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PRE-ELECTORAL CONTEXT


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Table of Contents

GLOSSARY AND ACRONYMS ........................................................................................................... 3
MISSION AND EXECUTIVE SUMMARY .......................................................................................... 4
  MISSION ........................................................................................................................................ 4
  EXECUTIVE SUMMARY ............................................................................................................. 5
CHAPTER I. GENERAL OVERVIEW OF THE EVOLUTION OF ELECTORAL LEGISLATION ......................................................... 9
CHAPTER II. ELECTORAL CONTEXT ............................................................................................. 11
  Section 1. ELECTORAL SYSTEM ............................................................................................... 11
  Section 2. POLITICAL PARTIES ............................................................................................... 13
  Section 3. FREEDOM OF ASSEMBLY ...................................................................................... 18
  Section 4. MASS-MEDIA AND PUBLIC INFORMATION ........................................................... 19
  Section 5. CIVIL SOCIETY ....................................................................................................... 23
  Section 6. CIVIC EDUCATION AND INTERNATIONAL ASSISTANCE .................................... 26
  Section 7. ELECTORAL RIGHTS ............................................................................................... 27
CHAPTER III. ELECTORAL PROCESS ............................................................................................ 30
  Section 8. THE ELECTION DATE .............................................................................................. 30
  Section 9. BUDGET AND RESOURCES .................................................................................. 31
  Section 10. ELECTORAL ENTITIES. CONSTITUENCIES AND ELECTION STATIONS .................. 33
  Section 11. ELECTORAL LISTS .............................................................................................. 36
  Section 12. NOMINATION AND REGISTRATION OF CANDIDATES ....................................... 38
  Section 13. VOTING ............................................................................................................... 40
  Section 14. ELECTION OBSERVATION .................................................................................. 42
  Section 15. COUNTING VOTES AND TOTALING ELECTION RESULTS ................................... 43
CHAPTER IV. CONSIDERATION AND SETTLEMENT OF ELECTORAL LITIGATIONS ................................................................. 46
CONCLUSIONS AND RECOMMENDATIONS .................................................................................. 54
GLOSSARY AND ACRONYMS

ODIHR – Office for Democratic Institutions and Human Rights
OSCE – Organization for Security and Cooperation in Europe
PAEURM – Plan of Action European Union – Republic of Moldova
EGPRS – Economic Growth and Poverty Reduction Strategy Paper
RM – Republic of Moldova
EU – European Union
CoE – Council of Europe
CLRACE – Congress of Local and Regional Authorities of the Council of Europe
PACE – Parliamentary Assembly of the Council of Europe
UNDP – United Nations Development Programme (Office in Moldova)
IMF – International Monetary Fund
WB – World Bank
NATO – North Atlantic Treaty Organization
IFES – International Foundation for Electoral Systems
SSRM – Soviet Socialist Republic of Moldova
CEC – Central Electoral Commission
ACC – Audio-Visual Coordinating Council
MFAEI – Ministry of Foreign Affairs and European Integration
MID – Ministry of Informational Development
ACEEEEO – Association of Central and Eastern European Election Officials
LADOM – League for Defense of Human Rights in Moldova
ADR – Alliance for Democracy and Reform
DCM – Democratic Convention of Moldova
BMOP – Block for a Democratic and Prosperous Moldova
PCRM – Communist Party of the Republic of Moldova
PDM – Democratic Party of Moldova
PPCD – Christian Democratic Peoples’ Party
BMD – Democratic Moldova Block
PRCM – Party of Renaissance and Conciliation of Moldova
ASDM – Social-Democratic Alliance of Moldova
PLDM – Liberal Democratic Party of Moldova
ATU Gagauzia – Autonomous Territorial Unit Gagauzia
SAIS “Elections” – State Automated Information System “Elections”
MISSION AND EXECUTIVE SUMMARY

MISSION

In the context of parliamentary elections in 2009, the given study hereby represents an overview on the evolution of the electoral process in the Republic of Moldova. It is framed within the range of similar surveys meant to estimate the pre-electoral climate, which began in 1993 by the International Foundation for Electoral Systems (IFES) and OSCE special observation missions. This time, the study is implemented under the umbrella of the Eurasia Foundation by a group of experts from the Republic of Moldova who actually took part in the development of the Electoral Code of 1997.

The given study aims to point out positive evolutions and deficiencies of the electoral legislation and election process as a whole, for facilitating the formulation of proposals and recommendations with respect to the organization, and implementation of the parliamentary elections from spring 2009 in compliance with international standards. Given this background, the study shall serve as a first document of reference for the activity of the Civil Coalition for Free and Fair Elections, which has been monitoring the electoral process in the Republic of Moldova since 2005.

One of the starting points for estimating the actual quality of the electoral process in the Republic of Moldova shall be the general local elections from 2007 - elections organized and carried out while the Republic of Moldova has committed itself to implement the provisions of the Plan of Action European Union – Republic of Moldova (PAEURM). This document was, and is, a document of strategic importance for the modernization and proximity of the Republic of Moldova to the EU, containing a special clause referring to the quality of the electoral process, and the progress to be achieved within the framework of Moldo-European bilateral relations, which are conditioned by democratic, fair and exemplary organization and implementation of parliamentary elections in 2009.

The special interest expressed by national and international organizations towards the 2009 parliamentary electoral campaign may be explained by the fact that the electoral process is focusing the conduct horizons of central and local public authorities, electoral bodies, entities for the protection of legal norms, civil society institutions, mass-media and audiovisual regulatory institutions, etc., thus allowing the most measurable and comprehensive evaluation of the society’s democratization level.

At the same time, the study aims to harness the cumulative experience of those five electoral cycles carried out in the Republic of Moldova under political pluralism conditions. The analysis and the formulated criticisms are presented in good faith, in a constructive and realistic manner, and the recommendations and practical suggestions are offered in the spirit of professional cooperation with all those interested in the promotion of a fair, free, and transparent electoral process in the Republic of Moldova.
EXECUTIVE SUMMARY

Reference documents

When writing the “Pre-electoral Context – 2009” Study, the authors thoroughly analyzed the national and international legislation and case law in electoral matters, and other related areas. Special attention was paid to recommendations provided by specialized international institutions, as follows:

- The Report of the Committee on Honoring the Obligations and Commitments by Member States of the Council of Europe (Monitoring Commission), APCE (doc.11374, September 14, 2007).

A number of reports developed by international and domestic election observation missions have been analyzed, such as:

- The Final Report of the OSCE/ODIHR Observation Mission on the Local Elections from June 3-17, 2007;
- Reports of the NGOs Civic Coalition for Free and Fair Elections – Coalition 2005 and 2007 developed by the League for Defense of Human Rights of Moldova (LADOM), Independent Journalism Center (IJC), Association of Independent Press (API) and other civic groups.

Evolution of the Electoral Legislation

CoE monitoring of the country and particular provisions of the EU-Moldova Action Plan on ensuring free and fair elections and functional democratic institutions contributed considerably to the improvement of the electoral and related legislation, as well as to the improvement of the procedures in the given area.

In the same time, there were some amendments to the current legal framework that will be definitely debated by political actors, civil society and international partners. Prohibition of pre-electoral political alliances (electoral blocks) and increased electoral threshold may prevent some political parties and independent candidates from access to Parliament.

However, the electoral legislation and myriad amendments to the Moldovan Electoral Code were in fact determined by the current political interests and not by the idea of improving the situation of voters.
Electoral System

During four previous Parliamentary elections the fully proportional electoral system was used. According to international experts, and based on a recent public opinion poll, there is a need to proceed with the electoral system reform in order to increase voters’ interest, parties’ and leaders’ competitiveness and country credibility on international arena.

Political Parties

According to the Electoral Code, before the start of election campaign, the political parties and media are invited to sign a Code of Conduct, which are expected to be monitored by Central Electoral Commission, Audio-Visual Coordination Council and independent observers.

The recent legislative amendments in the field influence to a large extent the political parties’ activities during and in between the election campaigns. The new Law on political parties does not provide for clear procedures on the control over their financial operations. This way, some political parties are already alleging that the controlling institutions may inappropriately apply the law in an abusive manner.

Assemblies

The new Law on Assemblies provides for equal conditions for organizers and stipulates a liberalized procedure, without any prior authorization – this being a major achievement, including the fact that it has also an electoral impact.

Although the legal provisions regarding the MP’s status were revised, they may further create possibilities for using the administrative factors in organizing electoral assemblies and this issue was not sufficiently addressed in the Electoral Code - as MPs were excluded from the list of officials who have to suspend their activities, in case they get registered as electoral candidates. There is still time for improving the legislation under the respective aspect, but this issue should be addressed as soon as possible.

Mass-Media and Public Information

Citizens’ trust in mass-media institutions remains relatively constant, as well as the number of institutions that are active in the respective field, which have registered a certain evolution. Nevertheless, the political and economic tensions still persist, and mass-media funding remains to be precarious – this may strongly influence mass-media institutional independence and the editorial policy. The situation in the field of the right and freedom of expression in the Republic of Moldova further on determines some concerns regarding the freedom of the media, access to media and unbiased coverage of the parliamentary elections.

The amendments operated to the electoral legislation on the collaboration between the media and the electoral bodies, electoral contestants, on the information of the public at large, on the organization of the public debates based on equal conditions for all candidates represent an important achievement.

Certain deficiencies may challenge the regulations regarding the sanctions for the violation of the norms about elections’ presentation, as well as the assimilation of the advertisement through internet and mobile telephony with the advertisement in mass-media. These subjects should be
addressed prior the launch of the electoral campaign, for the regulations in the field to become clear and uniformly applicable from the very start, without any abuses.

Civil Society and Civic Education

The participative sector in the Republic of Moldova is relatively developed, and the evolutions form the last years attest the beginning of the collaboration between the civil society organizations and public authorities, the last one becoming more open to cooperation and information. The registered deficiencies did not have a major negative impact, but the last trends observed in the activity of the authorities with registration and control duties need additional attention as they may degenerate into abuses.

A number of specialized organizations are active during the electoral period, but only the Coalition for Free and Fair Elections is active on permanent basis. The civil society organizations are the drivers for promoting the programs of civic and electoral education, facilitating the information and education of the voters. For the purpose of achieving high efficiency, this process should be supported by mass-media, especially the public audio-visual sector. At the same time, it is necessary to increase the technical and financial assistance for supporting the domestic and international organizations which are active in the fields of civic education and comprehensive election observation.

Electoral Rights

The problem dealing with the full realization of the the right to vote was not sufficiently addressed, as further recommendations persist for excluding the obligation of registering the place of residence and eliminating the general interdictions applied in case of detainees without a court or administrative decision which would establish the voting restriction on individual basis. Some new restrictions imposed to persons with dual citizenship have emerged.

At the present moment, no adequate solutions were approved for ensuring the right to vote of the citizens residing on the left side of the River Nistru and the citizens who work abroad.

Budget and Resources

The financial means provided for elections are increasing but are not sufficient, and their allocation is made with delays and difficulties. The assessment practices for the preliminary cost estimates need to be revised to ensure the CEC independence and autonomy in establishing and administrating the electoral budget.

Electoral Entities

The changes on the composition of electoral bodies had a positive impact due to the mutual control from the representatives assigned by the political parties. However, there are still concerns regarding the political biases of election commissioners and potential groundless dismissals of electoral commissioners.

Electoral Lists

The full and accurate compilation of the electoral lists was one of the most disputed problems during the electoral campaigns. The amendments made over the time in the Electoral Code created the necessary mechanism for concluding and verifying the lists, and the State Automated
Information System “Elections” represents the necessary base for setting up the Voters’ Register in electronic format. The informatization and securization of the given process should enclose adequate training and corresponding technical equipment, and the carried out activity should be transparent and verifiable.

Designation and Registration of Candidates

The main legislative changes made in the given area refer to the interdiction for electoral blocks to participate in elections and for members of other political structures to be designated on the lists of a party, as well as the interdiction to elect persons with dual citizenship as MPs. Attention should be given also to the fact that there were not introduced clear regulations and procedures regarding candidates’ declarations of income and property, and there are no direct details regarding the reasons invoking the possibility to cancel candidates’ registration.


The information and education of the electorate about the importance of participation in elections and the voting process requires further attention. The amendments on counting and tabulation of votes led to increased transparency of the process and reduced the likelihood of electoral frauds. The adequate implementation of the State Automated Information System “Elections” may contribute significantly to improving and urging the procedures for vote counting and tabulation of results. The Electoral Code and/or the guidelines in the field should provide directly and exhaustively for the causes that may serve as grounds for re-counting the votes.

Electoral Litigations

The examination and settlement of the electoral conflicts has always generated criticism, especially regarding the clarity and the promptness of the procedure. The amendments adopted to the Electoral Code after the 2005 parliamentary elections aimed to clarify the jurisdictions and to make order in the procedure of hierarchical contestation. However, the objections related to the sanctions and liability for violations of the electoral law were not settled.

Opinion Poll

Within the framework of the study on the electoral context, a public poll was organized so as to test the pre-electoral situation. The poll data conclude that the citizens of the Republic of Moldova perceive the democracy system existing in the country exclusively at institutional level, and the operational aspects of this system’s vital activities are assessed by the majority of the population in negative terms; a rather low level for social and political participation is underlined. The participation in the electoral process is assessed by the citizens as being insignificant, without confidence that their vote may influence decisively the political changes in the country; respectively, this trend induces unfavorable perception of the perspectives for promoting the democratic values and for developing the democratic process in the country. The opinion poll also reveals a low level of population’s confidence in the associative sector, and implicitly a low level of citizens’ confidence in civil society’s perspectives to develop in European parameters.
CHAPTER I. GENERAL OVERVIEW OF THE EVOLUTION OF ELECTORAL LEGISLATION

The first pluralist elections for appointing 380 candidates of the Supreme Soviet of the Soviet Socialist Republic of Moldova (SSRM) were carried out in the Republic of Moldova based on Law 3618-XI on the Election of Peoples’ Deputies of the S.S.R. of Moldova, in two majority voting rounds, on February 24 and March 1, 1990. During this period there was no Law on Political Parties and the emerging formations were registered via Decisions of the SSRM Soviet Ministries (Government). The overwhelming majority of candidates were members of the Communist Party (~ 80%), or candidates without any party allegiance. At the same time, according to some estimations, approximately 1/3 of all candidates enrolled in the electoral race represented new political movements, such as the Peoples’ Front of Moldova (FPM), Inter-Front, Gagauz-Halkî, etc., - a fact that announced the beginning of multi-partisan development in the Republic of Moldova.

For the purpose of regulating the voting procedure, the 1990 Parliament passed a number of laws: Law No. 720-XII, dated 18.09.1991, on the Election of the President of the Republic of Moldova; Law No. 1040-XII, dated 26.05.1992, on the Referendum; Law No. 1609-XII, dated 14.10.1993, on Parliamentary Election. The last law was passed with a view to the anticipated parliamentary elections planned for February 1994. After the parliamentary elections from 1994 and adoption of the Constitution of the Republic of Moldova, the Parliament passed Law No. 308-XIII, dated 07.12.1994, on Local Elections, and Law No. 833-XIII, dated 16.05.1996, on Elections of the President of the Republic of Moldova. As elections (parliamentary, presidential and local) were carried out at an interval of about a year and a half, and the modalities for establishing electoral entities, electoral procedure and fulfillment deadlines were significantly different, the risk for some hindrances and confusions emerged for the eventual synchronization of the two types of elections, or of elections and referendums. So as to avoid such situations, in 1997, with the assistance provided by the International Foundation for Electoral Systems (IFES), the Electoral Code (Law No. 1381-XIII, dated 21.11.1997) was developed, which united all electoral norms and procedures referring to the election of the Parliament, Chief of State, local public administration authorities, and organization of local and national referendums. The Electoral Code maintained the electoral system absolutely proportional to the closed party lists for parliamentary elections and election of local councils of level I and II, while the election of mayors remained to be based on a majority of votes in two voting rounds. The establishment of a permanent Central Electoral Commission (CEC) with a six-year mandate for its members is one of the most important achievements related to the adoption of the Electoral Code. For financial reasons, it was provided only for two-thirds of the CEC members (chairman, deputy chairman, and secretary) to carry out their duties on a permanent basis, while the other six members were conveyed for permanent activity only during the electoral campaign period.

Following the conflict between the Parliament and the President, and the constitutional amendments from 2000, regarding the revision of the election process of the chief of the state, the Parliament passed Law No. 1234-XIV, dated 22.09.2000, on the Procedure for Electing the President of the Republic of Moldova. As a result, the corresponding title was eliminated from the Electoral Code. In the same context, for the purpose of avoiding the eventual conflicts between the legislative forum and the presidential institution, the Parliament passed a special law on the modality for initiating referendums for amending the Constitution, which was declared to be unconstitutional by the Constitutional Court. One year later, the Parliament was
compelled to revisit the subject, passing Law No. 387-XIV, dated 19.07.2001, on Peoples’ Initiative to Amend the Constitution.

Generally speaking, after the parliamentary elections of 1998, the revision process of the electoral legislation turned into a trend to eliminate barriers for initiating referendums and for “small” parties’ access to the Parliament by increasing the electoral threshold. In this respect, essential amendments were made within the Electoral Code in March 2000, when the electoral threshold for electoral blocks and parties was increased to 6%. It is true that at the same time the threshold for independent candidates was decreased to 3%, knowing from previous experience that such a threshold is not to be achieved by independent candidates. As a result of the above-mentioned amendments, two parliamentary parties – Party of Renaissance and Conciliation of Moldova (PRCM), and the Democratic Party of Moldova (PDM), whose representatives were among the first initiators and advocates for these amendments, failed in the elections held on February 25, 2001, not succeeding to gather the required 6% of the votes. In the case of PRCM, it did not succeed to collect even one tenth of the votes so as to be represented in the new Parliament.

The increase of the electoral threshold in 2000 from 4% to 6% had a significant impact on the development of the party system in the Republic of Moldova. If the electoral threshold had remained at 4%, then five (not three) political parties would have been represented in the Parliament. The Communist Party of the Republic of Moldova (PCRM) would have not obtained 71 mandates out of 101, but only 62, thus PCRM would have not have had the constitutional majority (2/3 of mandates), although it would have still had the qualified majority (3/5) for electing the leader of their party as the chief of the state, without the support of any other faction.

The subsequent amendments aimed to limit the access into the Parliament for electoral blocks and were introduced by making changes in the Electoral Code in 2002. Thus, the blocks set from two parties had to accumulate at least 9%, and the ones set from three or more parties were at least 12% so as to be represented in the Parliament. Actually, the amendments mentioned above represented an attempt to establish a bi-partisan system. Because the parties promoting the idea of increasing the barriers for electoral blocks - PCRM and PPCD, hold ratings that differ significantly (by approximately five times), the attempt to change to a bi-partisan system failed. So as to avoid the danger of barriers induced for electoral blocks, a number of political structures succeeded on the eve of the 2005 elections to create a “mega-block” so as to be sure to pass the electoral threshold. As a result, a third political force – Democratic Moldova Block (BMD) – succeeded to squeeze in between the two poles of the much sought-after bi-partisan system of PCRM and PPCD, registering a rating between the individual ratings of PCRM and PPCD.

