to find, according to democratic rules, solutions capable of satisfying everyone concerned."

On that point, the ECtHR considered that a political party may promote a change in the law or the legal and constitutional structures of the State on two conditions: firstly, the means used to that end must be legal and democratic; secondly, the change proposed must itself be compatible with fundamental democratic principles. It necessarily follows that a political party whose leaders incite to violence or put forward a policy which fails to respect democracy or which is aimed at the destruction of democracy and the flouting of the rights and freedoms recognized in a democracy cannot lay claim to the Convention's protection against penalties imposed on those grounds.

The possibility cannot be excluded that a political party, in pleading the rights enshrined in Art. 11 and also in Art. 9 and 10 of the Convention, might attempt to derive therefrom the right to conduct what amounts in practice to activities intended to destroy the rights or freedoms set forth in the ECHR and thus bring about the destruction of democracy. In view of the very clear link between the ECHR and democracy, no one must be authorized to rely on the Convention's provisions in order to weaken or destroy the ideals and values of a democratic society. Pluralism and democracy are based on a compromise that requires various concessions by individuals or groups of individuals, who must sometimes agree to limit some of the freedoms they enjoy in order to guarantee greater stability of the country as a whole.

In this case, the ECtHR upheld the ban on the Turkish Prosperity Party, which promoted an Islamist agenda aimed at dismantling the secular principles of the Turkish state. The Court concluded that the party's ban was justified as it posed a threat to the democratic order by proposing the establishment of a regime incompatible with the fundamental values of European democracy.

8. ASSESSMENT OF THE MEASURES TAKEN BY NATIONAL AUTHORITIES TO REMEDY SHORTCOMINGS IDENTIFIED BY INDEPENDENT ORGANISATION IN PAST ELECTIONS

8.1. ANALYSIS OF LEGISLATIVE CHANGES ADOPTED IN RESPONSE TO SHORTCOMINGS REPORTED BY INDEPENDENT ORGANIZATIONS

1. The law should be reviewed to address the issue of organized transportation of voters in connection with vote buying while protecting freedom of movement.

After several accusations of organized transportation in connection with vote buying²⁵⁸ by Law no. 73/2022 on the amendment of some normative acts the Parliament introduced in the Election Code the prohibition of organized transportation of voters to the polling station on election day in order to induce them to exercise their electoral rights, as well as the action of organizing during the

²⁵⁸ <https://www.osce.org/files/f/documents/6/9/481306.pdf>

election period the transportation of voters to the polling station.²⁵⁹ At the same time, the Contraventions Code was supplemented with provisions penalizing these acts.

Although organized transportation of voters is prohibited by law, at the last elections in 2023 the CEC published information about 77 cases of organized transportation of voters, out of which 5 were observed by the ODIHR EOM²⁶⁰.

2. Provisions on preventing the misuse of administrative resources, including ensuring the neutrality of the civil service, the participation of civil servants in campaigns and the protection of public sector employees from undue influence, should be clearly laid down in law and properly enforced.

Moldova has partially implemented this recommendation by including normative provisions aimed at preventing the misuse of administrative resources during electoral campaigns and ensuring the neutrality of the civil service.

Thus, the Electoral Code contains the following provisions:

Art. 1 "For the purposes of this Code, the following general notions are defined:

[...]

administrative resources - human, financial and material resources equally available to persons holding positions of public dignity, persons holding positions of responsibility and civil servants and deriving from the control of these persons over staff, financial resources and allocations from the national public budget, access to public facilities or from the management by these persons of movable and immovable property forming part of the public domain of the state or of the administrative-territorial units;"

Art. 16 para. (3) "Candidates in elections, where appropriate, referendum participants who, by virtue of the office they hold, are obliged to comply with the legal regime of conflicts of interest, incompatibilities, as well as other restrictions and limitations provided for by special legal rules, including for the purpose of preventing the unlawful use of administrative resources during the electoral period, shall suspend their activity in that office from the beginning of the electoral campaign. Persons subject to these provisions are:

- a) Deputy Prime Ministers, Ministers and ex-officio members of the Government;
- b) the Secretary General of the Apparatus of the President of the Republic of Moldova, the Secretary General of the Parliament, the Secretary General of the Government, the Deputy Secretaries General of the Government, the Secretaries of State, the Secretaries General of the Ministries;

²⁵⁹ https://www.legis.md/cautare/getResults?doc_id=130914&lang=ro

²⁶⁰ https://www.osce.org/files/f/documents/2/5/564925_0.pdf

- c) heads and deputy heads of central public authorities and organizational structures within their sphere of competence;
- d) presidents and vice-presidents of the districts;
- e) mayors and deputy mayors;
- f) praetors and vice-praetors;
- g) the secretaries of the local councils and of the prices;
- (h) officials/employees who are required to suspend their service/work relationship in accordance with the special legal rules governing their activity."

Art. 54 para. (6) "Electoral contestants, referendum participants and initiative groups are prohibited from:

[...]

e) to use administrative resources, except in the case provided for in Art. 70 para. (6);".

Art. 70 para. (6) "Candidates shall be prohibited from using administrative resources, including by launching or participating in the launching of infrastructure projects or purchases from the national public budget, the use of equipment, means and public goods during the electoral period. Public authorities/institutions and those assimilated to them may not transfer/grant public goods or other favors to electoral contestants except on the basis of a contract, under equal conditions for all electoral contestants."