A positive evolution of electoral legislation modification occurred shortly after the 2005 parliamentary elections. At the insistence of the opposition parliamentary parties that accepted the partnership with PCRM based on the “political consensus” regarding European Integration, working parliamentary committees were established for revising a number of legislative acts so as to adjust them in compliance with the recommendations of the Venice Commission of the Council of Europe and OSCE. The list covering the laws to be revised also included the Electoral Code. Several amendments made in 2005 guaranteed the rights of the parties to participate during the electoral campaigns in free-of-charge TV electoral debates on a daily basis for a duration of at least 90 minutes. In addition, the procedures for establishing the electoral entities were revised to improve transparency. In this respect, the opposition structures represented in the Parliament obtained the right to appoint their representatives with the right for deliberative voting within electoral entities at any level, while the other structures preserved their right to delegate their representatives with the right for consultative voting in the same entities. Another
important amendment related to a decrease in the electoral threshold to 4%, constituting a return to the initial ceiling established when the Parliament passed the Electoral Code in 1997. The electoral threshold of 8% was set for the pre-electoral blocks, regardless of the number of constituting subjects. But without testing the impact of the last amendments in practice, in April 2008, the parliamentary majority established new participation barriers for parliamentary elections by amending the Electoral Code: the electoral threshold was increased to 6%, the electoral blocks were prohibited, and those citizens with double citizenship were prohibited from becoming MPs¹.

CHAPTER II. ELECTORAL CONTEXT

Section 1. ELECTORAL SYSTEM

The multi-partisan system in the Republic of Moldova was influenced by the absolutely proportional electoral system used on a constant basis during the last four electoral cycles. One of the causes for passing in 1994 from the majority system to a proportional system resulted from the political leaders’ dissatisfaction when, after the elections from 1990, a massive segment of MPs preferred to detach themselves from the political structures that promoted them, stating that they “represent the nation” and not the structures on whose political platforms they have been candidates and obtained MP mandates. As a consequence, an excessive fragmentation of the MP representation was obtained, along with a consequently low-efficiency legislative forum which based itself on a majority electoral system.

The electoral reform of 1993, carried out by passing Law No. 1609-XII, dated 14.10.1993, provided for parliamentary elections based on a partially proportional electoral system. It was planned to set electoral constituencies with more mandates, established in-line with the territorial-administrative units of level II (counties). The number of mandates assigned to each constituency was required to be proportional to the number of citizens with the right to vote from the given constituency. In 1994, at the moment the electoral campaign started, the territorial-administrative reform was not yet fulfilled, so it was impossible to establish regional electoral constituencies with more mandates. Under these circumstances, the Parliament passed Decision No. 1613, dated 19.10.1993, allowing for elections with derogation from the provisions stipulated under Law No. 1609-XII on Parliamentary Election, establishing a single national electoral constituency.

Another reason causing the transfer towards the fully proportional system referred to the need to avoid the speculations related to the impossibility of establishing electoral constituencies on the left side of the River Nistru under the separatist control regime. In this respect, in some localities on the left side of the River Nistru, special polling stations were opened where the citizens of the Republic of Moldova residing on the left side of the River Nistru could come and exercise their right to vote. This practice has been frequently used, up to the present time, in a deliberate way as an excuse for opposing amendments to the electoral system. The fully proportional electoral system: one country – one electoral constituency and distribution of MP mandates according to Victor d’Hondt’s² method favored the big parties with “history and

² The number of mandates obtained by the electoral candidates is calculated by successive division of the number of valid votes expressed for every electoral candidate, except for the independent candidates, by 1, 2, 3, 4...etc., up to the figure corresponding to the number of mandates established for the Parliament.

² The number of mandates obtained by the electoral candidates is calculated by successive division of the number of valid votes expressed for every electoral candidate, except for the independent candidates, by 1, 2, 3, 4...etc., up to the figure corresponding to the number of mandates established for the Parliament.
merits,” and disadvantaged from the very start the merging parties of a multi-partisan system under a consolidation process. According to the electoral legislation, the independent candidates could be registered by the Central Electoral Commission, appearing on the same voting ballot with the electoral blocks registering lists of candidates. Voters had only a single option for an electoral candidate: party or independent candidate.

According to the provisions of Law No. 1609-XII on Parliamentary Election, the distribution of MP mandates was carried out only for the parties accumulating over 4% of elector votes. The electoral threshold was not applied to independent candidates, who were considered to be elected only when the number of accumulated votes was framed in the descending numeric range set according to the above-mentioned method. The Electoral Code also covered an unusual innovation: extension of the electoral threshold of 4% over the independent candidates. This happened mostly due to a regrettable confusion, rather than as a result of a deliberate decision of the legislative forum. Thus, when publishing the Electoral Code, it appeared that art. 86 was expressed in a version that differed from that for which the legislative forum had voted. The discrepancy between the voted version and the final version of art. 86 resulted in the Central Electoral Commission’s request for the Parliament to interpret the provisions of the given article on the eve of the parliamentary elections in March 1998. The parliamentarians, representatives of parties, removed the confusion, interpreting this legal norm in party advantages and, respectively, independent candidates’ disadvantage, for which the electoral threshold of 4% was confirmed, as in case of political parties. Subsequently, the Constitutional Court left the legal norm in force, referring to the 4% electoral threshold for independent candidates, reasoning that it is actually Parliament’s authority to establish such rules.

The usage of the proportional electoral system was contested a number of times, but without any success. In November 1997, the President of the Republic, Petru Lucinschi, gave his verdict against the proportional system, endorsing the refusal for promulgating the Electoral Code. The Chief of State insisted at that time on the need to return to the majority electoral system, or at least to adopt a “parallel” system according to the German model. In 2000 the MPs from the parliamentary factions of the Democratic Convention of Moldova (CDM) and the Block for a Democratic and Prosperous Moldova (BMDP) made one more attempt to come back to the partially proportional electoral system, or the mixed system, but their attempt was rejected based on the same reasons as those mentioned above. It should be noted that the subsequent attempts to amend the electoral system were undertaken via the initiation of some referendums. The initiative of the Social-Democratic Alliance of Moldova (ASDM) from 2002, and that of the Liberal Democratic Party of Moldova (PLDM) from 2008, to carry out some referendums in the view of passing to a mixed electoral system encountered a number of difficulties which could not be overcome. In the first case, there were some administrative obstacles raised by authorities that found some pretexts for invalidating citizens’ signatures in favor of the initiative to amend the electoral system. In the second case, there were some inconsistencies of the legislative norms which make it practically impossible to collect the necessary number of signatures in favor of a referendum. In this context, it is worth mentioning that according to the public opinion expressed within periodic social polls; the absolute majority of respondents (~52%) are in favor of passing to the majority electoral system, while only 20% are in favor of the proportional electoral system.

The attempts to amend the electoral system are based on relevant grounds. First of all, there were cases which clearly indicated on the risk of closed candidates’ lists, which favor corruption inside the parties. Usually, this kind of case is accompanied by large scandals when competition
begins for top positions in the list. On the other hand, the candidates who do not reach the top positions are not motivated to plenary involvement in promoting parties’ platforms, as their efforts cannot guarantee them places in the Parliament. The use of the fully proportional electoral system within those four electoral cycles generated a deeper alienation between electors and their elected representatives, inducing the following:

• A gap between MPs and voters, which is very difficult to be ignored, as the MPs residing in the capital city of the country, Chisinau, always account for about 60-75% of the total number of MPs, while the share of voters from Chisinau accounts only for ~25%;

• High electoral thresholds for both parties (6%) and for independent candidates (3%), which reduce the advantages of the proportional system. After adopting the proportional electoral system in 1994, no independent candidate could accumulate the necessary number of votes so as to be represented in the Parliament. Those approximately 10-14 political structures which, during the four electoral cycles, could not pass the electoral threshold of 4% or 6% alongside the independent candidates, gathered together within each parliamentary election about 18-28% votes, which were proportionally distributed to those 3-4 structures with a percentage of votes over the electoral threshold;

• The authorities from ATU Gagauzia were constantly disapproving of the fact that the Parliament did not cover any candidates representing this autonomous territory, and this is in spite of the fact that the number of Gagauzian persons represented in the legislative forum was always greater than the percentage of Gagauzians from the population of the Republic of Moldova;

• The strongest argument favoring the revision of the electoral system is the fact that the absolute majority of the respondents from opinion polls is not in favor of the proportional system with closed party lists, but prefers the majority system, or at least the mixed system.

Section 2. POLITICAL PARTIES

Evolution of the Legislation on Political Parties

The first Law No. 718-XII, dated 17.09.1991, on Political Parties and other Social-Political Organizations was considered to be of good quality, covering rather simple provisions which were easy to be carried out within the political structures’ registration process. The law defined the parties and social-political organizations as “voluntary associations of citizens, established based on community concepts, ideals, and goals, which contribute to the fulfillment of the political will of a certain part of the population by legally conquering the state power and participation in its execution”. The socio-political organizations meant political fronts, leagues, and mass movements. Actually, from a legal point of view, there was no difference between political parties and social-political organizations. For the purpose of being registered, the political structures were to present 300 signatures, as registration of supporters’ membership was obligatory both for parties and for socio-political organizations. As well, for the purpose of being registered, all political structures had to submit their political programs and party rules developed in compliance with a number of mandatory criteria.

The components of the Alliance for Democracy and Reform (ADR), which represented the majority of the government in April 1998, decided to amend the legislation on parties which was in force until September 1998, when there were over 60 registered parties. The parliamentary elections of 1994 and 1998 revealed that only four parties and blocks were able to overpass the

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3 Thus, a considerable number of votes are always “lost”, and about % of voters remain, actually, unrepresented in the supreme forum of state power.
electoral threshold of 4%; approximately 10-15 of electoral candidates (parties or electoral blocks) registered by CEC for participation in elections were not able to obtain more than 4%, gathering together ~20%; approximately half of the political structures were not able to even announce their intention to participate in elections. This situation, along with the "lost" votes of the parties unable to reach the electoral threshold, distributed proportionally among the parties represented in the Parliament, served as grounds for passing Law No. 146-XIV on September 30, 1998, for amending and completing the Law on Political Parties and other Socio-political Organizations. As a result, the registration conditions for political structures became much more severe. First of all, all extant parties were obliged to re-register, proving that they have 5,000 members, coming from minimum half of territorial-administrative units, but not less than 150 members from each of them. The above-mentioned conditions were to be also applied to new structures which were established after the invoked amendments. As a consequence, more than half of the political parties in existence by 1998 did not even try to re-register, and the total number of parties registered in compliance with the amended legal provisions dropped by approximately two thirds. Secondly, these amendments made it practically impossible for regional parties to become re-registered, generating the dissatisfaction of the political forces from ATU Gagauzia.

Up until 2002, the Law on Political Parties was amended three additional times, introducing some modifications for making clearer certain norms. After opposition protests that took place in 2002, authorities decided to introduce new modifications in the Law on Political Parties. The respective amendments provided for drastic measures of control over the activity of the parties, as well as the obligation to submit reports and re-register on an annual basis by proving that the number of the party members did not drop below 5,000. Under the pressure of parties' protests, and due to the influence of the European institutions, the governing authority was constrained to concede and to return to the previous rules on parties' operations.

Pre-electoral Situation of the Political Parties

At the present moment, 28 political parties are registered with the ministry of Justice and their number shall not increase considerably up until the start of the electoral campaign. More than a half of the registered parties amended their constitutional documentation so as to bring them in line with the provisions of Law No. 294-XVI dated, 21.12.2007, on Political Parties, and several structures already received the necessary approval acts from the Ministry of Justice, while others are to receive them at latest in one month, or 30 days, after the date the acts were submitted. The situation of the other parties which did not request approval for modifications from the Ministry of Justice, is uncertain: some of them consider that their documents are all right and their activity is according to the new Law; but with others it seems that they only exist formally and it is not excluded that soon they will not be able to bring evidence that they actually exist de iure. The situation will be clarified after November 1, 2008, and it will be clearer to see which political parties successfully passed the legal exam imposed by the new regulations, as well as which of them will have problems in confirming the legality of their activity and of the right to participate in parliamentary elections.

Similarly to the previous parliamentary elections, the parties will be the main actors in the 2009 elections, their role being even more important than in previous times. This situation was induced by the following convincing reasons:

1. Law No. 76-XVI, dated 10.04.2008, excluded the provisions in the Electoral Code allowing the establishment of electoral blocks, which are practically prohibited, as there are no other legal modalities for “pre-electoral joining of efforts and resources.” The same Law has increased the electoral threshold for the political parties again up to 6%, without any
essential motivation, in spite of the negative opinions of Community entities and the disagreement expressed by the parliamentary and extra-parliamentary opposition.

2. The electoral system was not amended; the same proportional system favoring the parties with traditions stays on.

3. The new Law No. 294-XVI/21.12.2007 on Political Parties has been enforced. It has introduced essential regulations concerning parties’ operation and financial support mechanisms as a consequence of the results obtained during elections. In spite of the insistent recommendations coming from the international entities, the adopted law does not provide for the possibility to establish regional parties or parties by ethnic criteria – a situation that determines the parties set at the national level to come with offers in the respective segment as well.

4. The electoral entities at all levels are established, partially from members appointed by the political parties with representation in the Parliament.

5. Law No. 26-XVI, dated 22.02.2008, on Assemblies has been passed and enforced. The law includes provisions that are in line with the standards and recommendations of the CoE and other Community entities. Implicitly, the issue of electoral manifestations receives adequate solutions, offering equal possibilities to all parties.

6. Up until the present moment, it has not yet been ensured the essential de-politization of public positions and the parties having large political weight may promote their members or sympathizers in public positions of level one, thus ensuring a certain amount of administrative support.

7. The efforts undertaken during 2007-2008 by the majority of parties with political weight and the increase of the competition in the field do not leave any doubts that the main political actors shall rush into an electoral fight, and the majority will do it on their own, as the recommended, wished for, and declared fusions remain as distant desideratum.

Analyzing the above mentioned through estimates based on the results of the last elections and the conclusions of the opinion polls, it is noted that only 1/3 of registered parties have sufficient capacity to compete seriously in the electoral competition for representation in the Parliament.

New Law on Political Parties and its Implications

4. By increasing the electoral threshold, new barriers are induced for small parties, thus preserving the trend of dividing the influence by extremes of the political chessboard. The fact that the electoral threshold for independent candidates remained at 3% induces a low probability for such candidates to join the Parliament.

5. Due to this system and the increase in electoral threshold, during the parliamentary elections from 2005, only two parties and one electoral block succeeded to join the Parliament, and 16.42% of votes gathered by the rest of the electoral candidates were distributed among the winning entities, which received an additional number of mandates (places) in the Parliament: PCRM gathered 45.98% votes, but obtained 56 mandates; PPCD gathered 9.07% votes and obtained 11 mandates; EB “Democratic Moldova” gathered 28.53% votes with 34 mandates.

6. The expertise of CoE and Venice Commission undertaken for the Law on Political Parties, Electoral Code and electoral practices in Moldova, for the amendments made to the Electoral Code; OSCE/ODIHR reports on the observation of parliamentary elections in 2005 and general local elections in 2007, etc. Authorities stated that national minorities have a representation in the Parliament, which is even higher than the share that would occur in case of some legally established standards.

7. The respective modifications were introduced immediately after the elections from 2005, via Law No. 176-XVI, dated 22.07.2005, being a component of the electoral reform promoted under parliamentary political consensus conditions.

8. Party members may hold public positions, starting with that of Chief of State, and up to the position of a secretary or employee of decentralized and deconcentrated public services; special restrictions are preserved only for the employees of law enforcement agencies and some structures with special exigencies (customs, ombudsman). Unlike the previous law, the new Law on Political Parties does not directly list the categories of civil servants who cannot be members of party, using only a reference norm (art.6 par.(4)), according to which the persons who “are prohibited to participate in activities with political character” in line with the legal provisions cannot be members of political parties.

9. According to the results of recent polls carried out in 2008 by CBS-Axa (September 22 - October 1, 2008), CIVIS (POB September-October 2008) and Association of Sociologists and Demographers from RM (Sociologic Poll „Vox Populi - 2008”) only a limited number of parties were accredited with voting options over 1% (in alphabet order: “Our Moldova” Alliance, Party of Communists of Republic of Moldova, Democratic Party of Moldova, Liberal Party, Liberal Democratic Party of Moldova, European Action Movement Party, National Liberal Party, Republican People’s Party, Christian Democratic People’s Party, Social Democratic Party of Moldova. The trends from the recent period indicate that there is one more party joining the above mentioned - Centrist Union Party, in case if the activity of this structure is considerably fostered by having as chief of party the ex-prime minister, Vasile Tarlev).
Law No. 294-XVI/21.12.2007 on Political Parties represents a legal act of maximum importance for the fate of the subjects whose activity is regulated by the law and shall have an increased relevance for the parliamentary elections starting in 2009. The law contains a number of innovatory legal norms regarding:

- **record of political parties (art.11)**: the information from the Register of Political Parties is of public interest; all information about party rule modifications shall be published in the Official Gazette and on the web page of the Ministry of Justice (MJ);
- **termination of political party activities through dissolution (art.22)**: in case of activity based on an amended and completed party program and rules with no adequate registration; in case of inactivity (non-participation in consecutive electoral campaigns or gathering a smaller number of votes during elections than the number of members necessary for registering the party); activities carried out through illegal ways and means, and others;
- **donations which can be made to parties (art.26-27)**: incomes from donations limited to at most 0.1% of incomes provided in the state budget; limiting donations on behalf of natural persons (at most 500 average monthly wages) and legal entities (at most 1,000 average monthly wages); interdictions for foreign entities (with foreign capital, non-commercial, trade-union, charity, and religious organizations, by minor citizens or citizens abroad, by foreigners or anonymous persons, etc.) to fund directly or indirectly, support in any form the political parties;
- **funding political parties from the state budget (art.28)**: total annual allocations of 0.2% of incomes provided for in the state budget; 50% for parliamentary parties, and 50% for parties (including parliamentary parties) with representation in local authorities; the possibility to lose the right to state budget funding in case some violations are discovered;
- **financial reports (art.30)**: to the Court of Accounts, Ministry of Finance and MJ;
- **publicity of the information on electoral campaign funding (art.31)**: expenditures – information of public interest; periodical reports; possibility to cancel the registration in case of receiving or using means contrary to legal provisions; publicity of the expenses list of each political party for the electoral campaign;
- **obligation to conform to new regulations (art.34)**: by October 1, 2008, all parties should have adjusted the establishment and operation documents, as well as “their entire activity” in compliance with the new law.

The enforcement of the new rules already induces conflict situations and damages the activity of some political structures that have to go to courts so as to make the Ministry of Justice register the modifications undertaken within their party rules, etc. Difficulties are not excluded even for the parties with political weight, as many things depend on the modality used by the Ministry of Justice for registering the amendments, and especially for verifying the way in which parties carry out “their entire activity” in compliance with the new law. It is obvious that cases cannot be excluded when the enforcement of the new law will produce some uncomfortable situations for the parties that do not succeed to keep pace with the requested level of internal activity and organization.

It can be stated that the new Law on political Parties provides for certain difficulties and further on can induce some “legal pitfalls” for the political parties which would not be able to manage in a professional and prudent way the conclusion of documents, submission of information, reports and statements, dissemination of declarations, and the implementation of some public actions and events.
Code of Conduct

The experience of previous electoral campaigns revealed that the antagonisms and conflicts from the electoral period usually perpetuate also after an elections. Damages to reputation and image were encountered both for legal entities and for political personalities. In such cases, even the voters’ interests are affected. The manipulations, altercations, blaming in mass-media, and other negative phenomena have an adverse impact on citizens’ trust in political parties.

For the purpose of establishing a normal framework for election confrontations, through the amendments made within the Electoral Code by Law No. 176-XVI, dated 22.07.2005, there shall be instituted the possibility of signing a Code of Conduct between electoral candidates and mass-media representatives, regarding the way to carry out and reflect the electoral campaign which excludes damaging candidates’ dignity and image. According to art.22 of the Electoral Code, CEC organizes prior consultations with political parties and mass-media representatives so as to ensure their signing of the Code of Conduct before starting the electoral campaign.

The observance of the Code’s provisions and lack of sanctions in case of violations of such provisions represent some subjects which still are not addressed unequivocally, but the existence itself of legal rules in this field and the experience of the general local elections from 2007 offer some grounds for optimism. The application of the deontological rules and the obligation assumed on a voluntary and solemn basis by signing the Code of Conduct, should, normally, have an effect on electoral stakeholders’ conduct; on the contrary, their conduct may be subject to disapprovals and direct sanctions on voters’ behalf.

Political Consensus Perspectives

Parliamentary political consensus, established after the elections of 2005, had a significant impact on political life in the Republic of Moldova, the stable socio-political situation favoring the fulfillment of measures meant for achieving the European Integration goal. The launch of a number of reforms in the field of maximum relevance for Moldova’s European vocation, the existence of some already gathered experience, the external considerable support represent just several elements that request further efforts for maintaining the political consensus in the most important issues: European integration and settlement of the Transnistrian conflict (country reintegration).

Conclusions and Recommendations

- the enforcement of the new Law on Political Parties shall be carried out in a permissive way, especially if the normative provisions are not sufficiently explicit;
- as the Law does not set clear terms for verification and effects of some discovered drawbacks, it is recommended for the Ministry of Justice, to abstain itself, until elections, from abusive involvement in the investigation of the “entire activity” of the political parties or from any other measures that would be to the detriment of the rights of the political parties previously registered and their participation in elections;
- the efforts of the authorities (especially of MJ and CEC) shall be focused on achieving a high level of transparency for public information about party activities and funding by carrying out operative updating of the data from the Register of Political Parties and publishing this information on the official web pages;
- the revision of the electoral threshold for political parties may be carried out in a limited period of time, and other modifications that would refer to political parties’ legislation or would affect political parties’ situation in the immediate future, or during the electoral period, shall be
undertaken only in exceptional situations with well-grounded reasons and prior debate and expertise, including within specialized international institutions;

- the activity of the political parties shall be reflected in a fair and equitable way in public mass-media, including the time preceding the electoral period;
- CEC shall undertake essential efforts for ensuring the signing of the Code of Conduct by all parties – electoral candidates of supporters of electoral candidates;
- It is recommended that political parties and civil society organizations sign a Pact on Political Consensus so as to maintain the European Integration vector.

Section 3. FREEDOM OF ASSEMBLY

The freedom of assembly represents one of the fundamental human rights, being ensured through meetings, demonstrations, and other processions and events, a person’s right to communicate and publically express his/her opinion. Together with the freedom of conscience and freedom of expression, the freedom of assembly constitutes a guarantee of political pluralism and an evidence of the State’s democratic character.

New Law on Assemblies

The European integration policies resulted in Moldovan acceptance of European rules and harmonized the national legislation with Communitarian standards, including the aspect of revising the old system for assembly regulation. On February 22, 2008, Law No. 26-XVI on Assemblies was passed, establishing a new system for regulating assemblies – a simpler one and not imposing a prior authorization, it is enough for the organizer to tell the local public administration authorities about its intention. For the purpose of adequate enforcement of the rules stipulated under the Law on Assemblies, it is important to make these rules known to decision makers and concerned public authorities.

Deficiency of some Parallel Regulations

The provisions of the Law on Assemblies should be related to the connected legislation. In a contrary case, the issue of MP’s legally using the administrative factor for organizing meetings with electors will emerge. Thus, according to the provisions under the Law on MP Status, the MP is entitled to organize meetings, demonstrations, processions, and any other peaceful gathering in accordance with the Law on Organization and Implementation of Meetings, and local public administration authorities “are obliged to grant MPs the necessary support” for organizing the activities with electors, ensuring access to public places and premises, necessary information and equipment, on-time announcement of electors about the time and place of the meeting with the MP, etc. Taking into consideration the fact that the Law on MP’s Status was not amended, the new Law on Assemblies does not settle the problem of “meetings with voters”, and art.13 from the Electoral Code does not oblige the MPs to suspend their activity starting with the moment they are registered as electoral candidates, thus MPs’ use of the administrative factor during the electoral period serves as a legal “coverage” and may place candidates in different and unequal situations.
Conclusions and Recommendations

- Although the legal framework for organizing assemblies is adjusted to the European standards and is in compliance with a democratic state’s exigencies, the new law must be harmonized with the connected legislation as well;
- The Parliament should revise the legislation and ensure for the MPs registered as election candidates not to take advantage of legal allowances related to their status, but to participate in elections on an equal basis with other candidates;
- CEC and observers shall monitor in a special way the manner in which the legislation is enforced in case of candidates that preserve for themselves a special public status (MPs, Prime Minister, President of RM);
- The provisions of the new Law on Assemblies already generated deficiencies related to interpretation and enforcement by public order maintenance entities; for the purpose of not admitting such deficiencies in the future, it is recommended to interpret such rules about public order maintenance in a uniform way for all similar cases.

Section 4. MASS-MEDIA AND PUBLIC INFORMATION

Situation in the Mass Media Field

Citizens’ trust in mass-media institutions remains relatively constant, being ranked by sociological polls at 55%. According to some studies carried out by organizations specializing in mass-media, over 420 institutions manufacturing “media products” are now registered in the Republic of Moldova, of which: 60% are printed mass-media (newspapers and magazines); 13% are radio stations; 8% are TV channels; 15% are cable TV; and, 4% are news agencies. The majority of mass-media institutions are privately owned, and only about 70 institutions are public (state, and municipal owned). Actually, the number of holders of broadcasting licenses in the audiovisual field has increased as compared to the 2005 situation.

Political and economic tensions persist, and although it has slightly improved, mass-media funding is rather precarious, thus strongly influencing editorial, political, and institutional independence. The “Teleradio-Moldova” Company continues to reflect the events in authorities’ favor and has not transformed into an authentic, independent and impartial public institution. The activity and the decisions of the Audio-Visual Coordinating Council are strongly influenced by authorities and political interests. The implementation of the Audio-Visual Code served as a pretext for making some public radio-broadcasters disappear.

In spite of all announced and undertaken efforts, the situation in the field of rights and freedoms of expression in the Republic of Moldova still presents concerns regarding freedom of expression and audiovisual reform. The Government alienated the publications it was a founder of (“Moldova Suverană”

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12 According to the information of the Audio-Visual Coordinating Council of (ACC), www.cca.md
14 The study “Monitoring the implementation of Audio-Visual Code provisions” (carried out by CII), statements of one of ex-members of ACC.
15 The most serious concerns referred to the public stations from the capital city: the radio station “Antena C” and the TV station “Eu TV Chisinau”, and the abusive and tendentious manner used for reorganizing “through alienation” the respective public broadcasters revealed the existence of a secret agreement among the political forces dominating at that time at the local level, which ensured for themselves “the take over through privatization” of the respective audiovisual institutions.
16 The National Action Plan in human rights field for 2004-2008 (PD No 415/24.10.2003), the Plan of Actions EU-RM (including the programs for its implementation) and the Calendar Program of Legislative Actions in compliance with the Resolution and the Recommendations of the Commission on Observing the Obligations and the Commitments of the member states of the Council of Europe (PD No 284/11.11.2005) provided for separate chapters and distinct measures for ensuring the observance of mass-media’s freedom of expression and audiovisual reform. The Government alienated the publications it was a founder of (“Moldova Suverană”
mass-media, access to mass-media, and an impartial perception of parliamentary election advocacy. Mass-media has a huge impact on public opinion during the electoral period, and if the electoral process is not conducted in an impartial and well-balanced manner, the citizens shall be denied the possibility to an informed and conscious voting, and elections will not be considered to be fully free and fair.

Relevant Amendments in the Electoral Code regarding Mass-Media Activity

Following the parliamentary elections of 2005, the Electoral Code suffered a number of completions referring to mass-media activity during the electoral period and the collaboration of the information means with electoral bodies, electoral candidates, and information of the public at large. The provisions regarding equal media coverage rights for all electoral candidates, including radio and TV, funded from the state budget remained in force (art.46 par.(1)), and new provisions were introduced in the Electoral Code as indicated in the following:

a) the obligation to observe the concept and the regulation on presenting electoral campaigns when broadcasting all analytical, informational, and entertainment shows, as well as other shows that deal in some way with electoral subjects, and to broadcast the shows dealing with electoral subjects only under the title “Elections” for estimating the cost of the air-time (art.47 par.(7));

b) upon CEC request, mass-media shall broadcast social, civil, and electoral education commercials, information campaigns for electors about the voting procedure and other peculiarities of elections (art.64 par.(3))

c) the obligation of the public audiovisual institutions and the right of private institutions to organize public debates, upon CEC request, during the entire electoral campaign period, on an equal basis for all electoral candidates: not less than 90 minutes per day for one or more shows (art.64 par.(5));

d) assimilation of the electoral advertisement in Internet and through mobile telephony with the electoral advertisement in written (art.47 par.(15)).

New Regulations in the Mass-Media Field

During an electoral period, mass-media activity is subject to additional regulations as stipulated in the Electoral Code. Following the parliamentary elections of 2005, a document of fundamental importance was developed and adopted – Audio-Visual Code; the draft of the respective code, as well as of the law that was finally passed, were highly criticized by media organizations, opposition political parties, and civil society organizations. However, the Audio-Visual Code is a

and “Nezavisimaia Moldova”), but the process was not very transparent and these newspapers are considered to be further on obedient to the power.

The concerns expressed by journalists and organization from human rights field related to the actions undertaken by the authorities against mass-media institutions still persist; the international institutions (OSCE, Council of Europe), the representatives of the Communitarian entities and of the embassies accredited in the Republic of Moldova have pointed out for numerous time the abuses and disproportional interventions of the authorities and law enforcement agencies. OSCE/ODIHR reports on observation of parliamentary elections from 2005 and the general local elections from 2007, the joint recommendations of the CoE and OSCE pointed out a number of problems referring to mass-media operation during the electoral campaign and recommended a range of measures which still are not fully implemented, as their implementation is rather problematic.

The enforcement of the respective rules during the general local elections of 2007 pointed out the importance and the efficiency of participation in public debates, and partially reduced the possibility to use administrative resources in mass-media.

The respective completion was made in a hurry, and when being enforced it may generate multiple deficiencies and conflicts, especially due to the fact that the “right of Internet” is generally under-developed, and in the Republic of Moldova it is only in its initial stage of development. The recent interventions of the law enforcement agencies against some young persons placing messages on the Internet revealed the anachronisms of the regulations and practices in the field; but during the electoral campaign we will have to deal not with some simple enthusiasts but with IT professionals; that is why it is very difficult to forecast the evolution of the respective field.

necessary document and it included a number of provisions in line with European standards in the respective field. But, as in many other fields, the implementation mechanisms remained imperfect and the enforcement of these provisions reveals new regulation deficiencies.

Law No. 1107-XVI, dated 06.06.2002, constitutes a step forward to meet the requests for establishing clear criteria for determining the quantum of compensation granted in cases of defense of honor, dignity, and professional reputation; via the respective law, art.16 of the Civil Code was completed with provisions stipulating that the compensation is to be of a reasonable quantum, and a number of special factors are to be taken into consideration when determining the compensation quantum: - the character of the information and the area in which the information was disseminated; social impact on persons; - seriousness and extent of resulting psychological or physical suffering; - proportionality between granting compensation and level of reputation damage; - the level of damage for which the author is responsible; - the extent to which the compensation can match the damaged person’s suffering; - publication of the rectification, reply or contestation before court decision is pronounced, etc.

Information about Electoral Campaigns and Elections

According to art.7 par.(2) of the Audio-Visual Code, when granting broadcast time to a political party for propagating its positions, the broadcaster shall also offer, within the same type of show and at the same time, broadcast time for other political parties, without groundless delay and without favoring any particular party. Art.7 par.(3) of the Audio-Visual Code stipulates that for the purpose of encouraging and facilitating the pluralist expression of opinion trends, the broadcaster shall reflect the electoral campaigns in a fair, well-balanced and impartial manner. Broadcasters’ concepts on reflecting electoral campaigns are approved by the Audio-Visual Coordinating Council and are submitted to the Central Electoral Commission in strict compliance with the legislation in force. Art.40 provides for the ACC to adopt the concept for presenting the electoral campaign for parliamentary and local elections in compliance with the provisions of the Electoral Code.

Art.18 par.(4) of the Electoral Code provides for an obligation to publish CEC decisions within 24 hours since the moment they were passed, on the official site of the CEC and in the Official Gazette of RM (within 5 days). According to art.22 and art.26 of the Electoral Code, the CEC shall establish a close collaboration with mass-media, having among its duties the following: - collaboration with media coverage and public associations when organizing events dealing with the electorate’s civic education and information for the public at large about the organization of the electoral process; - preparing information programs for voters during the electoral period; - offering data regarding the organization of elections and the administrative practice used in media coverage; - offering electoral issues for debates to the public at large and media coverage; - making the final results of elections known to the public.

Conclusions and Recommendations

The general conclusion that may be drawn is the following: the legislation of the Republic of Moldova, to a large extent, observes the international and Communitarian standards in the field of mass-media regulation and operation, being in line with a number of recommendations in this

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20 Please see the Report “Monitoring the implementation of the Audio-Visual Code provisions” carried out by the Association of Electronic Press of the Republic of Moldova (APEL), www.apel.md.
21 Nevertheless, the judicial practice in the field did not become uniform, and without a pre-established quantum the abuses may persist; thus, mass information may be threatened through intimidations and court trials that consume considerable resources, and may end with financial sanctions that are rather difficult to cope with.
respect. However, for the purpose of ensuring objective and equal information, limiting the manipulation of public opinion and denial of abuses that intimidate mass-media and may limit its independence, a number of measures shall be undertaken as follows:

- the Concept and the Regulation on presenting the electoral campaign should be improved and discussed as soon as possible, prior to the beginning of the electoral period, in a transparent manner, taking into consideration the recommendations coming from media institutions, civil society organizations, and specialized international entities;
- during the electoral period, the CEC should establish an information center with permanent activity, led by a spokesperson who will: ensure the relations between CEC and mass-media; organize briefings and press conferences; offer information to interested persons and organizations, etc.;
- the mechanisms for enforcing electoral legislation provisions should be clarified for the sanctions applied in case of a violation of the rules regarding re-election;
- the amendments to electoral legislation referring to mass-media should be made in a transparent manner by attracting and consulting local and international experts;
- the CEC should make essential efforts to ensure the signing of the Code of Conduct by all electoral candidates, and by as many mass-media institutions as possible; special attention should be given to written publications, press agencies, and broadcasters with regional and national coverage;
- the news on implementation of the electoral campaign should be part of some information bulletins of the “Teleradio-Moldova” Company, and the segment of this news should be separated from other news;
- within the news bulletins, while reflecting Government activities during the electoral campaign period, the TV stations should also present opposing views;
- the time dedicated to voters’ information and education should be increased so as to inform the voters about their rights and the voting procedure;
- in cooperation with the CEC, the ACC should monitor the implementation of the provisions set forth in the Electoral Code and Audio-Visual Code regarding mass-media, and should undertake prompt and efficient actions against violations prior to, and during, the electoral period;
- the authorities should undertake measures for efficiently implementing the recommendations of the Committee of Ministers of the CoE concerning measures for media coverage of electoral campaigns (Rec No R (99) 15), and, in particular, the chapter referring to mass-media defense during elections: protection of journalistic activities; adequate protection of journalists, their offices, and dwellings against violence and attacks which might be caused by their professional activity during elections;
- the issue of electoral advertising through mobile telephones, and especially through the Internet, needs special attention, as the regulations stipulated in the Electoral Code are not sufficient; they have to be completed by the inclusion of other provisions and special instructions which will be coordinated and correlated from the perspective of technical and technological relations; the ideal solution for the present-day situation would be for the respective norm of the Electoral Code to be ignored or enforced very permissively; the Parliament still has time to intervene for abrogating the respective provision, and this action would be commendable.

23 In particular, there should be studies and considerations for the recommendations of the Seminar “Mass-media and Elections” organized by the CoE Bureau of Information and Documentation in Moldova, Chisinau, April 17-18, 2007.
24 The wordings “violation of public order and ethic rules” from art.47 par.(1) and “actions that damage candidates’ honor and dignity” from art.69 par.(1) of the Electoral Code are too general and may be interpreted in an abusive manner for limiting or even violating the right to freedom of expression.
Section 5. CIVIL SOCIETY

The sociologic study “Development of the Nongovernmental Sector in the Republic of Moldova” reveals in a complex way the development level and the potential of the non-governmental organizations\(^{25}\). According to estimations, only one fifth of the 6,500 NGOs registered with the Ministry of Justice are relatively active. Other international studies with large circulation\(^{126}\) constantly state that civil society in the Republic of Moldova is fragmented, concerned mainly with survival issues and the seeking of funds, and less interested in social problems. In this context, it may be noted that the development of civil society organizations in the Republic of Moldova and their relations with public institutions passed through the following three conventional stages:

- **the first stage** covered the period from 1990-2001, when the relations between the non-governmental organizations and public authorities were very weak, but at least not antagonistic. During this period the number of NGOs increased tremendously from several dozen to about 3,500-4,000. This situation occurred due to the legislation in the field passed in 1996-1999, which had a permissive character and was of satisfactory quality;
- **the second stage** covered the period from 2001-2003, when the relations between the government and a number of NGOs became practically antagonistic. The press affiliated to the government was accusing NGOs of subversive activity, as it was funded from external sources and was actually carrying out the political orders of the people funding them. At their turn, the civil society organizations constantly were pointing out the government’s abuses and drawbacks. During the given period, the procedures for registering a NGO were significantly complicated, although the number of non-governmental organizations continued to increase at a rate of about 500-800 new organizations per year. The self-organization efforts of the civil society organizations during the 1997-2003 period were expressed within the framework of the four national forums of NGOs which debated such issues as: a legislative framework regulating the activity of civil society organizations; coordination of NGO activity by activity sectors, and its entire activity for promoting some advocacy campaigns; relations of civil society organizations with local and central public authorities; and, funding the associative sector;
- **the third period** started in 2004 and is on-going. The main characteristic of the third period refers to the start of cooperative relations between civil society organizations and public authorities. Actually, the cooperation was imposed by some international organizations accredited in the Republic of Moldova, such as the International Monetary Fund (IMF), World Bank (WB), and others, which conditioned their support for the Economic Growth and Poverty Reduction Strategic Paper (EGPRSP) by the cooperation of public authorities with civil society organizations. As a result, a number of NGOs were invited to join the Council for EGPRSP Participation which, in fact, marked the start of the cooperation period between NGOs and public authorities. This last factor had a significant impact on the cooperative development in different fields of strategic interest for the modernization of the Republic of Moldova.