However, over the years, international observers and non-governmental organizations have reported cases of misuse of administrative resources. Thus, in its report of March 18, 2024, OSCE/ODIHR noted that on October 5, the Parliament adopted amendments to the state budget, allocating 846,900,000 MDL (about 44,631,630 Euro) to increase the salaries of 170,000 civil servants, including those working in the fields of public health, culture and justice. Teachers and police officers have been informed that they will receive a bonus in the amount of a one-off payment of 5,000 MDL (about 263 Euro).

Some opposition parties criticized the decision and accused the government of using public resources to gain an unfair advantage before election day.

The BIDDO MOA has observed several cases in which candidates have taken credit for infrastructure projects implemented with public funds, which is in contradiction with the legal restrictions on campaigning. The law likewise does not allow civil servants and high-ranking dignitaries to participate in election campaigning. However, Prime Minister Dorin Recean, in his official capacity, attended PAS rallies where he introduced candidates and encouraged their support. Two electoral contestants complained to the CEC about the Prime Minister's participation in

campaign events. The CEC issued the decision warning the Prime Minister but did not impose any sanctions. In general, some activities of high-ranking officials during the election campaign period blur the line between the state and the political party, and are in contradiction with paragraph 5.4 of the 1990 OSCE Copenhagen Document²⁶¹.

In the context of the presidential elections and the constitutional referendum of October 20, 2024, in the period reflected in the Observation Mission's Report No. 3²⁶², Promo-LEX identified at least 32 cases qualified as use of administrative resources, of which 30 cases targeted PAS and Maia Sandu (PAS), one case each - PR/BP Victorie and Ion Chicu (PDCM). The cases concerned the involvement in electoral campaign activities of persons holding positions of public dignity (11 cases) and election campaigning involving budget sector officials during working hours (21 cases).

A significant aspect of the use of administrative resources is the involvement of public officials in electoral campaign activities. Promo-LEX documented at least 11 cases in which public dignitaries such as Dorin Recean, Prime Minister of the Republic of Moldova, Dumitru Alaiba, Minister of Economic Development and Digitalization, Alexei Buzu, Minister of Labour and Social Protection or MPs participated in meetings with voters and openly urged to support Maia Sandu (PAS) and vote for the "YES" option in the referendum. These activities were carried out both during the working week and on rest days, which led to criticism that the public image of dignitaries influenced voters.

Promo-LEX also identified 21 cases of election campaigning by civil servants during working hours, the majority of which also targeted PAS and Maia Sandu (19 cases). These cases include local officials and civil servants traveling to campaign events or distributing election propaganda materials. Such activities can have a significant impact on public perception, suggesting the support of public institutions for a particular candidate.

In other cases, dignitaries and public officials have used the infrastructure and resources of public institutions to promote a particular candidate. Such a situation was observed during an electoral meeting of Maia Sandu with the employees of the Health Center in Puhoi, Ialoveni district, during working hours. Such situations suggest that campaign activities interfered with the normal activities of public institutions, indirectly influencing voters.

During the general local elections of 2023, Promo-LEX observed at least 185 cases that can be categorized as misuse of administrative resources, of which 87 cases were targeted against PAS, 20 against PSRM, 19 against PS, in 10 - PS, in 9 - PLDM, in 7 - MAN, in 6 each - PDCM and CI Veaceslav Lupov, in 4 - CI Vitalie Vrabie, in 3 -

²⁶¹ <https://www.osce.org/files/f/documents/5/f/568981.pdf>

²⁶² https://promolex.md/wp-content/uploads/2024/10/Raport-nr.3_MO_Alegeri-prezidentiale-si-referendum-constitutional_2024.pdf

PSDE, in 2 each - LOC, PPPDA, MRM and PACE and in 1 each - MPSN, PCRM, PR, CUB, CC and CI Serghei Anastasov²⁶³.

Activities qualified as misuse of administrative resources included the following:

- Involvement of the President of the Republic of Moldova in the general local elections - 3 cases, targeting PAS;
 - using state institutions to promote electoral initiatives - 8 cases. Out of these, in 2 cases the Government of the Republic of Moldova was targeted (PAS candidates were the beneficiaries), in 3 cases - local councils of UTAG, Orhei and Taraclia (PŞ candidates were the beneficiaries), in one case - the city halls of mun. Chisinau and Balti, and in one case - Chisinau and Balti city halls, respectively. Condrîța (the MPSN candidate was favored);
 - Involvement in campaigning activities of persons holding public office - 61 cases, targeting PAS.
 - involvement of LPAs in electoral promotion activities of candidates - 15 cases, of which in 6 cases the CI Veaceslav Lupov was targeted, and in 9 cases - the SSP;
 - attribution by electoral candidates of merits for public works/services for public use performed with public money - 41 cases. Of these, in 11 cases PAS was targeted, in 9 - PS, in 7 - PS, in 6 - PSRM, in 6 - MAN and in 2 - LOC;
 - organization of electoral meetings within public institutions, with employees of these institutions, during their working hours - 56 cases, of which 14 cases targeted PSRM, 9 cases - PAS and PLDM, 6 - PDCM, 4 - CI Vitalie Vrabie, 3 - PSDE, 2 - PPPDA, PACE and MRM, 1 case each - CC, CI Serghei Anastasov, CUB, PCRM and PR;
 - use of state assets by electoral contestants for personal purposes - one case, PAS²⁶⁴.
- Such cases confirm the incomplete and flawed implementation of this recommendation, which is why further improvements are needed.

3. The legal framework for campaign financing should be strengthened and should regulate candidates' own contributions and limits on donations from political parties, the assessment of in-kind contributions and the involvement of third parties in electoral campaigns. In order to protect political pluralism, consideration could also be given to simplifying the rules on eligibility for donations by individuals.

By Law no. 73/2022 on amending some normative acts, the Parliament introduced important changes in the legislation on the financing of political parties, aimed at increasing transparency and ensuring compliance with legal regulations.

²⁶³ https://promolex.md/wp-content/uploads/2024/02/Raport-final_MO-Promo-LEX_ALG-2023.pdf

²⁶⁴ Ibid.

Thus, it was established the obligation of political parties, which receive donations contrary to the legal provisions, to transfer these amounts to the state budget, in accordance with Law 294/2007 on political parties.²⁶⁵ Previously, the parties were entitled to return the amounts received in excess of the established ceilings.

In the case of repeated violations of the financial management provisions during a calendar year, the CEC adopts a decision to deprive the political party in question of the right to state budget allocations for a period of 2 months to one year.

Violations include violation of the manner of recording and use of the political party's assets; failure to submit or late submission by the political party to the CEC of reports on financial management; deliberate distortion and/or concealment, incomplete or inaccurate presentation of information, failure to submit or incomplete submission of identification data of donors or contributors; use of state budget allocations contrary to their intended purpose.

Art. 481 of the Contraventions Code, "Violation of the legislation on the management of the financial means of political parties, electoral funds and initiative groups", as well as the Criminal Code have been revised to curb illegal party financing.

At the same time, the Electoral Code establishes the conditions and manner of financial support for initiative groups and electoral campaigns, the donations regime and regulates the Reports on the financing of political parties, initiative groups and electoral campaigns.

For failure to submit the report on financial management or to provide the information necessary for the supervision and control of the political party's financing within the deadline and in the format established by the CEC, the activity of the political party may be restricted under Law no. 294/2007 on political parties²⁶⁶.

4. The framework for the oversight of campaign financing should be revised to ensure an effective mechanism for monitoring income and expenditure and verifying completeness and accuracy of reporting.

According to the provisions of the Electoral Code and Law No. 294/2007, the CEC is the authorized authority with the power to supervise and control the financing of political parties. This includes both the control of the financing of political party activities and of electoral campaigns. In addition to the CEC, the Court of Accounts, in accordance with the provisions regulating its activity, exercises control over the use of allocations received by political parties from the state budget.

These 2 entities issue detailed instructions and guidelines on the transfer, receipt and record keeping of donations, non-financial contributions to political parties and their

²⁶⁵ https://www.legis.md/cautare/getResults?doc_id=141459&lang=ro#

²⁶⁶ https://www.legis.md/cautare/getResults?doc_id=141459&lang=ro#

use according to the purposes established by law, as well as on other aspects of political party and electoral campaign financing.

The banking institution with which the political party has opened a current bank account and/or an account earmarked for allocations from the state budget shall submit to the CEC, on a semi-annual basis, as well as upon its request, information on all receipts and payments from these accounts.

According to the CEC Report for the year 2023²⁶⁷ , 49 legal entities and 187 individuals were subject to verification that year.

5. Any reform initiatives must be undertaken well in advance of the next elections and in an inclusive, consultative and transparent process.

This recommendation is a principle that has been transposed into Art. 22 of the Electoral Code: "The electoral system and the manner of constituting electoral constituencies or electoral bodies may not be changed until at least one year before the national elections."

However, in recent years, the promotion of draft legislation in the electoral field has not fully corresponded to this principle.

Thus, for example, on July 31, 2023, the Parliament passed the Law no. 220 on the amendment of some normative acts (implementation of some considerations of the Constitutional Court Decision no. 10/2023 on the constitutionality of the political party "Shor"), which entered into force on August 18, 2023. By this law, in addition to the amendments aimed at disallowing the identity or similarity of the identification elements of electoral symbols with those of the parties declared unconstitutional, granting the competence of electoral bodies to establish the fact of voter corruption and the special rights of students and pupils to vote, another restriction on the right to be elected was introduced (Art. 16 para. (2)(e)).

By judgment of October 3, 2023, the Constitutional Court declared Art. 16, para. (2)(e) of the Electoral Code unconstitutional. Accordingly, the persons to whom the restriction laid down in this provision was applicable regained the right to be elected only three days before the start of the electoral campaign. On the morning of the following day (October 4, 2023), the Commission for Exceptional Situations issued Provision No. 86, by which, by way of derogation from the provisions of the Election Code, it decided that certain categories of persons, whose actions led to the declaration of unconstitutionality of the political party or were covered by the Constitutional Court's ruling, would not be allowed to participate in the general local elections of November 5, 2023. The provision entered into force upon its issuance and is binding and enforceable.

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[https://a.cec.md/storage/ckfinder/files/Raport%20Anual%20pentru%20Parlament%20\(31_05_24\)_PP_FINAL_02_06_24.pdf](https://a.cec.md/storage/ckfinder/files/Raport%20Anual%20pentru%20Parlament%20(31_05_24)_PP_FINAL_02_06_24.pdf)

Similarly, on October 4, 2023, the Parliament of the Republic of Moldova introduced into the legislative procedure and adopted, as a matter of urgency, Law No. 280 on amending the Electoral Code. This bill introduced restrictions on the right to be elected in Art. 16 para. (2), letter f), similar in content to those laid down by the CSE Provision. All the laws amending the Electoral Code mentioned above were published and entered into force during the election period. As a result, both the CEC and the lower electoral bodies were put in a position not only to disregard the principles of transparent decision-making and public consultation for adjusting their regulations in line with the new amendments, but also to change their decisions on registration/non-registration of electoral contestants.²⁶⁸

In addition, Law No. 1/2024 on the amendment of some normative acts was voted in the third reading on January 18, 2024, the draft was registered on December 14, 2023.²⁶⁹

6. In order to instill confidence in the integrity of the electoral process, competent authorities must promptly and thoroughly investigate credible allegations of vote buying and illegal inducements of voters and apply appropriate sanctions.