Following the signing on February 22, 2005, of the Plan of Action European Union – Republic of Moldova (PAEURM), the idea of European Integration was set as basis for political consensus in the Republic of Moldova. From this perspective, the civil society organizations had to adjust their activity and self-organization modalities to the new objectives related to the European Integration goals. The clauses of the draft European Union Constitution (although not adopted) served as benchmarks in this respect, as they directly stipulate the objectives for building a “participative democracy”. Article I-47 of the above-mentioned document reflects the ways to

\(^{25}\) The study was carried out in 2006 by CBS “AXA”, jointly with the CONTACT Center, under the umbrella of the UNDP and the SOROS-Moldova foundation, [http://www.undp.md/publications/doc/Studiu_DSC.pdf](http://www.undp.md/publications/doc/Studiu_DSC.pdf)

involve citizens and interested groups in influencing the processes and decision of official representative and executive institutions: offering mechanisms to citizens and civil organizations for getting to know the visions and intentions of public and community institutions so as to be able to influence them; and, the permanent, open, and transparent dialogue with civil society organizations and their involvement in settling problems of public interest.

Following EGPRSP experience, when implementing PAEURM, the public authorities expressed their interest in cooperating with NGOs. In this respect, in 2005, a number of NGOs participated in developing the Concept on Cooperation between the Parliament of the Republic of Moldova and Civil Society, passed by the Parliament via Decision No. 373-XVI, dated 29.12.2005. The above-mention Concept established the general mechanism and principles of the interaction between the Parliament and civil society’s representatives, as well as the permanent consultation between these institutions. A step forward towards consolidation of Parliament’s relations with civil society was made when debating the issue of “Transparency in the Decision-Making Process” through practical implementation of the cooperation mechanism. As a result, Parliament’s example of cooperation with civil society was followed by the President and government structures: the President of the Republic of Moldova signed the Decree on Establishing a Commission for developing the National Security Concept, according to which representatives of civil society were also members of the respective commission; the Unit for Central Public Administration Reform Coordination proposed to civil society organizations to take part in discussing the draft law on central public administration, the draft law on public service and civil servants’ status; the Ministry of External Affairs and European Integration (MEAEI) launched the drafts of the Memorandum for Cooperation for public discussion during the European Integration process between MEAEI of RM, and civil society organizations and the Information and Communication Strategy for Republic of Moldova’s European Integration; a National Council for Participation was established under the umbrella of the Prime Minister, which shall monitor and evaluate a number of high-priority policy documents.

In spite of the above-mentioned positive factors, the cooperation process between civil society organizations and public authorities reveals a number of drawbacks which dramatically reduce the cooperation potential: a number of NGOs specializing in the mass-media field denounced the promotion modality of the Audio-Visual Code, stating that the cooperation with civil society was only mimed; the Government initiated the amendment of the Law on Public Associations without a prior consultation with these organizations, and without any transparency submitted this important document to the legislative power for consideration; the General Prosecutor’s office issued a memo for territorial and specialized prosecutors which, for the purpose of preventing the “destabilization of the socio-political situation,” provides for the need to urgently verify the activity of public associations involved in the organization of mass activities, so as to check upon the “legality of their operation” and their funding sources, etc. An extreme concern indicating that the administrative factor could be used for “filtering” civil society organizations relates to the fact that during the second half of 2008, the Ministry of Justice refused to register a number of public organizations and foundations, and by extensive interpretation of the provisions set forth in art.9 of the Law on Foundations, the Ministry of Justice imposed the

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14 The statements of some first-rank governmental officials induced some bewilderment and concern as they mentioned that the NGOs and the experts from these structures criticize without any justified grounds, misrepresent facts, do not correctly assess the positive things happening in the society, and actually damage the image of the country, etc.

15 Although the indications were not largely applied, the interventions of the Prosecutor’s Office were assessed by NGOs and opposition political parties as abusive, not-corresponding to the role and duties of the Prosecutor’s Office within the framework of state entities.

27 For instance, by the middle of September 2008, the Ministry of Justice refused to register the organization “Russia’s Friends in Moldova” led by the ex-prime-minister, Vasile Tarlev. A rhetorical question emerges – what kind of registration rules for NGOs do we have in the Republic of Moldova if a group of legal advisors consolidated around the prime minister with the longest longevity (2001-2008) in the Republic of Moldova were not capable of developing an NGO charter to be accepted by the Ministry of Justice?
requirement to increase the volume of the initial patrimony of the foundation from 3,600 lei to 80,000 lei – all this in the situation when the legislation does not allow for the given amount to be reduced (used) during a foundation’s activity process.

There is a special interest for the NGO role in monitoring the electoral process in the Republic of Moldova. During 1994-2001, the civil society organizations, such as Pro-Democracy and League for the Defense of Human Rights in Moldova (LADOM), were involved in civic and electoral education activities, as well as in monitoring the electoral process within the framework of some projects implemented under the umbrella of the International Foundation for Election Systems (IFES). Similar programs were implemented by the Helsinki Committee for Human Rights. During the given period, the electoral process in the Republic of Moldova was generally assessed as traditionally positive by the missions for election observations that were carried out under the OSCE and the Council of Europe Congress of Local and Regional Authorities. A group of NGOs announced in spring of 2004 the establishment of the Civic Alliance for Free and Fair Elections – “2005 Coalition”, so as to monitor the parliamentary elections planned for spring 2005. This action was undertaken only when the final report of the OSCE mission on implementation of local elections in 2003 discovered: “notable deficiencies” and a “regressive trend” in the electoral process; presentation of distorted information by state mass-media, which was extremely biased; detention of some opposition candidates and threatening other candidates with arrest; use of public resources for an electoral campaign’s goals; etc. The initiative group of 12 NGOs developed the Charter, Regulation, and Strategy of the “2005-Coalition,” made public on July 4, 2005, within the framework of a conference with the participation of all interested institutions and organizations. In line with the establishment act, the “2005-Coalition” was joined by 300 NGOs that signed the Charter and committed themselves to observe the provisions of coalition documents. The activity of the “2005-Coalition” encountered a number of difficulties in their relations with public authorities which were menacing it. The quality of the relations between the public authorities and the “2005-Coalition” alongside the electoral process evaluation was mentioned within the Resolutions of the European Parliament and the USA Congress. The only institution from the Republic of Moldova that established normal and cooperative relations with the “2005-Coalition” was the Central Electoral Commission (CEC).

Generally speaking, the activity of the “2005-Coalition” was assessed as positive, and this was confirmed by a special study carried out under the umbrella of the Eurasia Foundation16. Based on the recommendations made by the above-mention study, the initiative group of the Coalition revised the concept of its activity, drawing the following conclusions:

- the dilemma: a large Coalition versus an efficient Coalition is a false dilemma. The Coalition for Free and Fair Elections should be simultaneously efficient, professional, and with a large participation of adherents;
- the initiative group of the “2005 - Coalition”, set up from organizations specialized in monitoring different aspects of the electoral process (legislation, long-term, and short-term observation, election coverage in mass-media, civic and electoral education, etc.), will undertake its activity on a permanent basis on the eve of parliamentary elections, general local, and regional (in ATU Gagauzia) elections;
- the format of the Coalition’s initiative group should be flexible, based on merit, professionalism, observance of deontological rules stipulated in the establishment act with evidence of accumulated and applied experience;

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the Coalition should be open for membership by all organizations that share the principles stipulated in the documents developed by the initiative group, and should commit themselves to observe such principles;

the above-mentioned principles for re-dimensioning the activity of the Coalition for Free and Fair Elections were enforced within the framework of the general local elections in 2007 and the regional elections in 2006 and 2008\textsuperscript{17}. For the purpose of monitoring the parliamentary elections in spring 2009, the “2009-Coalition” was re-established and now it is updating its documents and offers for stakeholders interested in the electoral process.

Conclusions and Recommendations

- the Coalition for Free and Fair Elections should start its activity as soon as possible for monitoring the pre-electoral conduct of public authorities, mass-media, and other potential election stakeholders;
- the donor organizations should establish a Committee for Supervising the activity of the Coalition so as to increase its value and credibility.

Section 6. CIVIC EDUCATION AND INTERNATIONAL ASSISTANCE

Civic Education

Civic education is promoted mainly through the educational system due to the efforts made by civil society organizations\textsuperscript{18}. In 2005, the organizations from the Coalition for Free and Fair Elections began to develop programs in the civic education field: social democratization; roles and responsibilities of citizens, government, interest groups, mass-media, the private sector, and the non-governmental sector; and, importance of periodical electoral competitions, etc. The goal of the civic education programs is to encourage citizen participation in all public life aspects, to motivate electors to participate in voting, especially the youth, the citizens working abroad, unemployed people, and disadvantaged groups.

In line with the provisions set forth in art.22 of the Electoral Code, the promotion of civic education is a permanent duty of the CEC. During the last three years, some progress was made in terms of civic education promotion efforts. In this respect, the CEC carried out a number of civic education programs and conferences so as to familiarize young voters with the notions of electoral law and electoral procedure, to increase their interest towards elections, and to educate a more active and responsible citizenship, thereby implicitly increasing the youth participation rate in elections. For this purpose, a number of different competitions were launched: a drawing competition “You, too, have the Right to Vote;” and, an essay competition “Your Vote Counts, Decide Your Own Fate”. The CEC also plans to organize the “Day of the Young Voter” on an annual basis, which will cover different educational programs for raising awareness about the criteria of free and fair elections, establishing a civic attitude, and understanding the need to participate in voting, etc.

\textsuperscript{17} Partial result of the Coalition activity during the mentioned elections may be found on: www.alegeri.md.

\textsuperscript{18} For instance, in 2002 the SIEDO Organization supported the authorities’ efforts to introduce in the curriculum of the upper grades a subject dealing with socio-political education.
International Assistance

The CEC and other public institutions maintain cooperative relations with a number of international organizations that implement different programs for democratizing the Republic of Moldova. The same relationship is maintained with the Moldovan civil society organizations. In this respect, the cooperation of specialized international organizations, and of donor organizations with electoral bodies and non-governmental organizations, may have a positive impact for preparing and organizing the elections. For the purpose of improving the legal framework for electoral organization, the most important assistance traditionally comes from the Venice Commission and the OSCE. To improve the electoral practices, the CEC established cooperative relations with the Association of Central and Eastern European Election Officials (ACEEEO). In cooperation with the IFES, the CEC plans to organize a number of training events for territorial election officials. And, one of the CEC’s priorities is to develop and implement the Electronic Registry of Voters, and the first stage stipulated in the Law on the Concept of the State Automated Information System “Elections”, is carried out with UNDP support.

Conclusions and Recommendations

- the civic education programs mainly focus on civil society organizations, and the efforts undertaken in the field of public authorities and institutions are not yet sufficient;
- public mass-media should pay increased attention to civic education programs and social advertising, especially the one that deals with public participation;
- it is necessary to have technical and financial assistance for supporting the international and local organizations that are active in the Republic of Moldova in the field of civic education, and improvement and consolidation of observation missions for the electoral process.

Section 7. ELECTORAL RIGHTS

The electoral rights and their full exercise have a direct influence on the legality and lawfulness of electing representatives in eligible public entities. As political absenteeism becomes more and more pronounced, the principle of free elections takes different forms. Thus, a minimum level of participation in elections is one of the conditions for valid elections, and art.91 of the Electoral Code provides for the case of invalid parliamentary elections when less than ½ of the total number of registered persons in electoral lists participate in elections. The recognition of elections as invalid due to the non-accumulation of the necessary percentage of participants will always represent a violation of the rights of those citizens who took part in voting. The respective restriction may impose some unjustified spending of public money and may unjustifiably disparage both the electoral candidate and the voters. The threshold for election participation has raised concerns among national experts and specialized international entities.

Restrictions of Electoral Rights

The principle of universal voting prohibits the limitation of electoral rights based on race, nationality, ethnicity, language, religion, sex, opinion, political affiliation, well-being or social

28 More often than not, the threshold for election participation represented a concern and was subject to criticism by observers, and national and international experts, who have assessed this restriction as one that may lead to an electoral deadlock. Please see the Joint Opinion on the Electoral Code provided by the Venice Commission and the Office for Democratic Institutions and Human Rights of the OSCE from 2006 and 2007. The same objection is manifested in the Notification dated 23/10/2008 CDL-AD(2008)022 Joint Opinion on the Election Code of Moldova as of 10 April 2008, adopted by the Venice Commission at its 76th Plenary Session (Venice, 17-18 October 2008) http://www.venice.coe.int/docs/2008/ CDL(2008)094-e.asp
origin. Nevertheless, the electoral system induces conditions for exercising the following rights: a person’s citizenship; a person’s residence; a person’s capacity and lack of interdictions.

According to art.1 of the Election Code, a voter is a citizen of the Republic of Moldova with the right to vote. The right to vote is an exclusively political right and is recognized only for the citizens of the Republic of Moldova; aliens and stateless persons do not benefit from the rights to elect and to be elected. The arguments in favor of this limitation refer to the fact that only a state’s citizens can directly participate in governance and fully exercise the state power, and as in accordance with art.2 of the Constitution, the nation (citizens legally linked to the state and its fate) is the holder of the national sovereignty. The trend of limiting political rights based on citizenship has acquired an increasing dynamic: up until the end of 2007, the right to be elected was recognized for all citizens of the Republic of Moldova, regardless of whether they also hold citizenship in another state; beginning in 2008, by amending the Electoral Code, a new limitation was introduced for the right to be elected – the position of MP. At the same time, art.75 of the Election Code stipulates that persons with the right to vote and who “…are citizens of the Republic of Moldova and reside in the country” may run for an MP position. Based on the above, it results that restrictions target the emigrants and persons with dual citizenship. The regulations of the Electoral Code describe the situation of the persons with dual citizenship running for an MP position with a marked lack of clarity: practically, on one hand, it is prohibited for persons having dual citizenship to occupy the position of an MP; on the other hand, this is actually allowed if the person is under the procedure to refuse the citizenship of the other state.

The country residence condition is not clearly stated, thus allowing abusive interpretation and application of the norm. It is not clear what “residence in the country” means: to own or rent a house or an apartment; to hold a resident visa; to actually reside in the territory of the Republic of Moldova on a permanent or temporary basis; the notions of “domicile” and “residence” may exist concomitantly and a person may have a number of places of residence. According to the present-day situation, any person not having the “residence” stamp in his or her ID will not be allowed to vote, and will not be eligible for election to public office; this means that the right to vote and to be elected is conditioned by the existence of a stamp. In this context, a relevant argument comes from the Constitutional Court, which recognizes as unconstitutional any conditioning of the exercise of any right to residence and residence visa. The first and the second restrictions are not proportional to the situation that determined them and prejudices the existence of the right’s essence, being in contradiction with art.54 par.(4) of the Constitution.

According to the Constitution, the citizens granted interdictions in the way established by the law cannot vote. The Electoral Code in art.13 makes stipulations for persons who have no right to vote: persons recognized as being incapable via a final court decision, persons convicted and sentenced to prison via final court decision for serious, very serious, and exceptionally serious offences. The stipulation denying this category of persons their right to vote represents an exceedance of reasonable limits for societal protection and is in contradiction with the substance of the principle of free elections – a principle which is recognized and guaranteed by art.38 of the

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19 The limitation of the right to vote within the parliamentary elections for citizens may be justified, but the limitation of this right in local elections cannot be justified and is not proportional because the local power is produced by the local electorate’s will and does not come from State. Please see the Decision of the Constitutional Court No. 13, dated 14.03.2002.
21 Via the Decision of the Constitutional Court No 16 dated 19.05.1997, it was established that: a) the existence of the institution of residence visa in the legislation of the Republic of Moldova, its use within social relation is in contradiction with the constitutional principles and rules (art.27 and art.54) representing an obstacle for exercising the right of the citizen of the Republic of Moldova to free movement; b) the principle of recording the citizens who reside in the republic by granting them a resident visa from the domestic affair entities from the locality of residence is unconstitutional and contradicts the right to free movement. That is why the stipulations of some normative acts containing the wording domicile visa or residence visa were recognized as unconstitutional; c) the obligation to obtain a residence visa (or a domicile visa) contradicts the right to free movement, that is why the inclusion of such provisions in normative acts is unconstitutional.
Constitution. Besides, such a limitation of the election right is also in contradiction with the case law of the European Court of Human Rights (ECtHR), according to which the restrictions of the right to vote are incompatible with article 3 of Protocol No. 1 (right to free elections) of the Convention for Protection of Human Rights, affecting in a general, automatic, and non-differentiated way all convicted detainees. Via the latest amendments made to the Electoral Code, the circle of detainees’ categories was narrowed; nevertheless, the denial of the right to vote should be undertaken on an individual basis and the court should decide about each person separately.

Ensuring the Right to Vote for the Citizens on the left side of the Nistru River and those who are abroad

The participation in elections by the citizens of the Republic of Moldova in the localities situated on the left side of the River Nistru is decreasing continuously from election to election. This fact is due to the impossibility for Moldovan authorities to organize elections in the localities on the left side of the River Nistru, as well as due to the opposition to this process by the Transnistrian authorities. The voting procedure for the inhabitants of these localities encompasses the need to actually travel to the localities on the left side of the River Nistru, and the risk to be persecuted by the Transnistrian authorities who categorically refuse to open the polling stations for the elections organized by Moldovan authorities.

There is also the problem of ensuring the right to vote by the citizens of the Republic of Moldova who have left to work abroad. Taking into account the fact that almost 1/5 of citizens having the right to vote may be classified under this category, the efforts undertaken by the authorities to ensure the right to vote to these citizens are not sufficient. A serious impediment for ensuring the right to vote to citizens who are abroad relates to the conditions on election security – the printout of the voting ballots and their transmittal to the diplomatic missions should be carried out as close as possible to the elections’ day. The illegal immigrant status of the Moldovan labor migrants, as well as the lack of trust in the quality of the post services from the Republic of Moldova and some other countries with a high density of Moldovan workers, complicate the problem of ensuring the right to vote by opening more polling stations and voting in post offices.