With reference to the 2023 general local elections, observers from the joint observation mission of the OSCE Office for Democratic Institutions and Human Rights, the Congress of Local and Regional Authorities of the Council of Europe and the European Parliament, noted credible, repeated and widespread allegations of the use of illegal funds associated with the leader of the dissolved "Shor" party to bribe voters, as well as the use of foreign private sponsorship for infrastructure projects in some districts. Salary increases for civil servants, one-off bonuses for teachers and policemen introduced by the parliament, as well as election campaign activities carried out by the Prime Minister while performing his duties, made it difficult to distinguish between state and party²⁷⁰.

In addition, observers noted that most members of the electoral authority are appointed by the ruling party, which compromises its impartiality.²⁷¹

During the general local elections in 2023, Promo-LEX also observed at least 8 cases that can be categorized as voter corruption, of which 4 cases were targeted against the SSP, 2 against PAS and 1 each against the PLDM and CI Iurie Zagorcea²⁷².

²⁶⁸ https://promolex.md/wp-content/uploads/2024/02/Raport-final_MO-Promo-LEX_ALG-2023.pdf

²⁶⁹

<https://www.parlament.md/ProcesulLegislativ/Proiectedeactenormative/tabid/61/LegislativId/6804/language/ro-RO/Default.aspx>

²⁷⁰ <https://www.osce.org/ro/odihr/557430>

²⁷¹ <https://www.osce.org/ro/odihr/557430>

²⁷² https://promolex.md/wp-content/uploads/2024/02/Raport-final_MO-Promo-LEX_ALG-2023.pdf

With reference to the fall elections of 2024, the National Anti-Corruption Center (NAC) applied the first sanctions for "passive electoral corruption", for which the law provides for a fine of up to 37,500 lei.

More than 100 reports on passive electoral corruption were received by the National Anti-Corruption Center (NAC) from the General Inspectorate of Police.

CNA has announced that it is examining the alleged violations, but has already fined some of them.

According to the anti-corruption prosecutors, it is a matter of establishing the facts of claiming, accepting or receiving, personally or through an intermediary, by a voter goods, services, privileges or advantages in any form, which are not due to him, for himself or for another person, in order to exercise or not to exercise electoral rights in elections²⁷³.

In order to ensure a fair electoral process, all political actors must be treated equally before the law, regardless of their position, and sanctioning the ruling party is essential to maintain a fair and democratic electoral climate, thus ensuring the integrity of the electoral process and citizens' trust in state institutions.

For example, salary increases for civil servants and bonuses offered to certain professional categories on the eve of elections are examples of actions that can influence voters.

The application of sanctions, including against the government, would show that the electoral system is functioning properly and that effective checks and balances are in place in line with the ODIHR recommendation.

7. In order to monitor the implementation of the provisions on balanced and impartial media coverage in the Audiovisual Media Services Code, quantitative and qualitative monitoring should also be carried out between elections.

The Election Code, supplemented by a CEC regulation, provides for fair, responsible, balanced and impartial media coverage of candidates' campaigns. However, the law or regulations do not define such media coverage, leaving it to the Audiovisual Council.

This lack of sufficient guidance is in contradiction with international standards.²⁷⁴ Respectively, the ODIHR recommendation on this issue remains unresolved.

8. In order to enforce the existing provisions on impartial media coverage during the campaign and to ensure a level playing field, monitoring reports of the Broadcasting Council should be issued in a

²⁷³ <https://moldova.europalibera.org/a/cna-a-aplicat-primele-amenzi-pentru-pomeni-electorale/33149411.html>

²⁷⁴ <https://www.osce.org/files/f/documents/4/f/509387.pdf>

timely manner and effective measures for violations should be applied immediately. The law should provide remedies for disadvantaged competitors rather than focusing on sanctioning the media.

According to Art. 90 para. (16) of the Election Code during the election campaign, the Audiovisual Council shall present weekly public monitoring reports and adopt decisions based on the monitoring results. Within 3 days after polling day (until Wednesday), the Broadcasting Council shall publicly present a monitoring report on Saturdays and Sundays, when electioneering is prohibited. The monitoring reports, as well as the stocktaking report, are placed on the official website of the Audiovisual Council no later than the day following the public presentation.

In line with previous ODIHR recommendations, between September 11 and November 17, 2023, the Broadcasting Council conducted quantitative and qualitative monitoring of campaign media coverage in the main prime-time news bulletins with reference to 25 TV stations and 17 radio stations, and published 10 weekly reports. A total of 90 sanctions were applied ex officio against 18 broadcasters, and seven sanctions were applied following complaints by election contestants. Monitoring results by the Broadcasting Council revealed unbalanced media coverage in the news since the beginning of the monitoring; however, measures were only applied in the November monitoring reports, possibly too late to improve partial media coverage.²⁷⁵

9. To ensure that voters have the opportunity to cast their vote without undue pressure and influence, the authorities could consider banning partisan activities and agitation, not only inside polling stations, but also near polling stations during voting hours.

According to Art. 70 para. (12) of the Election Code, electioneering is allowed only until the Friday before polling day. In addition, Art. 80 para. (3) of the same Code prohibits persons entering polling stations from wearing or displaying election badges, election symbols or other electioneering signs.