Although the search for an optimal solution for settling this problem is an on-going activity, no legal solution for ensuring the right to vote for this category of persons was identified up to the present time. The adoption of the Law on Concept of the State Automated Informational System “Elections” sets the basis for settling this problem by offering possibilities to vote through the internet, but the use of this procedure will be possible only after several election cycles, when the electronic technology is secured.

Conclusions and Recommendations

The imperfection of the electoral legislation and the multiple amendments made to the Electoral Code are determined in substance by the current political interests and not only by the idea to improve the situation of those who decide in elections. Although the electoral legislation should be liable to amendments, this activity should not affect the constitutional human rights and freedoms. For the purpose of ensuring the exercising of electoral rights, the following is recommended:

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22 ECtHR, Hirst c. United Kingdom (nr.2)-74025701-6 October 2005.
23 Please see the Joint Opinion of the Venice Commission and ODIHR from 2006 and 2007.
to revise the provisions of art.91 of the Election Code so as to reduce the threshold for participation in parliamentary elections, from ½ to 1/3 of the total number of those registered on election lists;

- to ensure the right to exercise the right to vote for detainees who committed serious and very serious offences. The limitation of the right to vote for this category of persons should be decided by the court on an individual basis;

- to revise the limitations of the right to be elected to an MP position, based on a lack of resident status in the country and dual citizenship, as these restrictions do not correspond to the proportionality principle and prejudice the essence of the right, being in contradiction with the constitutional norms.

CHAPTER III. ELECTORAL PROCESS

Section 8. THE ELECTION DATE

The Constitution and the Electoral Code contain clear provisions regarding the appointment of the parliamentary election date. Beginning in 2001, problems have occurred in synchronizing the parliamentary and the presidential elections due to the competition of norms regulating each of the above-mentioned elections. The synchronization of the two types of elections imposes strict limitations which cannot be overlooked if we want to observe exactly the constitutional norms and the legislation in the field. In this respect, article 61 par.(3) of the Constitution provides for “elections of MPs to be held at most in 3 months since the day the Parliament’s mandate expires, or since the dissolution day of the previous Parliament”. The Constitutional Court was notified in 1997 to come with explanations regarding the moment the newly-elected Parliament’s mandate actually starts. Through Decision No. 31, dated 10.11.1997, the Constitutional Court established that “the Parliament’s mandate ends when a period of 4 years after the election date expires”. As the present-day Parliament was elected on March 6, 2005, its mandate shall expire on March 7, 2009, and the new composition of the Parliament is to be elected in at most 3 months from the given date (during March 7 – June 7, 2009).

On the other hand, art.80 par.(1) of the Constitution directly provides for the following: “The President’s mandate lasts for 4 years, and it is exercised from the day the oath is taken”. Besides, art.2 of Law No. 1234-XIV, dated 22.09.2000, on the Procedure for Electing the President of the Republic of Moldova provides for the chief of the state to be elected “at most, 45 days before the mandate of the incumbent President expires”. As the incumbent President was elected on April 4, 2005, and took the oath on April 7, 2005, his mandate expires on April 8, 2009, and the new President is to be elected during the period of February 22 – April 8, 2009. As art.1 par.(2) of the Law on the Procedure for Electing the President of the Republic of Moldova establishes that “the Parliament of the same legislature elects the President of the Republic of Moldova only once, except in cases of resignation, dismissal, and final impossibility to exercise a President’s duties, or death in office”, it means that normally only the new composition of the Parliament elected in spring 2009 shall have the right to elect the next President of the country.

A special interest is created by the eventual problem of a Presidential position vacancy, which according to some speculations may be used by the governing party to make use of the actual parliamentary majority for electing the future Chief of State. In accordance with art. 90 par.(1) of the Constitution: “the vacancy of the position of President of the Republic of Moldova occurs in
case of expiration of mandate, resignation, dismissal, final impossibility to exercise president’s duties, or death in office”. The procedure for electing the President is left by the Constitution to be taken on by the organic law, which is the Law on the Procedure for Electing the President: art. 2 of the given law makes a clear delimitation between the ordinary election of the President in case his or her mandate expires, and in the other cases. Thus, “when the vacancy of the position of the President of the Republic of Moldova occurs as a result of resignation, dismissal, final impossibility to exercise Presidential duties, or death in office, the election for a new President of the Republic of Moldova shall be organized in a period of 2 months from the date the position vacancy occurred”. The fact that in case of a President’s mandate expiration, the elections are to be organized on obligatory basis before this event occurs, is confirmed by the Decision of the Constitutional Court No. 41, dated 14.12.2000: “The Court points out that the constitutional stipulations from art.90 par.(4) and the provisions from art.2 of the Law on the Procedure for Electing the President of the Republic of Moldova delimit the conditions and the terms for electing the President in case of expiration of the mandate of the incumbent Chief of State from the conditions and the terms for electing the President in case of position vacancy occurrence due to resignation, dismissal, final impossibility to exercise Presidential duties, or death in office”.

The Constitutional Court, when considering the provisions of laws and decisions related to elections, points out that there are no contradictions between the above-mentioned norms, but only a competition of these norms’ provisions. From this point of view, the Parliament should appoint the day of parliamentary elections in such a way so as to not violate any provision of the Constitution or of the laws that establish the procedures for electing the Parliament and the Chief of State. In the context of that which is mentioned above, the Parliament should appoint the date of elections for one of the Sundays in mid-March 2009; this being the only possibility, in principle, which would allow the observance of all provisions related to time deadlines. For the purpose of fulfilling this option, the Parliament should adopt a decision regarding the appointment of the parliamentary elections by the end of December 2008, at the latest (as in January the Parliament is on vacation).

Conclusions and Recommendations

Situations that may provoke political speculations and tensions may occur due to the competition of the norms regarding the terms for appointing the parliamentary and presidential elections. For the purpose of avoiding unwanted situations:

- the date of the parliamentary elections in 2009 should be established up until the end of December 2008 during an ordinary session of the Parliament, and the electoral campaign should start after winter holidays (after January 15, 2009);
- the Parliament could amend the provisions of art.2 of the Law on the Procedure for Electing the President, for the Chief of State to be elected, for instance, 45 days after the expiration of the mandate and not before.

Section 9. BUDGET AND RESOURCES

For the purpose of preparing and implementing elections, it is necessary to have financial means which are to be estimated and calculated separately from year to year, from one election period to another. When analyzing the cost estimates approved previously by the CEC, it is clear that the estimation of costs and the development of electoral draft budgets take into account all the needs of the electoral bodies for organizing elections in line with the requirements set in the
Electoral Code. Thus, the electoral budget for managing the parliamentary elections in 2005 accounted for approximately 30 million lei, and the electoral budget for administrating the general local elections in 2007 accounted for approximately 33 million lei. For the purpose of organizing the parliamentary elections in 2009, the total amount of financial means planned to be allocated to the CEC in 2009 accounts for about 60 million lei.

The main problems encountered by the Central Electoral Commission start from the modality of developing the draft budget, which is prepared by the Ministry of Finance within the framework of the state budget for the respective year. At this stage, not all CEC needs for ensuring a proper administration of the elections were taken into account, and the approved amounts did not fully cover the real needs of all electoral bodies. For the first time, the state budget for 2009 plans to allocate a higher amount to the CEC than the one initially requested by the CEC, which after being approved by the Parliament will certainly settle the problem related to election funding. But, after budget approval, another problem occurs when CEC administrates the budgetary means allocated for elections. The Ministry of Finance, through the State Treasury, disburses the money necessary for electoral activities with a delay, and the CEC cannot transfer and use the financial means from one expenditure line item to another within its own budget. This fact leads to huge payment delays for electoral activities during the last week of elections, or even after elections. During the electoral periods of 2005 and 2007, the CEC was conceded to operate based on letters of guarantee issued to service providers or supplying economic units. The delayed disbursement of monetary means needed for organization of the elections leads to permanent anxiety and an unsafe environment, delays in electoral operations and mistakes made because of emergencies and overlaps of actions, etc. Some activities, like the training of electoral officials, representatives of electoral candidates, observers, and other activities were funded only on a partial basis, or were not funded at all.

Conclusions and Recommendations

It is timely to amend the way the budget is estimated and developed, as necessary to ensure free and fair elections, by virtue of the CEC being an autonomous and independent public authority. The functional autonomy of the CEC involves also the recognition of its budgetary autonomy which would guarantee fulfillment of its duties without any financial obstacles. The budgetary means are to be calculated in such a way so as to be enough for ensuring the organization in normal conditions of all electoral activities, during the entire electoral period and beyond, as well as to be sufficient to ensure an adequate remuneration to all electoral officials. For the purpose of carrying out the above-mentioned items, the following is recommended:

- to amend the Electoral Code for the CEC to estimate electoral costs and develop the budget draft, and afterwards submit them to the Parliament for consideration;
- the Government shall have the obligation to produce a consultative memo regarding the electoral costs;
- the legislation shall provide for the CEC to be entitled during the electoral period to decide on re-distribution of amounts allocated under different budget line items – a fact that would allow the CEC to cover the costs for some high-priority election activities.

According to the draft law on state budget for 2009 submitted to the Parliament (draft No. 2817, dated 30.09.2008).

For organizing the parliamentary elections in 2009, the CEC requested from the Government the amount of 47 million lei, but the draft law on state budget for 2009 plans an allocation of approximately 60 million lei.
Section 10. ELECTORAL ENTITIES. CONSTITUENCIES AND ELECTION STATIONS

Central Electoral Commission

The electoral entities are determined by the Electoral Code and are organized in three levels: the CEC, constituency electoral councils, and electoral bureaus of the polling stations. Only the CEC operates on a permanent basis; the other electoral entities function only during the electoral period. The composition of the electoral entities, and the composition of the CEC in particular, were discussed a number of times within society, and during the last few years the Electoral Code was amended seven times with regard to the composition of the CEC and the status of its members. This major interest proves once again the political sensitivity of the main electoral entity. The evolution of the CEC establishment has witnessed different forms:

1. At first the CEC used to be established in a term of 10 days since the date elections were appointed and was composed of 3 judges of the Supreme Court of Justice, 2 judges from the Court of Appeals, and one representative from every political party, every socio-political organization, and every electoral block participating in elections, but not fewer than 16 persons.

2. Following the adoption of the Electoral Code, the CEC included nine members: the Parliament, the President of the Republic of Moldova (the Government), and three members from each of the Supreme Council of Magistrates. The electoral candidates were entitled to appoint one member in the commission with the right to a consultative vote. After 2000, the CEC was composed of nine members appointed proportionally by the President of the Republic of Moldova, the Parliament, and the Supreme Court of Magistrates. When a single political structure obtained an absolute majority within the Parliament and the Government following the parliamentary elections of 2001, a single political structure could directly and indirectly control 2/3 of the CEC members.

3. Since 2005 (up to the present day) the CEC is made up of nine members with deliberative vote, as follows: one member is appointed by the President of the RM, one member – by the Government and seven members – by the Parliament, including five members from the opposition parties, proportional to the number of mandates held by each.

The modality to intervene in CEC composition by changing the rules for selecting its members raised a number of questions regarding the independency and impartiality of the Commission’s members. The removal of the Supreme Court of Magistrates from the process of CEC establishment points out the interest of parliamentary political structures to control this important electoral entity. Although the last amendments made in the Electoral Code prohibit Commission members to be members of political parties, the political affiliation or paternity of electoral entities’ members constitutes a problem that still persists, and the politization of the CEC members’ activities may affect their independence and impartiality.\(^{26}\)

Electoral Councils and Bureaus

The constituency electoral councils are set from 7-11 members with the right for deliberative vote: two candidates for constituency electoral council of level two are proposed by the constituency court, and another two candidates (for local elections) are proposed by local

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\(^{26}\) There is an opinion that CEC members might sometimes vote unanimously when taking decisions targeting the electoral candidates who are not represented in the Parliament and who do not have the right for deliberative vote in the CEC composition.
councils of the first and second levels, respectively. The candidates for the rest of the members with the right for deliberative vote are nominated by the parties represented in the Parliament on the day the constituency electoral council is established, and this is done in proportion to the number of mandates held by each of them. The electoral bureaus of the polling stations are established by the constituency electoral councils at least 20 days prior to the Election Day and cover 5-11 members with the right for deliberative vote. Three candidates for the electoral bureau of the polling station are nominated by local councils. In compliance with the amendments of the electoral legislation made on July 22, 2005, the candidates for the remaining members of the electoral bureau of the polling station having the right for deliberative vote are proposed by the parties represented in the Parliament, and their number is proportion to the number of mandates held by each of them. Councilors from local councils and members of a political party cannot hold the position of member of the electoral bureau of the polling station. In cases when the parties to not nominate their candidates for the composition of the electoral bureau of the polling station at least seven days before the deadline set for bureau establishment, the necessary number of candidates is completed by the local council.

These amendments have also contributed to the politization of the electoral entities and express the need to overcome the lack of trust from opposition parties in authorities’ abilities to ensure a transparent electoral process. Although the members of these electoral entities cannot be members of a political party, the political structures are to nominate for the composition of the electoral entities loyal persons who will be tempted to favor the political parties that have promoted them, in some situations. But the electoral candidates represented in the Parliament should not be favored by the law; equality possibilities shall be offered to every electoral candidate to ensure free and fair elections. The members of electoral councils and bureaus may be dismissed by the electoral entity and the candidate who has appointed them to the respective electoral entity, and this kind of formula endangers members’ independence of the respective electoral entity. The law does not clarify exactly what reasons may be used for dismissal, and the motivation is left at the discretion of the parties which have appointed them.

**Polling Stations**

For the purpose of ensuring the voting and the counting of votes, the electoral constituencies that correspond to the boundaries of the second-level territorial-administrative units are divided into polling stations at least 55 days prior to an election. The CEC and constituency election councils shall not wait for the deadlines to establish the polling stations, as the preparation activity for establishing these entities starts long before the deadline because the legal norm provides for a “minimum” formulation. This means that the law prohibits the establishment of the polling stations on a later day but not on a prior day.

The polling stations are set by the constituency election council from the locality based on the proposals coming from the mayors of the towns (municipalities), sectors, and villages (communities) at least 35 days prior to the election, and shall cover at least 30, and at most 3,000 voters. Actually, the polling stations serve approximately 1,000 – 1,500 voters. In case of elections of any level and republican referendums, the polling stations are set according to the same deadlines. Special polling stations may be established in hospitals, resorts, maternity clinics, shelters and hostels for elderly people. These polling stations shall include at least 30 voters. Persons in military service vote at the polling station from the locality at which their military unit is located.

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In case of parliamentary elections, polling stations are established under the diplomatic missions and consular offices of the Republic of Moldova for the employees of these institutions and the members of their families, as well as for the citizens of the Republic of Moldova who stay in the respective countries, regardless of their number. The given polling stations belong to the electoral constituency of the Chisinau municipality. In case of diplomatic missions and consular offices of the Republic of Moldova in other countries, the chairman and the secretary of the polling station electoral bureau are elected, and when the diplomatic missions and consular offices have less than three employees, the voting is to be made through diplomatic mail, and the voting ballots are to be sent to the address of the CEC no later than the election day.

With regard to the polling station size, there are concerns that the polling stations for 3,000 voters are too large, complicating the proper implementation of the voting process, as the hours reserved for voting are from 7:00 am to 9:00 pm. For instance, if the voters are served at three tables, then less than one minute is reserved for each voter. In this case, a solution would be to limit the number of voters who vote in the same polling station to 1,500-2,000 persons. The analysis of citizens’ participation in the parliamentary elections from 2005 pointed out that, during the voting process, the most agglomerated polling stations received up to 2,207 voters (but these were exceptions); on average the most agglomerated polling stations served about 1,500 voters. The analysis of the number of voters appointed by polling stations revealed that some polling stations had over 3,000 voters registered on their electoral lists, and this is in contradiction with the provisions of the Electoral Code. In the Chisinau municipality, four polling stations had from 3,055 to 3,394 registered voters on their electoral lists; in Dubasari, one polling station had 3,565 registered voters; in Orhei, two polling stations had 3,085 and 3,111 voters; in Ungheni, one polling station had 6,273 registered persons and another had 4,094 registered voters, but only 495 and 408 voters, respectively, actually voted. Only in case of two polling stations from the above-mentioned stations served 2,000 voters who really came to vote; in the remaining ones the number of people who actually came to vote was less than 2,000 persons. Thus, the problem with agglomerated polling stations is solved by electoral absenteeism.

Another problem refers to ensuring voting conditions for all voters. During the previous elections it was discovered that the majority of polling stations did not have an adequate arrangement; many of them were not accessible to persons with disabilities and were rather hard access by the elderly.

**Conclusions and Recommendations**

- The electoral entities should be secured against the direct and indirect influence of the political factors that have a direct interest in elections results. The members of the inferior electoral entities could be selected mainly from the reserves of electoral officials;
- The practice of dismissing the members of electoral entities who have the right for deliberative vote by the parties represented in the Parliament which have promoted them undermines the independence of the respective members of the electoral entities. The dismissal may be carried out by the CEC, and only for cases of violation of their duties as electoral officials;
- For the purpose of excluding an eventual agglomeration of the polling stations, it is recommended to reduce the number of voters served by a polling station to a maximum of 1,500-2,000 voters;
- The CEC and local authorities shall take precautionary measures to ensure free access to the polling stations for all categories of persons, including persons with disabilities and the elderly.

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28 On p. 53 of the Final Report of the OSCE/ODIHR Mission for Observing the Local Elections from June 3 and 17, 2007, it is mentioned that 3,000 voters for one polling station is too many.
Section 11. ELECTORAL LISTS

The full and correct compilation of the electoral lists was one of the most disputed issues during the electoral campaigns implemented in the Republic of Moldova after the declaration of independence. The cause of these disputes was the following: usually, 4-7% of the voters were introduced to the additional lists, while the basic lists would sometimes register the names of deceased persons. In this respect, the disputes regarding the existence of some mechanisms for manipulating election results based on inaccuracies in the electoral lists had some grounds, but there was no evidence whatsoever that this kind of manipulation was deliberate. To settle the problem of compiling adequate electoral lists, amendments were made to the Electoral Code during 2005-200829.

According to art.39 of the Electoral Code, the citizens with the right to vote may be registered on only one electoral list. The electoral lists are established by the mayoralty in duplicate for each polling station and include all citizens with the right to vote who, at the moment the lists are concluded, reside or have a resident visa in the perimeter of the respective polling stations. The amendments made in 2006 provide for the following: a) voters who have a resident visa are registered during the validity of the resident visa in the electoral list of the polling station in the territorial perimeter for which he/she has such a visa; b) the deadline for compiling, verifying and making public the electoral lists is amended from 10 to 20 days prior to the elections; c) seven days prior to the election, the procedure for updating electoral lists stops, and the updated lists are sent immediately to the CEC. The citizens who were not included in the electoral lists vote based on the additional electoral lists, which are concluded based on the citizen’s ID which confirms that he/she is a citizen of the Republic of Moldova and has reached the age for exercising the right to vote, resides or has a resident visa within the territorial perimeter of the respective polling station; d) citizens with the right to vote who, after participating in previous elections, changed their place of residence, are entitled to declare their new place of residence to the local public administration entity so as to be registered on the election list under the polling station corresponding to their new place of residence; e) the introduction of the Voters’ Register, a list of citizens of the Republic of Moldova having the right to vote, which also contains some other data which are necessary for ensuring their participation in elections.

For the purpose of establishing the Voters’ Register, during the first stage of the whole modernization of the electoral process the CEC, in cooperation with the UNDP Programme in the Republic of Moldova, developed a special project to be implemented step by step. In this context, it is worth mentioning that the Parliament passed a special law – Law No. 101-XVI, dated 15.05.2008, on the Concept of the State Automated Information System “Elections”. The goal of the given Concept is “to automate the processes of preparing, implementing and totaling the results of elections and referendums”. The Concept defines the State Register of Voters as “an integrated single information system for keeping voter records in the Republic of Moldova, meant for collecting, stocking, updating, and analyzing information about the citizens of the Republic of Moldova who have reached the age of 18 years and are not legally limited in terms of their civil rights”. It is planned that “during the first implementation stages, before the organizational-technical assurance and legislative-normative framework adjustment, that only the results of the manual counting of votes shall have legal value”. The document also describes the details for compiling the electoral lists based on the register, and specifies directly that “The

implementation and use of information technologies in the electoral field is possible only after undertaking the corresponding amendments in the normative-legislative framework. The computerization of the electoral processes is considered to be an important component of the National Strategy for Information Society Building – “Electronic Moldova”. All equipment and software rights, which are a component part of the “Elections” SAIS, are reserved for the CEC, and the rights for using the system data shall be regulated by Law No. 467-XV, dated November 21, 2003, on Informatization and State Information Resources. It is foreseen that the State Automated Information System “Elections” will be indispensable for solving the problem of the high impact of Moldovan citizens’ mobility on the compilation accuracy of electoral lists. An estimated 20-25% of citizens with the right to vote must migrate abroad to seek employment due to the precarious economic condition in the country; thus, it is necessary to have exact information, to the extent possible, when verifying the electoral lists, especially taking into account the fact that validation of the election results depends on the level of voter participation.

At the present time, there are at least three electronic registers: IDs; medical insurance cards, and social insurance cards, which cover approximately 92-95% of the population. There are plans for the State Register of Voters to be completed namely based on these existing databases, and it is expected that this register will help the election bureaus in compiling the electoral lists with a high level of accuracy.

The greatest problem with the automation and computerization of the electoral process refers to the lack of trust explicitly expressed by a number of opposition parties. And all this is in spite of the fact that the cooperation between the CEC and the Ministry of Information Development regarding the improvement of electoral list quality (which began in 2005) had positive results, first in the Chisinau municipality, and afterwards at the national level. Thus, in compliance with the provisions of the Electoral Code, on the eve of the last general local elections, March 1, 2007, the CEC decided to publish data regarding the total number of voters. The total number of voters published by the CEC accounted for 2,449,164 people, and it proved to be different from the number published by the CEC in the minutes dated March 11, 2005, after ending the parliamentary elections. These previously published figures were: 2,270,668, according to the main lists, and 159,869 voters registered on the additional lists (for a total of 2,430,537 voters). The increase of 18,627 voters registered in 2007, as compared to the 2005 figure, is not due to demographics, but rather to the effects induced by the amendment of article 22, letter (g) of the Electoral Code, which provides for the Ministry of Information Development to “ensure the record-keeping of voters, including those who are abroad, based on the Voters’ Register established by the State Register of the Population”.

In 2007, the total number of voters registered in the additional lists in the whole country accounted for 90,001 persons or 3.9%. This was a much better result than that registered in 2005, when the additional lists registered only 7% of voters. The progress seems to be significant in the case of the Chisinau municipality, where during the new elections for the mayor of Chisinau in November, 2005, the number of voters registered in the additional lists accounted for about 1.5%, while during the elections of June 2007, when the participation rate was about two times higher, the number of voters registered in the additional lists accounted for 1.7%. The improvement of these indicators is explained by the fact that until 2005, the CEC did not insist on including in the main electoral lists the citizens for whom it was known for sure that they were working abroad. The respective attitude was generate by the wish to avoid the invalidation of election results due to the eventual absenteeism, as the threshold for validation of parliamentary elections was of ⅔ of the total number of persons registered in electoral lists, and 1/3 – for local elections. The amendments made in articles 22 and 136 of the Electoral Code made it compulsory, on one hand, to introduce in the electoral lists all citizens, including those who work abroad, but, on the other hand, diminished the risk for invalidation of local election results due
absenteeism, as the threshold for local election validation was lowered from 1/3 to 1/4 of the total number of participants registered in the electoral lists.

**Conclusions and Recommendations**

- it is necessary to consolidate the framework for regulating and organizing the training events for local authorities responsible for keeping population records (quick transmission of the information regarding population migration and keeping track of the given phenomenon);
- the electoral lists should be posted at least 20 days prior to election day to allow the verification of their accuracy when compiling the lists;
- it is necessary to undertake a random check at national level regarding the observation of the law on the mandatory character for public posting of the electoral lists;
- the advantages for computerization of the electoral process, such as the opening of real perspectives for ensuring the right to vote for all citizens who are abroad, should be popularized;
- a group of observers and experts appointed by the political ruling and opposition structures should be established under the CEC to ensure the transparency and verification of the electoral process automation.

**Section 12. NOMINATION AND REGISTRATION OF CANDIDATES**

**Present-day Situation**

As mentioned above, the right to be elected is a part of the fundamental political rights category, being recognized in the Constitution and international acts, and the means of exercising this right is regulated by the Electoral Code within its art.12, which stipulates that the citizens of the Republic of Moldova who have the right to vote and meet all the conditions provided for in the respective code are entitled be elected. The art.13 of the Electoral Code provides some *a priori* restrictions for participation in the elections as a candidate. Thus, the following persons cannot be candidates and cannot be elected:

- persons who do not have the right to vote;
- military personnel under active military service;
- citizens holding the citizenship of another state – for the MP position\(^{30}\);
- persons convicted and sent to prison by a final court decision, serving their sentence in detention facilities, or persons with active criminal records for perpetrating serious, very serious, and exceptionally serious offenses;
- persons deprived via a final court decision of their right to hold a position of responsibility.

Although the Electoral Code does not state it explicitly, the contents of art.13 par.(3) reveals that neither citizens of RM who by virtue of their position do not have the right to be members of political parties or socio-political organizations, nor persons with positions of high-responsibility\(^{31}\), can be elected if they do not suspend the activity in that position.

Following the parliamentary elections of 2005, the amendments made in the field of candidate nomination and registration cover the following:

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\(^{30}\) A recently introduced restriction by Law No. 273-XVI, dated 07.12.2007.

\(^{31}\) According to the provisions of the Electoral Code, this category directly covers only: ministers; heads of central public authorities; presidents and deputy presidents of rayons; mayors and deputy mayors; praetors and deputy praetors.
a) the candidate nomination process starts 60 days prior to the election day and finishes 30
days prior to the election day (art.41 par.(1))
b) the provisions regarding the possibility to set electoral blocks and, respectively, the
possibility to nominate candidates on behalf of blocks are excluded (art.41 par.(2), art.80
etc.)
c) the obligation for parties to nominate only members of their parties and persons without
political affiliation (this means the prohibition to nominate on the list of a party the
members of another party, thus making it difficult to set up some “common lists”)
d) the establishment of the collector’s responsibility for the authenticity of signatures from
the subscription lists, and declaring the following as null and void (art.42 par.(4)): the
subscription lists concluded before the date the period for candidate nomination starts;
of the signatures considered to be false, and of the subscription lists which were
completed without observing the authenticity requirements (by local public
administration authority and collectors)
e) CEC approval of the regulation on casting lots in case a number of candidates
simultaneously submit the registration documents (art.44 par.(2))
f) availability of candidate lists at each polling station for consultation purposes (art.44
par.(7));
g) providing directly for the fact that the time interval between the moment the decision on
determining the place and the time for document receipt is taken, and the moment
established for receiving the documents, shall be at least 24 hours (art.44 par.(2)); the
possibility to be a candidate for more elected positions only on behalf of one party
(art.44 par.(3/1))
h) non-admission of submission of additional subscription lists after the CEC received and
registered the set of documents initially submitted (art.78 par.(5)).

Conclusions and Recommendations

Radical changes in the regulation of the process for nomination and registration of candidates
were not necessary as the electoral system is not modified and the electoral threshold for
independent candidates remains high. The Electoral Code was amended and completed with
stipulations which settle some problems observed during the previous elections, and with
regulations associated with more details regarding some deficient procedures. But a part of
previous concerns still persist, namely: the use of administrative resources by the candidates
who hold public positions (although the electoral legislation provides for the obligation of self-
suspension from public positions for certain categories of officials, the liability for this case is not
clearly established); the procedures for contesting and examination of contesting the registration
or non-registration of some candidates, procedures that are sometimes too long, even up until
the day of elections; the publicity of the information about candidates, including declarations
about their income and property.

Recommendations that need further attention:

39 In particular, there was a regulated time interval between the publication of the decision regarding the place and time for receiving
the documents, and the moment since the documents started to be received; the procedure on casting lots was additionally
regulated, etc.
• the need to strictly observe the provisions regarding the suspension from positions of those candidates holding incompatible positions, or positions that grant them access to administrative (public) resources; to modify in this respect the legislation (art.13 of the Electoral Code) for directly providing the cancellation of the registration and interdiction of validation when the suspension from the incompatible position or the position directly provided for by the law was not carried out;

• the procedures for collecting and verifying signatures have to be interpreted and fulfilled so as to not impede the registration of candidates based on reasons that do not depend on their will (administrative restrictions, excessive bureaucratic formalism, differentiated treatment, abuses, delays, etc.);

• rapid examination of the contestation regarding the registration/non-registration of candidates, for them to be able to exercise their rights and for the voters to have enough time to get to know them beforehand;

• the previous recommendations coming from the representatives of the international entities regarding the set up of additional conditions for participation in elections of the national (ethnic) minorities and women remain in force; 40

• the parties and the CEC, in collaboration with mass-media, should ensure the correct and full information of voters about the persons included in the candidate lists and the eventual modifications. Adequate information would reduce the negative effect of the closed lists and voting based on the proportional electoral system, which is less and less supported by the public;

• the model of the statements regarding the incomes and property of the candidates, which are to approved by the CEC, must ensure the presence of as much information as possible in line with art.44 par.(1) letter e) of the Electoral Code, and the content of these statements should be made public immediately after the end of candidate nomination through all available means (placing the data on the web, dissemination through mass-media, publishing special brochures and posting them at all polling stations, etc.);

• enforcement of the provisions of the Electoral Code regarding the cancellation of the registration represents an exceptional measure, but the present-day regulations are not sufficiently explicit and may be applied in an abusive way. 41 Thus, they need more attention, and even legislative intervention: the possibility to request the cancellation of the registration under the pretext of “serious violations of the given code” (art.26 let.p)) 42; the request to cancel the electoral candidate’s registration if “he/she received undeclared monetary means or financial means from abroad in his/her account” (art.36 par.(2)) 43.

Section 13. VOTING

Following the establishment of the polling stations, the voters must be informed about the place and time of voting. This information process starts at least 10 days prior to election day and it is ensured by the polling station election bureau. The voting is carried out within specially arranged premises between 07:00 and 21:00.

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40 It is necessary to further implement civic education programs and to ensure the right to vote for the representatives of different ethnic groups (especially Roma people); “family” voting has to be totally obstructed as it affects the secrecy of the vote. Please see the recommendations from point 9 of the Joint Opinion of the Venice Commission and OSCE/ODIHR No. 484/2008, dated 06.10.2008.

41 Concerns under this chapter were expressed several times by the experts of the Venice Commission and OSCE/ODIHR (Joint Opinions 2007, 2008).

42 It would be best for these “serious” cases to be directly and exhaustively listed in the content of the Electoral Code.

43 The sanction may be enforced only in cases when evidence is brought forth regarding the deliberate fraudulent receiving and deliberate use of the respective financial means. In the present version, the sanction becomes operational even for the simple fact for money to the financial means to arrive in the account, thus leaving plenty of room for abuses and tendentious interpretation.
The voting ballot is submitted to the elector based on the election list when the elector presents his/her ID. In accordance with the provisions set forth in art.53 of the Electoral Code, the voting is carried out based on the following identity acts:

1. the ID of citizens of the Republic of Moldova with the enclosed card indicating the domicile or the residence of the voter in the polling station territory;
2. the ex-soviet passport of the 1974 type with a statement about the citizenship of the Republic of Moldova, the state identification number of the natural person (IDNP), and the residence registration;
3. the ex-soviet passport of the 1974 type without the state identification number (IDNP), and with the statement: “valid for an undetermined period of time”, citizenship of the Republic of Moldova and residence registration – for the persons who refused to obtain IDs of the Republic of Moldova due to religious reasons;
4. the temporary identity act of the F-9 type with statements regarding the Republic of Moldova citizenship and the residence of the holder;
5. the passport for entering and exiting the country, or sailor record, within the polling stations established abroad;
6. military record for military personnel in active duty, the record issued by the Civil Service Center for persons carrying out civil service (alternative service) functions.

The voters who were not registered in the electoral lists concluded at the polling stations established abroad may be registered in the additional lists which contain: voter’s name and surname; place and year of birth; and, last place of residence in the Republic of Moldova. The voters from a polling station territory who are not registered on the electoral list of the given polling station may be registered in the additional list when presenting a document which certifies their residence within the perimeters of the given polling station. The voters coming to the polling station with the certificate for the right to vote are also registered on the additional list.

The voting with the mobile ballot box is allowed in the case when the voter, due to health or other well-grounded reasons, cannot come to the polling station premises. The legal provisions include sufficient procedural measures for ensuring the transparency and secrecy of voting with the mobile ballot box. Voting with the mobile ballot box during previous campaigns was characterized positively, although the organizational level of this process was under that which is registered for polling stations, sometimes resulting in conflicts which led to the organization of repeat elections.

Generally speaking, during those nine electoral campaigns for electing the Parliament, the Chief of State, and the local public administration bodies during 1994-2007, the voting procedures were qualified by international observers as being mainly correct and in compliance with the legal provisions. The last voting from the general local elections in 2007 was not an exception, and was generally implemented with calm and in compliance with the norms provided for in the electoral legislation. The statistical data published in the OSCE mission report pointed out that in 96% of polling stations the voting process was assessed as “good” or “very good,” and in 86% of the cases that understanding of electoral procedures by the members of the electoral bureaus was assessed as positive. Nevertheless, in 39% of polling stations the “secrecy of vote” principle underwent the risk of not being observed due to application of a control stamp on the completed voting ballot after introducing it into the ballot box; in 13% of polling stations voters were observed who did not use the secret vote cabins for keeping the vote confidential; in 7% of polling stations, the so-called “family (group) voting” was practiced in 3% of polling stations it was stated that there was interested persons’ influence on citizens’ vote; and in 2% of polling
stations, the electoral propaganda continued during the voting, or material with a biased electoral character was still posted on the premises of the polling station.

Conclusions and Recommendations

- citizens’ electoral education should be intensified on the eve of elections, materials should be disseminated to help the electors better understand the model of the voting ballot and the method for correctly completing the voting ballot;
- the quality of the paper for printing the voting ballots should be much better, with the same characteristics, protection signs, filigree and/or consecutive numbers for increasing security and public confidence;
- the development and use within all polling stations of a manual of electoral procedures (organization of the voting process and counting of the votes) for improving the electoral process;
- the usage of envelopes or of folding voting ballots for guaranteeing the secrecy of votes;
- the usage of transparent ballot boxes to increase the level of confidence in the electoral process;
- to introduce the practice according to which the first voter who visits the polling station is asked to complete a statement confirming the start of voting and the fact that the ballot box was initially empty; this statement should be introduced in the ballot box before the first voting ballot;
- the increased security of voting ballots, validation stamps and mobile ballot boxes may be achieved by improving the guidelines and the measures for filling in and signing ballots by those who operate with this electoral material.

Section 14. ELECTION OBSERVATION

The observation of elections is an institution through which civil, national, and international society watch over the accuracy of the electoral process. During the observation, assessment is carried out for the organization of elections, how elections are implemented in compliance with the requirements of a democratic state, and whether elections are free and fair. According to the provisions of the Electoral Code, the electoral entities, upon a request coming from electoral candidates, national and foreign governmental and nongovernmental organizations accredit the observers for election monitoring. The observers may be accredited before the start of the electoral period and they may carry out their activity on the Election Day, as well as before, during, and after the electoral campaign. Although this is stipulated by law, the CEC did not provide in its own regulation for some procedures to fulfill these rights. The observers of international governmental and nongovernmental organizations and the representatives of foreign governments are accredited as observers by the CEC. The invitation of the international organizations and representatives of foreign governments as international observers is made directly by the CEC or by the Ministry of Foreign Affairs and European Integration upon CEC request. The CEC accredits the representatives of the electoral candidates or qualified nongovernmental organizations as observers. The observers accredited by the CEC may monitor the electoral process on the entire territory of the country within all polling stations. In case the observer is responsible only for a certain electoral constituency, he/she is accredited by the constituency electoral council and may carry out his/her activity only in the territory of the respective constituency.

In compliance with the Electoral Code, the national public associations may participate in election observations, provided that these organizations are considered by the electoral entities as being
qualified. Elaborating further on this subject, the Electoral Code also establishes that a public association is considered to be qualified if, in line with its charter, it deals with the protection of human rights or democratic values and is considered by the CEC or, in case of some regional associations, by the constituency electoral council, as being able to exercise civic functions in elections. The electoral entities may refuse to accredit observers, having only the obligation to inform the electoral candidates or the organization assigning the observer about the reason for the refusal. The legal provisions do not clearly set the criteria and procedures according to which the electoral entity may determine that the organization “is able to exercise civic functions in elections” and do not provide for concrete reasons that may be applied by the electoral entity for refusing the accreditation of proposed observers. Practically, the electoral entity may take subjective decisions whenever it desires.

Conclusions and Recommendations

It is recommended that the CEC improve the Regulation on Observer Status and the procedure for accrediting the observers so as to eliminate the existent gaps regarding:

- security increase for voting ballot, validation stamps and mobile ballot boxes may be achieved by improving the guidelines and the measures for completing and signing some ballots by those who work with this electoral material;
- registration of observers before an electoral period, and their status;
- monitoring the pre-electoral and post-electoral situations;
- understanding the wording “is able to exercise civic functions in elections”;
- setting concrete reasons to be used by the electoral entity to refuse accreditation of any particular observer.