However, in the 2023 general local elections, Promo-LEX observers reported 23 incidents on election day (rounds I and II) of electioneering or black PR within 100 meters and/or inside the polling station to determine voters' choice, compared to 29 such incidents in the 2021 early parliamentary elections²⁷⁶.

10. In line with the jurisprudence of the Constitutional Court, an effective parliamentary control mechanism should be introduced over the provisions of the Commission for Exceptional Situations when elections are held in the context of a state of emergency.

The emergency, siege and war regime is regulated by Law 212/2004.

²⁷⁵ <https://www.osce.org/files/f/documents/5/f/568981.pdf>

²⁷⁶ https://promolex.md/wp-content/uploads/2024/02/Raport-final_MO-Promo-LEX_ALG-2023.pdf

Although the ODIHR and the Venice Commission have pointed out that the possibility for the SSC to take and implement decisions in the absence of an appropriate legislative oversight mechanism does not ensure respect for the principle of checks and balances, and may be in contradiction with the requirements of legality, legitimacy, necessity and proportionality stipulated in international obligations and standards²⁷⁷, the Parliament has not intervened with amendments in this respect.

11. While measures to preserve the integrity of elections in line with good international practice must be maintained, they should be adjusted to guarantee the right to vote for all voters who change their residence or domicile close to election day, whether at their old or new address.

Art. 60 para. (7) of the Electoral Code stipulates that if the voter changes his place of residence or will not be at home or temporary residence on the day of the elections for the Parliament, for the office of President of the Republic of Moldova, as well as for the republican referendums, the electoral bureau of the polling station where the voter is included in the basic electoral list, upon his request and on the basis of the identity document accepted for participation in the voting, shall issue a certificate for the right to vote.

According to Art. 78 para. (2) of the same Code, voters within the territorial radius of the polling station who are not entered on the basic electoral list shall be entered on a supplementary electoral list upon presentation of the document proving domicile or temporary residence within the territorial radius of the polling station in question. Those voters shall confirm on their own responsibility, by their signature, that they refrain from multiple voting and that they are aware of the criminal liability in the event of a breach of this obligation.

Art. 160 of the Electoral Code stipulates that voters who are not registered at their domicile or temporary residence in the respective administrative-territorial unit shall not participate in the election of the local council and mayor. The term of registration of domicile or temporary residence may not be less than 3 months before the date of the first round of elections.

Although the restriction in Art. 160 was introduced with the intention of preventing voters from fictitiously moving to another constituency close to election day, either under pressure or as a result of encouragement by political actors, it resulted in the effective disenfranchisement in the 2023 general local elections for some 3,000 voters who had indeed changed their place of residence. This measure is contrary to paragraph 7.3 of the 1990 OSCE Copenhagen Document and international good practice.²⁷⁸

²⁷⁷ <https://www.osce.org/files/f/documents/5/f/568981.pdf>

²⁷⁸ <https://www.osce.org/files/f/documents/5/f/568981.pdf>

12. In line with international standards, the educational requirements for exercising the right to run for mayor should be rethought.

According to Art. (2) of the Electoral Code, citizens of the Republic of Moldova with the right to vote who have reached the age of 23 years, including on election day, and have at least the compulsory general education provided for in Art. 13 of the Education Code No 152/2014 are entitled to be elected mayors. According to Art. 13 of the Education Code, compulsory education begins with the preparatory group of pre-school education and ends with secondary education. Compulsory compulsory education ends at the age of 16.

The OHIHR's recommendation has not been implemented, although it has been reported that the requirements for mayoral candidates are not fully in line with international obligations and standards.²⁷⁹

13. In accordance with international obligations and standards, decisions to cancel the registration of candidates should be based on principles of legality, legitimacy and proportionality. In order to avoid irreparable damage to the right to stand as a candidate, the law and the institutions should guarantee a timely and effective remedy.

The recommendation was submitted in the context in which the Chisinau Court of Appeal, on the basis of the provisions of the administrative law, rejected the application on the temporary suspension of the effect of the CSE's decision to cancel the registration of all 8,605 candidates of the "Chance" party registered in the electoral race for the mayoral and council positions, and the cancellation of the registration of candidates took effect on election day.

Although the Election Code includes provisions on the suspensive effect of CEC or district electoral councils' decisions to cancel the registration of candidates in cases of appeals, the Court of Appeal based its decision on the fact that the decision was not taken by an electoral body.

On December 12, 2024, the Court of Appeals reversed the CSE's disposition, stating the following:

"151. [...] The College specifies that, even if the public authority that issued the contested normative act would have been given a certain freedom of decision, this does not imply in any case deviation from the provisions of the law, or, the decision taken must correspond to the meaning of the legislation in force, the general principles of domestic and international law, human rights and fundamental freedoms, and the principles of legality, timeliness and fairness must be respected.

152. In the order of ideas described above, given that, by issuing the contested provision, the Commission for Exceptional Situations substituted electoral bodies,

²⁷⁹ Ibid.

the specialized panel for the examination of administrative contentious actions of the Civil, Commercial and Administrative Contentious Chamber concludes to annul the Provision no. 92 of 03.11.2023, contested in the present action, as it was issued by the Commission for Exceptional Situations of the Republic of Moldova, contrary to the powers assigned by law."²⁸⁰ .

On December 12, in a final judgment, the Chisinau Court of Appeal admitted the appeal and annulled the CSE's decision on the grounds that the CSE exceeded its powers, as the powers to legislate on electoral matters are the exclusive competence of the Parliament. The judgment was final as there was no further appeal to the Supreme Court of Justice.

14. Electoral contestants and senior officials should refrain from using public office and government-funded projects to gain unfair electoral advantage during the campaign period. The CEC should apply timely and proportionate sanctions for campaign violations equally to all participants in the electoral process, regardless of the status of office or other considerations.

In the Report no. 3²⁸¹ elaborated in the framework of the Observation Mission of the Presidential Elections and Constitutional Referendum of October 20, 2024, conducted by Promo-LEX Association, the following points were made:

1. On 20.09.2024, the Central Electoral Authority registered Renato Usatii's complaint CEC-7/16482. The complaint states that Maia Sandu donated the "Robert Blum for Democracy 2024" prize "Robert Blum for Democracy 2024", amounting to 25,000 euros, for the repair and preservation of a church in the village of Nishcani, Calarasi rayon. Thus, in the view of the author of the complaint, the City Hall of the village of Nishcani in the Călărași district, by posting about it on its Facebook page, admitted the use of administrative resources.

The CEC examined the appeal in four days and declared it inadmissible, stating that the appellant did not submit evidence in support of the claims made, including the fact that the deadlines for filing the appeal were not respected.

In a different vein, it is also interesting that the author of the complaint, in addition to the request to be ascertained the use of administrative resources by the City Hall of the village of Nishcani, also requested the examination of the manner of making the donation, but also the legality of the donation made to the Church of the village of Nishcani by the electoral contestant Maia Sandu.

CEC, however, considering the inadmissibility of the appeal, did not verify this claim.

²⁸⁰ https://cac.instante.justice.md/ro/pigd_integration/pdf/bcb13214-5260-4f2f-a85b-39de2dd93b0f

²⁸¹ https://promolex.md/wp-content/uploads/2024/10/Raport-nr.3_MO_Alegeri-prezidentiale-si-referendum-constitutional_2024.pdf

2. On 24.09.2024, a voter (Vasile Bolea) filed a complaint with the CEC requesting the CEC to establish the use of administrative resources by candidate Maia Sandu. He alleges that video spots have appeared in the public space, in which the presidential election candidate Maia Sandu, who is also the incumbent President, talks about the actions carried out in rural localities through the "European Village" project. The spots were published on the Presidency's Facebook and Youtube pages.

The CEC examined the appeal within two days and issued the reply CEC-8/6057 of 26.09.2024, in which it noted that Vasile Bolea is not entitled to file an appeal if he did not invoke an injured right.

3. On 25.09.2024 Vasile Bolea filed another complaint to the CEC, in which he requested a finding on the use of administrative resources by the Minister of Agriculture and Food Industry Vladimir Bolea. According to the complaint, on 31.07.2024, during an online meeting with the heads of the district agricultural directorates, Vladimir Bolea urged them to tell farmers that on October 20, 2024, they should participate in the elections and vote in the referendum on Moldova's accession to the European Union, noting that the speech was a political statement.

CEC examined the appeal within one day and issued the response No. CEC-8/6056 of 26.09.2024. As in the case of appeal no. 3, the CEC noted that the appellant did not invoke the violation of a concrete subjective right.

4. On 27.09.2024, Vasile Bolea filed another complaint to the CEC, in which he asks the central electoral authority to note the use of administrative resources by Maia Sandu during the launch of the electoral campaign. He notes that the launch event, which took place on 20.09.2024, was attended by state dignitaries, including the Speaker of Parliament Igor Grosu and Prime Minister Dorin Recean, in addition to ordinary citizens. Also, ministers, deputies, mayors, teachers and people of culture. The author of the complaint specified that the dignitaries attended the event during working hours, for which they are paid from the state budget.

The CEC examined the appeal in four days and issued the response CEC-8/6097 of 01.10.2024, in which it only limited itself to the legal provisions and the response itself does not contain the solution on the appeal concerned.

15. Measures restricting freedom of expression should be appropriate and proportionate aimed at achieving a legitimate aim by applying the least restrictive measures. Measures such as the suspension or withdrawal of broadcasting rights should only be applied if the broadcaster has committed serious and repeated infringements of a legitimate restriction applied by the media regulator or the court.

The cases indicated in the Report confirm the non-implementation of the ODIHR Recommendation.

16. The law should be amended so as to ensure the independence of the governing bodies of both the Audiovisual Council and TeleRadio-

Moldova, as well as the stability of the term of office of the members of these bodies.

According to Art. (7) of the Audiovisual Media Services Code, the members of the Audiovisual Council are appointed by a decision of the Parliament for a single term of 6 years.

At the same time, according to Art. 77 para. (4) lit. j) and k) of the Code, the vacancy of the position of member of the Audiovisual Council arises by right in the case of:

(j) ascertaining the improper performance or non-performance of its duties;

k) the finding, as a result of parliamentary control carried out in accordance with the law, of a defective activity.

The President and the Vice-President of the Audiovisual Council may be dismissed by secret ballot on the proposal of 3 members and with the vote of at least 5 members of the Audiovisual Council (Art. 79 para. (6) of the Audiovisual Media Services Code).

Although the ODIHR has pointed out that the mechanism whereby a parliamentary majority can dismiss individual members of the leadership without sufficient legal evidence constitutes a violation of international standards²⁸², no changes have been made.

17. The measure prohibiting the dissemination of content should only be permissible under the test for restricting the right to freedom of expression under international law, namely that it is provided for by law, contributes to the legitimate aims, is necessary and proportionate to protect those aims.