**Section 15. COUNTING VOTES AND TOTALING ELECTION RESULTS**

Importance of Totaling and Announcing Election Results

The finalization of the voting process means the suspension of voter and candidate possibilities to intervene and change the situation; from this point in time the authority is taken over by the electoral entities and authorities entrusted with validation duties. The Code of Good Practices in Electoral Matters provides for the following:

- the votes shall be counted in polling stations rather in special centers;
- the counting shall be carried out transparently, in the presence of observers, representatives of candidates, and electors who wish to be present;
- the minutes shall be available in a number of copies so as to be distributed to any requestor authorized to assist, and a copy shall be posted on the information billboard;
- the counting procedure shall be practical and simple;
- the preliminary and final results shall be sent as soon as possible in an open way, but pointing out the fact that they are preliminary and are subject to change.

Evolution of the Legislative and Normative Framework in the Field

The Electoral Code of the Republic of Moldova corresponds, in general terms, to the recommendations in the field and regulates the aspects referring to the counting and totaling of election results, attribution and validation of mandates within art.56-62 and 84-94. The important amendments that occurred within these regulations after the parliamentary elections from 2005 cover the following:

- introduction of a new reason for declaring the ballots invalid – the ones in which the identification number of the constituency and that of the electoral bureau do not correspond with the numbers of the respective constituency and bureau (art.57 par.(1))
- the obligation to post a copy of the minutes at the entrance in the polling station and to hand in the other copies to the representatives of the electoral candidates and observers, art.58 par.(4);
- the obligation to indicate in the minutes the difference between the number of voting ballots received by voters and the number of voters who participated in voting (art.58, art.59, art.60);
- the obligation to post, at the entrance of the premises of the constituency electoral council, detailed information about election results for the constituency (when submitting the minutes to the CEC);
- the right of the electoral candidates to request from the entities authorized with results validation to order the re-counting of votes (art.60 par.(2/1))
- to ensure the subsequent access to electoral documents kept by the CEC, in line with the Law on Access to Information (art.62 par.(3))
- to reduce to 4%, and afterwards to increase to 6%, the electoral threshold for parties, and to maintain the threshold of 3% for independent candidates;
- the specification according to which the Constitutional Court should confirm or refute the legality of elections in a term of 10 days since the moment the acts were received from the CEC, but not earlier than the court’s final settlement of the contestations submitted according to the procedures set forth by the legislation, as well as not earlier than specifying the Constitution Court’s confirmation of the candidates’ lists (art.89)
- to establish the possibilities to sanction or exclude from the voting ballots the electoral candidates only based on a final court decision (in case of repeated voting, art.93 par.(2)).

The adequate implementation of the State Automated Information System “Elections” would essentially contribute to improving and urging the procedures for counting and totaling election results, but at the present-day stage it cannot be affirmed that the competent authorities will succeed to fully operate the Information System.

The procedure for counting the votes was the most difficult for the electoral bureaus, being assessed less positively by the OSCE observers as well: in 22% of polling stations, the counting of votes was assessed as “bad” or “very bad”; in 59% of cases the members of the electoral bureaus did not allow the citizens present in the polling station to exercise their right to vote after 21:00; in 19% of polling stations the procedure for canceling the unused ballots was violated; in 24% of polling stations, the members of the electoral bureaus encountered difficulties when establishing the number of people who voted; in 23% of polling stations difficulties were encountered when 

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47 Completion introduced via Law No. 298-XVI, dated 17.11.2005.
52 Approved by Law No 101-XVI dated 15.05.2008.
establishing the correlation between the number of voting ballots issued for voting at the place, and the number of voting ballots from the mobile ballot box; in 68% of polling stations, the members of the electoral bureaus had disputes regarding the identification of invalid ballots; in 26% of polling stations, the chairmen of the electoral bureaus did not consult the members of the bureau when invalidating certain ballots; in 8% of cases, observers attested that the invalidation criteria for voting ballots were not reasonable; and, in 10% of cases, the criteria were not applied consistently. The tabulation of voting results and the filling in of the protocols encountered difficulties in 51% of polling stations where it was difficult to establish the correlation of results through the verifications recommended by the CEC, and in 59% of polling stations the minutes were not posted immediately at the entrance of the station, as required by law. A rather large number (4%) of invalid ballots was fixed.

Conclusions and Recommendations

Although the legislation was improved, the previous reports on elections’ observation\textsuperscript{53} and the expertise of the Electoral Code undertaken by international experts\textsuperscript{54} pointed out some drawbacks regarding the procedures dealing with the counting, totaling, announcing, and validating of election results, a part of which are valid for the present moment as well, before the parliamentary elections in 2009.

- to implement with maximum promptness and efficiency the State Automated Information System “Elections”, ensuring the system’s full security and training of authorized officials;
- to improve CEC guidelines and field regulations, and to provide training so that electoral officials can focus on solutions to problematic situations, and on ways to avoid violations that had been frequently registered in previous elections;
- to remove unauthorized persons from the polling stations, and to not admit persons other than the members of electoral entity to lead the counting/totaling process;
- to unequivocally ensure the posting of the minutes at the polling station and the constituency council, and the delivery of these minutes to all authorized requestors;
- CEC publishing of election results should be as detailed as possible (down to the constituency level), being carried out with maximum promptness and through all available media coverage means\textsuperscript{55}. The periodic publishing of the detailed results on the CEC’s official web page should be a priority;
- the causes in line with which it is possible to ask for re-counting of votes should be clearly and exhaustively listed in the Electoral Code so as to preclude abuses and unnecessary delays;
- the members of the polling station electoral bureaus should also be trained to decrease the number of invalid ballots through their correct identification;
- a clear procedure should be established according to which only one member of the electoral bureau will be entitled to take the voting ballots after opening the ballot boxes for identifying the electoral candidates in whose favor the votes were expressed, and to send them to be placed in separate piles for each of the electoral candidates;
- after counting the votes, the minutes should be prominently displayed in each polling station where the electoral officials provide the results of the vote counting, in line with the provisions of the Electoral Code;

\textsuperscript{53} OSCE/ODIHR and CoE reports, evaluation reports of IFES/ADEPT, monitoring reports of the organizations under the 2005-Coalition and the 2007-Coalition.

\textsuperscript{54} Reports of CoE experts, expertise and recommendations of the Venice Commission, OSCE/ODIHR.

\textsuperscript{55} Please see also pct.84-86 from the Joint Opinion of the Venice Commission and OSCE/ODIHR No. 484/2008, dated 06.10.2008.
the copies of the minutes should be accessible in every polling station in order to be offered for completion and confirmation by the leadership of the electoral bureau whenever the independent observers and observers on behalf of the electoral candidates approach them.

CHAPTER IV. CONSIDERATION AND SETTLEMENT OF ELECTORAL LITIGATIONS

General Overview

The fulfillment of electoral rights during an electoral period involves the electoral entities, the electoral candidates and their representatives, observers, media coverage, central and local public authorities, and citizens in a number of legal relations which may generate various forms of conflict. The actions of the electoral entities and any electoral procedure or operation carried out by the electoral entities, electoral candidates, or other subjects of the electoral process may be contested. Such disputes are to be settled promptly according to simplified procedures so as to successfully settle them before the end of the electoral process. Art.65 of the Electoral Code stipulates that the voters and the electoral candidates may contest the actions (or inactions) and decisions of the electoral councils and bureaus, the actions (or inactions) of the electoral candidates in front of the electoral entities, observing the hierarchy of the electoral entities’ system, as well as before the court. Thus, the Electoral Code offers two possible ways for settling conflicts: the hierarchical way through the electoral entities’ system and the court way – both ways may be accessed simultaneously.

Settlement of Electoral Litigations by Electoral Entities

Within the framework of the electoral entities’ system, the contestations against the subjects involved in the electoral process are considered by all electoral entities in line with the authority to settle the addressed problem. The polling station electoral bureaus are the primary authorities with the competence to consider electoral litigations, and according to art.30 of the Electoral Code they “consider the applications and the contestations that deal with the organization and implementation of elections, making decisions which are annexed to the minutes of the bureau’s meetings”. The contestations against the electoral entities are considered by the electoral councils and the CEC. The electoral councils consider the applications and the contestations against the decision and the actions of the polling station electoral bureaus, and take executory decisions regarding them, and the CEC considers the applications and the contestation against the decisions, and the actions of the electoral councils and electoral bureaus, and takes executory decisions regarding them. Based on the above, the electoral entities may be notified and have the authority to consider any application and contestation regarding the electoral process, and the hierarchically superior electoral entities may consider any application and contestations regarding the decisions and actions of the hierarchically inferior electoral entities.

Although the procedure for considering the contestations by the electoral entities is not regulated by law and no requirements for the form and the content of contestations are imposed, as in the case of the applications to be submitted to the courts; however, the Electoral Code provides for the terms for contesting and considering the contestations. Thus, during the electoral period, in line with the provisions of art.66 of the Electoral Code, the actions and the decisions of the electoral entities may be contested in a term of three days since the day the
action was made or the decision was taken. Being an activity of the electoral entities within a specific period of time, the considering of contestations against an activity of the electoral entities is determined within the given period. Thus, the provisions of art.67 of the Electoral Code oblige the CEC, or when appropriate, the electoral councils, to consider the contestations regarding the actions or the decisions of the constituency electoral councils and polling station electoral bureaus in a term of three days since the contestation was presented, but not later than the election day.

The submission of contestations is not conditioned by a preliminary procedure or by the need to consider the cause in a hierarchical procedure. The petitioner may choose the institutions he/she wants to approach, be it the court or the hierarchical electoral entity. In case he/she goes to the electoral entities, the petitioner is not denied the right to also go to the court. For instance, if the hierarchical superior electoral entity examining the contestation against the hierarchical inferior electoral entity cancelled the decision of the respective entity and approved a new decision, persons who do not agree with the decision will contest it in the judicious administrative court in the territory of which the hierarchically-superior electoral entity is located, and if the hierarchically-superior electoral entity rejects the application of the petitioner as being groundless, the petitioner may apply to the administrative court on the territory in which the issuing electoral entity is located.

Settlement of Electoral Litigations by the Courts

The authority of the courts to consider electoral litigations is determined by art.66 of the Electoral Code, which stipulates that the contestations regarding the actions and decisions of the polling station electoral bureaus and constituency electoral councils may be submitted to the court in the territory of which the respective bureau or council is located, and the contestations regarding the actions and decisions of the CEC are submitted to the Chisinau Court of Appeals. During the electoral period, contestations against the actions and decisions of the electoral entities may be contested in a term of three days since the date the action was made or the decision was taken; except for CEC decisions taken outside the electoral period, which may be contested according to the conditions set forth in the Law on Administrative Court. For the purpose of submitting a contestation to the court, the petitioner shall observe a number of requirements regarding the form and the content of the contestation. Thus, in compliance with art.65 par.(2) of the Electoral Code and art.166 of the Civil Procedure Code, the summons regarding the actions (or inactions) and decisions of the electoral entities:

- is concluded in written form;
- covers the reasons that generate the contestation;
- contains evidence on which it is grounded;
- covers the signature and the identity of the person submitting the application.

The procedures used by the court for examining electoral litigations are determined by the provisions of the Electoral Code, Civil Procedure Code, and the Law on Administrative Court. The specific character of the procedure for electoral litigations is determined by the short period of time for examining these litigations. The electoral period determines the courts to consider the contestations regarding the actions and decisions of the constituency electoral councils and polling station electoral bureaus in a term of three days, and the contestations against the actions and decisions of the CEC are examined in a term of five days. The terms for considering the contestations start from the date the contestation was submitted and cannot be considered later than the Election Day. All contestations submitted to the administrative court on the day of elections are considered during the same day, and the contestations against the decisions of the
The contestations submitted on the day of elections are examined during the same day by the Chisinau Court of Appeals. The contestations regarding the totaling of parliamentary election results and MP mandates’ assignment are submitted to the CEC, which after totaling the elections submit them to the Constitutional Court, which is authorized to examine the legality of elections. When examining the legality of elections, the Constitutional Court settles the problems addressed in the contestation and confirms or refutes through an endorsement the legality of the parliamentary elections. At the same time, the Constitutional Court validates the mandates of elected MPs and confirms the list of substitute MPs. In this case, the decision of the Constitutional Court is final and cannot be further contested.

Quality of the Amendments made in the field of Electoral Claims

Following the parliamentary elections of 2005 and the examination of the objections coming from experts and observers, the Parliament has amended the judicial procedures four times, clarifying some procedures and clearly determining the authorities of the courts and electoral entities. Thus, the following was done: - the jurisdiction of the Court of Appeals regarding CEC acts was clarified; - the territorial jurisdiction for the territorial electoral entities’ acts was established; - the procedure for contesting in line with the hierarchy of the electoral entities’ principle was put in place. The amendments made within the Electoral Code in the respective field may be assessed as positive, except for the chapter dealing with sanctions. The role of the Supreme Court of Justice also deserves positive assessment, as through its new Decision on Electoral Claims it brings a number of explanations for ensuring the correct and uniform enforcement of electoral legislation, so as to eliminate the problems which emerged in the courts regarding the application of electoral legislation.

Legal Liability

Electoral candidates’ legal liability provided for in art.69 par.(1) of the Electoral Code remained unchanged and the previous objections must be reiterated. The regulations regarding the actions that prejudice candidates’ honor and dignity are too vague and may be applied so as to violate a person’s right to free expression. The CEC’s right to sanction the electoral candidates after the previous parliamentary elections witnessed a negative evolution: completing art.69 of the Electoral Code with the CEC’s authority to sanction electoral candidates with a warning or a fine for violating the electoral legislation generated controversial discussions, which after a year led to excluding this competence. Recently, the Parliament returned to this subject and established the possibility to apply sanctions on electoral candidates. Thus, according to art.69 of the Electoral Code, in case of violation of the electoral legislation, the CEC is entitled to apply sanctions to electoral candidates as warnings or may ask the court to cancel a candidate’s registration. The given problem points out the lack of clear regulations on exhaustive reasons for canceling an electoral candidates’ registration. And this situation becomes a concern in the context of a justice system having the reputation of being in a consolidation process, the decisions of which, due to lack of experience, may be subjective or disproportional. It is considered that the provisions of the Electoral Code in the respective field must be applied by

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56 Decision No. 2 dated 02.04.2007 of the Plenary of the Supreme Court of Justice, on court application of some electoral legislation provisions, Bulletin of the Supreme Court of Justice of the RM, 2007, No. 4, page 4.
59 Law No. 79-XVI, dated 06.04.2006, for amending art.69 of the Electoral Code.
Corroborating its rules without extending the reasons which allow for the cancellation of electoral candidates’ registration. Thus, the sanction on exclusion of electoral candidates would be possible only under the conditions set forth by the provisions of art.70 and art.93 of the electoral Code, in case of deeds that lead to nullification of an election.

Conclusions and Recommendations

The enforcement of the sanction dealing with cancellation of electoral candidates’ registration should be regulated in more details, with clear and exhaustive reasons to be indicated in the content of the Electoral Code so as not to admit the invocation of any new reasons during the electoral period.

CHAPTER V. RESULTS OF THE SOCIOLOGICAL SURVEY

Level and Character of Social Optimism

Within the framework of the study on electoral context carried out during the period of September 22 – October 1, 2008, an opinion poll was organized to determine societal opinion regarding the situation in the country. Only 27.2% of respondents stated that the nation’s development was following the correct path, and 60.8% of respondents assessed the country’s development direction as incorrect. Among the problems that are of major concern for the respondents, first place is taken by poverty (a total of 64.2% mentioned poverty as being their first, second, and third major concern), prices (a total of 68.8%), unemployment (35.8%), corruption (29.4%) and children’s’ future (34.4%). It is obvious that the majority of respondents assess the living conditions, especially the material aspects, as very unstable and experiencing significant risks. This factor may influence the configuration of the dominating electoral arrangements in Moldova.

The survey data state that the citizens of the RM perceive the existent democracy system in the country exclusively at the institutional level, and the functional aspects of this system’s vital activities are assessed by the majority of the population as being exclusively negative. In spite of the fact that 40.6% of the respondents are convinced that a democratic governing regime exists in Moldova (and this actually represents a negative indicator, as 39.5% of respondents viewed the existent regime in the country as authoritative or a dictatorship). Thus, only 28.5% recognize the elections in the RM as being free and fair, as compared to 58.9% of contrary answers. Only 16.1% of the respondents consider that they have enough information regarding the opposition’s activity, and only 26.6% state that structures of the civil society are sufficiently involved in the supervision of the electoral process.

It is noted that there is a rather reduced level of social participation – thus, less than 10% of respondents are trade-union members (in the EU the level of new member-states trade-union membership accounting for 20-25% of the population is considered to be extremely low). An exclusively reduced level is registered for participation in public political actions (14-15%), and the intention to participate in future actions of this type was declared by only 25% of the respondents (24.6% of the respondents stated that they are prepared to participate in future demonstrations, marches, and legal meetings).

An extremely low level is also registered for citizen participation and their interest to participate personally in the settlement of local community problems. Thus, only 9.2% of the respondents stated that their participation to a very big or just big extend in local council meetings, and 33.1% of
the respondents said that they are completely uninterested in this kind of social participation (analogically – 32.2% of respondents are not interested in such activities as mobilization of local community members for collective actions to settle local problems, and only 8.1% practice such an activity to a significant extent).

A characteristic feature of the RM citizens is the reduced level of interest for settling the most recalcitrant social problems as compared to the interest manifested in more “virtual” problems. Thus, according to the level of a very active or active participation in the settlement of specific local problems, the leading position is held by the participation in building or repairing the churches (26.8%), active participation in the solution to “real” social problems like building or repairing schools (19.7%), active participation in solving gas-supply problems (11.2%), and in building or repairing the local roads (16%). Such a situation ascertains the fact that the Moldovan society is a long ways away from establishing a consolidated democracy system in the country. When analyzing the practical level, including that dealing with the electoral process, such a situation may result in the following direct consequences:

- rather reduced interest by the majority of the population for problems dealing with electoral system organization and operation for the direct components and events of the electoral process (this is fully correlated with the question examined below dealing with citizens’ information on amendments of the electoral legislation in the RM, as well as the activity of civil structures involved in the electoral process).
- the preferences of the majority of the population for the paternalist model in the structure of the State-Society-Individual relations (the preponderance noted in the settlement of “church” problems as compared with the stringent social problems represent an obvious confirmation: the Orthodox Church is a “classical” paternalist structure, which is able to act as a structure for paternalism correlation).
- future electoral campaign claims by party platforms based on the paternalist principle, even on the most vulgar populism expressing – the population will prefer the parties that correspond to the greatest extent possible to the following stereotype: “a good leader’ will come to power and will do everything for us (and instead of us)”.