The ODIHR in the Final Report of the ODIHR Local Elections Observation Mission of November 5, 2023²⁸³ noted that the amendments to the Audiovisual Media Services Code of June 2022 prohibit the broadcasting of content that "incites hatred, disinformation, propaganda of military aggression, has extremist content, terrorist content or poses a threat to national security". However, the restrictions on extremist or terrorist content are too general to meet international standards on the principle of legality. Moreover, the ban on broadcasting from certain countries on more than a content basis does not respect the principle of proportionality.

The Audiovisual Media Services Code has not been revised in the context of this recommendation.

18. In order to ensure the right to effective appeal, the second round of elections should be held only after the final decisions on appeals against

²⁸² <https://www.osce.org/files/f/documents/5/f/568981.pdf>

²⁸³ Ibid.

the election results. The law could specifically stipulate a longer delay between two rounds of elections.

According to Art. 146 para. (4) of the Electoral Code, the second ballot shall take place two weeks after the date of the first ballot, under the conditions of this Code.

This recommendation, highlighted in the text of the final report of the ODIHR Observation Mission to the November 5, 2023 local elections, has not been implemented by the Parliament either.

19. Consideration should be given to reviewing the criteria for de-registration of candidates to allow for gradual and proportionate sanctions. De-registration should be applied in cases of serious infringements and as a last resort.

In the same ODIHR Report, it was noted that the Law stipulates that the use of undeclared funds in excess of 1% of the electoral fund ceiling constitutes grounds for canceling the registration of the candidate or the list of candidates. In local elections these could constitute an insignificant total amount of funds for small constituencies, thus creating conditions for de-registration on the grounds of minor irregularities or errors in financial reporting, contrary to good practice.

However, the Electoral Code has not been revised.

8.2. CHECKING WHETHER THESE REFORMS HAVE BEEN IMPLEMENTED EFFECTIVELY AND WHETHER THEY COVER ALL THE PROBLEM AREAS IDENTIFIED

In reviewing the implementation of the reforms recommended by the ODIHR, it was found that although some legislative progress has been made, the effectiveness of their implementation and the full coverage of the problem areas identified still remains limited.

An eloquent example is the fight against organized transportation of voters. Although Law No. 73/2022 prohibits organized transportation for electoral purposes, cases of organized transportation were observed in the elections that followed, which demonstrates the incomplete application of the legal provisions. This suggests that despite legislative efforts, practical implementation remains a challenge and punitive measures have not been sufficiently dissuasive.

With regard to the use of administrative resources, there have been multiple cases of abuse, including the involvement of dignitaries in electoral campaigns and the use of public funds for political promotion. Although the legislative framework has been amended to prevent this type of abuse, cases documented by observers, such as the involvement of the Prime Minister and other officials in election campaigning, point to ineffective enforcement and lack of effective sanctions.

Balanced and impartial media monitoring also remains an area where regulation has not been fully streamlined. The Broadcasting Council carried out monitoring during the campaign, but punitive measures applied to the media for unbalanced media coverage were often late in the campaign and failed to remedy the impact on the electoral campaign in a timely manner.

Another problematic issue is the right to vote for citizens who change their domicile close to election day. Although the law allows for the issuance of certificates for the right to vote, in the 2023 general local elections, around 3,000 voters were disenfranchised due to strict domicile restrictions.

In conclusion, while some reforms have been introduced, their implementation has often been weak and many problem areas identified by the ODIHR have not been fully or effectively addressed. A significant improvement in implementation, monitoring and sanctioning mechanisms is needed to ensure the integrity of the electoral process and to respond adequately to international recommendations.

9. CONCLUSIONS AND RECOMMENDATIONS

9.1. CONCLUSIONS

The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures²⁸⁴.

The freedom of elections in the Republic of Moldova has sparked debate and concern over recent years, influenced by various actions of national authorities and legislative amendments. While acknowledging the necessity for authorities to adjust policies in response to evolving contexts, it is critical that these adjustments respect fundamental electoral rights and principles. Authorities must ensure transparent and impartial actions, particularly in the realm of free elections, a core tenet of any democratic system.

1. Essential Elements for Fair and Inclusive Electoral Law Amendments: The Venice Commission and the ODIHR have consistently expressed the view that any successful amendment of electoral legislation must be based on at least the following three essential elements:

1) clear and comprehensive legislation that meets international obligations and standards and addresses previous recommendations;

²⁸⁴ https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf

2) adoption of legislation by broad consensus after extensive public consultations with all relevant stakeholders; and

3) political commitment to fully implement such legislation in good faith, with adequate procedural and judicial safeguards and means to allow for timely assessment of alleged violations.

In this regard, the Venice Commission and ODIHR have stated that if the process of amending electoral rules is not sufficiently inclusive and transparent, i.e. if all relevant stakeholders are not properly involved, new electoral rules risk being seen as aiming at favoring manipulation in favor of the ruling party, but also the mere appearance of manipulation. Even when manipulation is not intended, changes will appear to be dictated by immediate political interests.

2. Campaign Finance: Effective campaign finance regulation is fundamental to maintaining equal opportunities among candidates and to fostering public trust. Unfortunately, gaps in campaign finance legislation and the lack of consistent enforcement in Moldova have led to a system vulnerable to influence by larger financial interests. This lack of transparency not only disadvantages candidates with fewer resources but also erodes public confidence in electoral integrity.

3. Use of Administrative Resources: The misuse of administrative resources by those in positions of power remains a pressing issue that impacts the fairness of elections. This practice not only blurs the lines between state and party resources but also creates an unequal playing field, especially for opposition candidates. To address this, it is essential to establish clear and enforceable regulations that restrict the use of public resources for electoral gain. Moreover, extending these restrictions to cover the period beyond official campaigns would mitigate any indirect influence that could arise during the pre-election period, strengthening public trust in the electoral process.

4. Media Access and Transparency: Access to diverse and unbiased media coverage is a cornerstone of free elections. Currently, there are concerns that media access for some political entities may be disproportionately restricted, leading to an imbalanced representation of candidates. The national regulatory bodies must work to ensure that media outlets provide fair, balanced, and equitable coverage for all candidates, addressing any disparities as they arise. Additionally, any restrictive measures imposed on media must be based on clear, credible evidence, avoiding vague or overly broad justifications that could undermine public confidence in the fairness of the media environment.

5. Diaspora Voting Organization: The large number of Moldovan citizens living abroad face considerable barriers to voting, ranging from insufficient polling stations to limited access to voting materials. These logistical challenges make it difficult for the diaspora to fully exercise their voting rights. Potential solutions could include exploring alternative voting methods. By expanding access and reducing logistical

hurdles, Moldova can ensure that its citizens abroad have an equal opportunity to participate in national elections.

6. Establishing Clear Criteria for Diaspora Polling Stations: The current approach to establishing polling stations abroad has been criticized for its lack of consistency and transparency, with some citizens unable to access a polling station within a reasonable distance. To address this, it is essential to develop a standardized framework for selecting and distributing polling stations based on the geographical distribution of Moldovan citizens abroad. By ensuring that polling stations are strategically located and sufficiently resourced, Moldova can better accommodate the needs of its diaspora, thereby enhancing inclusivity in the electoral process.

The current framework for freedom of elections requires considerable improvements to align with both constitutional mandates and international standards. Transparent, fair, and equitable electoral procedures are indispensable to upholding the democratic values of the Republic of Moldova and ensuring the integrity of its elections.

9.2. RECOMMENDATIONS

For the Moldovan Parliament and Government:

- Establish clear legal frameworks to prevent the misuse of administrative resources in electoral campaigns. This includes setting strict regulations on the use of state assets and services during election periods and ensuring independent oversight mechanisms to monitor compliance, this includes, but is not limited to criminal, contraventional and financial liabilities.
- Implementing the Constitutional Court's Decision No. JCC-02/38a of 09.11.2010, the Court drew the Parliament's attention that the categories of officials, who from the moment of their registration as electoral contestants are to suspend their activity in the office they hold, must include all those listed in the Annex to the Law on the status of persons holding public office No. 199/2010.
- Amend the legislation governing diaspora voting to increase the accessibility and efficiency of voting for Moldovans abroad. Consider introducing additional polling stations or alternative voting methods, proportionate to the number of the Moldovan citizens living in foreign countries. Also, the state shall effectively safeguard and supervise the activity of the polling stations acting abroad.
- Enhance the electoral complaints mechanism by defining explicit procedures and timeframes for handling grievances related to election processes. This will ensure timely, transparent, and effective resolutions for any election-related disputes, reinforcing trust in the electoral process.
- Implement measures to guarantee media access and fair representation of all political candidates during elections. Ensure that the Audiovisual Council upholds its

responsibilities to monitor balanced media coverage, prevent discrimination, and restrict any undue influence from powerful political entities.

- Introduction of an effective mechanism for parliamentary scrutiny of the provisions of the Commission for Exceptional Situations when elections are held in the context of a state of emergency.
- The minimum age and education requirements for running for MPs and local councilors should be reviewed.
- The criteria for de-registration of candidates will be revised to allow for gradual and proportionate sanctions. De-registration should be applied in cases of serious violations and as a last resort.
- In order to ensure the right to an effective appeal, the deadline for examining appeals concerning the elections between the first and second rounds will be revised.

For the Central Electoral Commission (CEC):

- Regularly review and update the criteria for establishing polling stations abroad, basing decisions on diaspora distribution and accessibility. This would help ensure fair and consistent access to voting for all Moldovan citizens, regardless of location.
- Conduct public awareness campaigns about the complaints process, making it accessible and understandable to all citizens. Clearly outline the steps, timelines, and expectations for filing and resolving electoral complaints.
- Ensure that all CEC decisions regarding polling stations, candidate registration, and voter eligibility are communicated transparently, with sufficient advance notice for the electorate and relevant stakeholders to respond effectively.
- Ensure uninterrupted operation of the video-recording system throughout the voting day, as a means of preventing potential electoral fraud.
- Involvement of impartial observers to ensure the monitoring of the entire electoral process.

For Law Enforcement and Judiciary:

- Address electoral misconduct swiftly and impartially, holding accountable those who violate electoral rules or attempt to exert undue influence, regardless of their political affiliation or preference. This is essential to foster public confidence and prevent future infractions.
- Rely on the standards developed by the Council of Europe, the EU and the OSCE for any judicial, administrative and executive acts or decisions aimed at restricting or threatening to restrict electoral freedom.
- To promptly report violations committed during electoral processes, regardless of who committed them (e.g. those in government or members of the ruling party).

For Civil Society and Media Organizations:

- Monitor election processes and publish regular reports assessing compliance with national and international standards. This includes tracking media coverage, campaign finance, and the use of administrative resources by incumbents.
- Engage actively in the review and public debate of proposed electoral reforms, ensuring that new legislation aligns with democratic principles and international best practices.
- Active involvement in public consultation processes on draft legislation.

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