The above-mentioned moments are also reflected by the reduced level of interest for politics and political party activity in Moldovan society. Thus, only 16.1% of the respondents said they had very high or high interest in politics, and 45.7% are only slightly or not at all interested in politics. And only 22.5% of the respondents stated that they keep themselves informed about political party activities (64.3% of negative answers), and only 31.4% manifested interest for the activity and operational principles of the political parties (62.8% of negative answers).

The data obtained from the survey lead us to the conclusion that the majority of the RM population is completely excluded from the political process (except for the passive perception of the pre-electoral agitation and participation in voting), does not perceive the political process as an important issue for themselves, does not show any willingness to take part in it, and does not perceive the pluralistic system of political parties as a necessary socio-political institution. There are grounds to state the following specific manifestations of such a situation:

- mainly, the RM population lacks the perception of political parties and their vital activity in the understanding of European democracy. The establishment of such a perception is dominated not only by political aspects (party doctrine, affiliation with the right or left side of the political range, etc.), but also by the interest for “information about personalities” – leaders of specific structures, composition of the party team, etc. Thus, the question about what elements of the party structure or activity they perceive as being the most essential (first, second, and third
place) resulted in the following answers: the president - 61.4%; the team– 48.7%, party members – 46.5%, and doctrine – only 36.6%.

- an obviously negative perception of the multi-partisan phenomenon and political party pluralism dominates on a large scale. Only 22.8% of the respondents support the existence of the modern system of multitude parties, 36.4% consider that it is sufficient to have just two parties, and 33.4% are in favor of just one party, or no parties at all in the country. These data conclude that the majority of the RM population knowingly prefers the practical efficiency in resolving society’s difficult problems on the political level instead of the existence of developed standards of democracy and political pluralism; this efficiency is linked mainly to different stages of the bi-partisan limitation and narrowing the space for pluralism of opinions.

- high level of the traditional lack of trust by respondents in political parties as socio-political institutions. Among the public institutions presented in the questionnaire, political parties enjoy the lowest level of trust (3.3%) and “some trust” (23.1%). In such circumstances, the structure of electoral preferences during the future electoral campaign will be built mainly on the “voting for the leader” principle and the reaction to some populist promises, while the real political moments within party platform competition and the image of specific candidates will have a consciously reduced significance.

Respondents’ perception of the electoral process includes the following aspects:

a) Although the majority of respondents (56.5%) consider that their vote in elections may influence the political changes in the country, the ratio between the positive and negative answers (32.2%) to the respective question is unfavorable when perceiving it from the perspectives of promoting democratic values and developing a democratic process in the country. As only 19.4% of respondents consider that usual citizens may influence the decision-making at a national level – 1/3 consider that even the minimum share of participation in political life, that is, participation in elections, does not influence the political life in the country at all – this kind of situation is unacceptable for a democratic society. In case no radical changes occur in the existing situation from all points of view (change of the level of trust in democratic institutions, such as: electoral process and system, increase in civil notification level, etc.), the perspective for subsequent promotion of the democratic values will be a problem.

b) A rather low level of information provided to the population (15.2%) regarding the recent changes made in the electoral legislation in force was discovered. Thus, a large part of the population does not manifest high interest for the transformations that occurred in the electoral system in force, and usually is rather distant from the issues dealing with electoral system operation. At the same time, among those that are informed about the rectifications made to the Electoral Code, the majority (from 63.3 to 67.5%, depending on the rectifications) do not support the respective innovations. As the examined rectifications were estimated within the RM mass-media and opposition speeches as being unequivocally conforming to PCRM interests, there are reasons to admit that over 60% of respondents view these innovations negatively and have thus manifested their negative attitude towards PCRM governance and the perspective to have in the Parliament – majority of PCRM. At the same time, as this majority is included in the 15.2% mentioned above, there is a risk for the negative attitude towards the policy of the present-day ruling party in the RM in the field for promoting democratic values, citizens’ rights and freedoms not to exceed the limits of society’s active and political segment – through the indifferent attitude of the absolute majority towards the respective problems.

c) The critical attitude towards the present-day electoral system, as well as towards the electoral entities of the RM reveals the following:
only 36.4% of the respondents consider the elections in the RM to be democratic and fair, while 54.0% have the opposite opinion. At the same time, 71.4% of the respondents consider that the results of elections are falsified to a certain extent.

- 32.6% of the respondents show different levels of trust for the RM electoral entities, while 61.8% declared different level of mistrust; 19.6% of those who state about falsified results consider that this is primarily due to the electoral entities.

d) The majority of the population prefers to vote for certain independent candidates - 62.8%, uninominal vote, and only 15.5% accept the existing electoral system according to party lists (21.7% for a mixed system). Although the substance of the question does not imply a direct and unequivocal opinion of the respondents in favor of the majority system and the negative attitude towards the proportional voting system (mainly the voting for independent candidates within a single validation constituency is possible), the results obviously determine the dissatisfaction of the majority of population for the existent system for election organization and candidates’ nomination. The existence of such a situation may provoke certain coldness in the majority of the population with regard to their relations with election institutions and the democratic system in general.

The distribution of respondents’ preferences regarding one or another political doctrine offers the possibility to draw the following conclusions: the left segment of the Moldovan electorate maintains its existence and has perspectives to be maintained for a long period of time.; 41.4% of the respondents stated that they support socialist ideas (communism, socialism, and social democracy), and only 16.6% of the respondents were in favor of a right-leaning orientation (different liberal and conservative movements, except for the social-liberal doctrine). It is obvious that there is a “decanting” inclination of the preferences expressed by the electorate of left orientation with radical communist positions regarding the European position of civilized order (influence of mass-media – information – active propaganda during the last years of the European values and objectives, as well as of the demographic character).

The survey data offer good grounds to consider that Moldova’s inhabitants from the right side of the River Nistru usually are not interested in attracting voters from the left side of the River Nistru to participate in elections:

- The increased negative attitude of the respondents towards the idea of “quota of deputy” to a large extent represents an indicator regarding Moldovan perception of the perspectives to apply some elements of federal arrangements in case of adopting a final decision regarding the Transnistrian problem. Only 22.5% out of those 44.1% of the respondents supporting the idea to attract the inhabitants from the left side of the River Nistru in elections were in favor of the “quota of deputy” option – meaning that this element of federalization is accepted by not more than 10% of the respondents. Thus, within the framework of an electoral campaign, any attempt – like during the previous elections – of one or several parties to speculate with the “need of a constructive dialogue with Tiraspol” will have “space for realization” only for 10% of the electorate.

- The Moldovan society has a predominately negative perception of the institutionalization idea of the so-called “regional parties” – only 7.4% supported the possibility of the parties from the left side of the River Nistru to participate in future elections in the RM within a single constituency. Even taking into consideration that 22.5% of “quota of deputy” adepts possibly also approve the perspective of the left Nistru parties’ participation in an election process, a solid 30% of those 44.1% offer the percentage of adepts for the so-called “regional parties” participation in the socio-political life of Moldova in the limits of 12-15%.

- In general, a rather cold and even hostile attitude is noted in case of the majority of Moldovan electors regarding the perspectives for integrating the existing social-political Transnistrian institutions in a single RM socio-political forum. The low level of respondent
interest for the “isolated” type of participation in elections of the Transnistrian electors and political structures of the so-called Transnistrian Moldovan Republic, may be related to the belief that exists in the Moldovan society that parties’ activity should be stopped when it is in contradiction with the Constitution of the RM and Moldova’s national interest: the activity of all modern social-political institutions from the left side of the River Nistru, without exception, including the Transnistrian parties, is in contradiction with the interests and constitutional rules of Moldova.

Some 33.0% of respondents who were in favor of introducing the option “against everyone” in the voting ballots may be perceived as a rather exact indicator of the active protest mood in society. The distribution of answers to the question on which political structures would be supported by respondents in case of their participation in elections next Sunday, leads to the following conclusions:

- three main opponent groups are identified: a) parties with good chances to surpass the electoral threshold – PCRM (30.0%), PLM (6.4%), PSDM (5.3%), AMH (4.3%), and PLDM (4.0%) (the indicators over 4.0% from the respective survey show the high possibility to surpass the electoral threshold of 6%); b) parties at “the threshold limit”, that actually have chances to surpass the electoral threshold, but are at the limit, also having chances not to reach the electoral threshold – PDM (2.8%) and PNCD (2.2%); c) the group of parties with “little chance”, among which only PAM and PNL may potentially count on 3.0 – 3.5% of support. The question regarding UCM’s perspectives remains open, as the survey data were obtained during the period when the information about V. Tarlev’s preparation to become the leader of UCM was not fully public.

- The results obtained within this survey lead to the assumption that in the future the Parliament may be more fragmented than it used to be. It is not excluded for 5-7 parties (factions) to be represented in the parliament.

The survey reveals a low level of the population’s trust for “three-sector” structures. Thus, NGOs do not have a lower level of trust than the public institutions – president and government. These data prove a low interest by Moldovan citizens in the perspectives of civil society development along the European standards. In conditions when the trust for church (78.4%) greatly exceeds the trust for NGOs, there are reasons to talk about a certain preference within the population for the traditional society model and not for the civil one. The absolute majority of the population is not only outdistanced from the activity of the civil structures which are involved in the control and contribution process for the electoral process, but is also not well-informed about the forms of such a civil participation. Thus, 77.1% of the respondents did not hear about the existence of the Civil Coalition for supporting free and fair elections, although the absolute majority (85.6%) of those informed about the activity of the Coalition assessed it as being positive.
CONCLUSIONS AND RECOMMENDATIONS

POLITICAL PARTIES

- the enforcement of the new Law on Political Parties shall be carried out in a permissive way, especially if the normative provisions are not sufficiently explicit;
- as the Law does not set clear terms for verification and effects of some discovered drawbacks, it is recommended for the Ministry of Justice, to abstain itself, until elections, from abusive involvement in the investigation of the “entire activity” of the political parties or from any other measures that would be to the detriment of the rights of the political parties previously registered and their participation in elections;
- the efforts of the authorities (especially of MJ and CEC) shall be focused on achieving a high level of transparency for public information about party activities and funding by carrying out operative updating of the data from the Register of Political Parties and publishing this information on the official web pages;
- the revision of the electoral threshold for political parties may be carried out in a limited period of time, and other modifications that would refer to political parties’ legislation or would affect political parties’ situation in the immediate future, or during the electoral period, shall be undertaken only in exceptional situations with well-grounded reasons and prior debate and expertise, including within specialized international institutions;
- the activity of the political parties shall be reflected in a fair and equitable way in public mass-media, including the time preceding the electoral period;
- CEC shall undertake essential efforts for ensuring the signing of the Code of Conduct by all parties – electoral candidates of supporters of electoral candidates;
- It is recommended that political parties and civil society organizations sign a Pact on Political Consensus so as to maintain the European Integration vector.

FREEDOM OF ASSEMBLY

- Although the legal framework for organizing assemblies is adjusted to the European standards and is in compliance with a democratic state’s exigencies, the new law must be harmonized with the connected legislation as well;
- The Parliament should revise the legislation and ensure for the MPs registered as election candidates not to take advantage of legal allowances related to their status, but to participate in elections on an equal basis with other candidates;
- CEC and observers shall monitor in a special way the manner in which the legislation is enforced in case of candidates that preserve for themselves a special public status (MPs, Prime Minister, President of RM);
- The provisions of the new Law on Assemblies already generated deficiencies related to interpretation and enforcement by public order maintenance entities; for the purpose of not admitting such decencies in the future, it is recommended to interpret such rules about public order maintenance in a uniform way for all similar cases.

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61 For the purpose of systematizing the material and of facilitating the use of the material, the given section reiterates the conclusions and recommendations drawn within the content of the study by the end of each section (field, issue) that generated them.
MASS-MEDIA AND PUBLIC INFORMATION

The general conclusion that may be drawn is the following: the legislation of the Republic of Moldova, to a large extent, observes the international and Communitarian standards in the field of mass-media regulation and operation, being in line with a number of recommendations in this respect. However, for the purpose of ensuring objective and equal information, limiting the manipulation of public opinion and denial of abuses that intimidate mass-media and may limit its independence, a number of measures shall be undertaken as follows:

- the Concept and the Regulation on presenting the electoral campaign should be improved and discussed as soon as possible, prior to the beginning of the electoral period, in a transparent manner, taking into consideration the recommendations coming from media institutions, civil society organizations, and specialized international entities;23
- during the electoral period, the CEC should establish an information center with permanent activity, led by a spokesperson who will: ensure the relations between CEC and mass-media; organize briefings and press conferences; offer information to interested persons and organizations, etc.;
- the mechanisms for enforcing electoral legislation provisions should be clarified for the sanctions applied in case of a violation of the rules regarding re-election24;
- the amendments to electoral legislation referring to mass-media should be made in a transparent manner by attracting and consulting local and international experts;
- the CEC should make essential efforts to ensure the signing of the Code of Conduct by all electoral candidates, and by as many mass-media institutions as possible; special attention should be given to written publications, press agencies, and broadcasters with regional and national coverage;
- the news on implementation of the electoral campaign should be part of some information bulletins of the “Teleradio-Moldova” Company, and the segment of this news should be separated from other news;
- within the news bulletins, while reflecting Government activities during the electoral campaign period, the TV stations should also present opposing views;
- the time dedicated to voters’ information and education should be increased so as to inform the voters about their rights and the voting procedure;
- in cooperation with the CEC, the ACC should monitor the implementation of the provisions set forth in the Electoral Code and Audio-Visual Code regarding mass-media, and should undertake prompt and efficient actions against violations prior to, and during, the electoral period;
- the authorities should undertake measures for efficiently implementing the recommendations of the Committee of Ministers of the CoE concerning measures for media coverage of electoral campaigns (Rec No R (99) 15), and, in particular, the chapter referring to mass-media defense during elections: protection of journalistic activities; adequate protection of journalists, their offices, and dwellings against violence and attacks which might be caused by their professional activity during elections;
- the issue of electoral advertising through mobile telephones, and especially through the Internet, needs special attention, as the regulations stipulated in the Electoral Code are not

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23 In particular, there should be studies and considerations for the recommendations of the Seminar “Mass-media and Elections” organized by the CoE Bureau of Information and Documentation in Moldova, Chisinau, April 17-18, 2007.

24 The wordings “violation of public order and ethic rules” from art.47 par.(1) and “actions that damage candidates’ honor and dignity” from art.69 par.(1) of the Electoral Code are too general and may be interpreted in an abusive manner for limiting or even violating the right to freedom of expression.
sufficient; they have to be completed by the inclusion of other provisions and special instructions which will be coordinated and correlated from the perspective of technical and technological relations; the ideal solution for the present-day situation would be for the respective norm of the Electoral Code to be ignored or enforced very permissively; the Parliament still has time to intervene for abrogating the respective provision, and this action would be commendable.

CIVIL SOCIETY

- the Coalition for Free and Fair Elections should start its activity as soon as possible for monitoring the pre-electoral conduct of public authorities, mass-media, and other potential election stakeholders;
- the donor organizations should establish a Committee for Supervising the activity of the Coalition so as to increase its value and credibility.

CIVIC EDUCATION AND INTERNATIONAL ASSISTANCE

- the civic education programs mainly focus on civil society organizations, and the efforts undertaken in the field of public authorities and institutions are not yet sufficient;
- public mass-media should pay increased attention to civic education programs and social advertising, especially the one that deals with public participation;
- it is necessary to have technical and financial assistance for supporting the international and local organizations that are active in the Republic of Moldova in the field of civic education, and improvement and consolidation of observation missions for the electoral process.

ELECTORAL RIGHTS

The imperfection of the electoral legislation and the multiple amendments made to the Electoral Code are determined in substance by the current political interests and not only by the idea to improve the situation of those who decide in elections. Although the electoral legislation should be liable to amendments, this activity should not affect the constitutional human rights and freedoms. For the purpose of ensuring the exercising of electoral rights, the following is recommended:
- to revise the provisions of art.91 of the Election Code so as to reduce the threshold for participation in parliamentary elections, from ½ to 1/3 of the total number of those registered on election lists;
- to ensure the right to exercise the right to vote for detainees who committed serious and very serious offences. The limitation of the right to vote for this category of persons should be decided by the court on an individual basis;
- to revise the limitations of the right to be elected to an MP position, based on a lack of resident status in the country and dual citizenship, as these restrictions do not correspond to the proportionality principle and prejudice the essence of the right, being in contradiction with the constitutional norms.
APPOINTING THE ELECTORAL DATE

Situations that may provoke political speculations and tensions may occur due to the competition of the norms regarding the terms for appointing the parliamentary and presidential elections. For the purpose of avoiding unwanted situations:

- the date of the parliamentary elections in 2009 should be established up until the end of December 2008 during an ordinary session of the Parliament, and the electoral campaign should start after winter holidays (after January 15, 2009);
- the Parliament could amend the provisions of art.2 of the Law on the Procedure for Electing the President, for the Chief of State to be elected, for instance, 45 days after the expiration of the mandate and not before.

BUDGET AND RESOURCES

It is timely to amend the way the budget is estimated and developed, as necessary to ensure free and fair elections, by virtue of the CEC being an autonomous and independent public authority. The functional autonomy of the CEC involves also the recognition of its budgetary autonomy which would guarantee fulfillment of its duties without any financial obstacles. The budgetary means are to be calculated in such a way so as to be enough for ensuring the organization in normal conditions of all electoral activities, during the entire electoral period and beyond, as well as to be sufficient to ensure an adequate remuneration to all electoral officials. For the purpose of carrying out the above-mentioned items, the following is recommended:

- to amend the Electoral Code for the CEC to estimate electoral costs and develop the budget draft, and afterwards submit them to the Parliament for consideration;
- the Government shall have the obligation to produce a consultative memo regarding the electoral costs;
- the legislation shall provide for the CEC to be entitled during the electoral period to decide on re-distribution of amounts allocated under different budget line items – a fact that would allow the CEC to cover the costs for some high-priority election activities.

ELECTORAL ENTITIES. CONSTITUENCIES AND ELECTION STATIONS

- the electoral entities should be secured against the direct and indirect influence of the political factors that have a direct interest in elections results. The members of the inferior electoral entities could be selected mainly from the reserves of electoral officials;
- the practice of dismissing the members of electoral entities who have the right for deliberative vote by the parties represented in the Parliament which have promoted them undermines the independence of the respective members of the electoral entities. The dismissal may be carried out by the CEC, and only for cases of violation of their duties as electoral officials;
- for the purpose of excluding an eventual agglomeration of the polling stations, it is recommended to reduce the number of voters served by a polling station to a maximum of 1,500-2,000 voters;
- The CEC and local authorities shall take precautionary measures to ensure free access to the polling stations for all categories of persons, including persons with disabilities and the elderly.
ELECTORAL LISTS

- it is necessary to consolidate the framework for regulating and organizing the training events for local authorities responsible for keeping population records (quick transmission of the information regarding population migration and keeping track of the given phenomenon);
- the electoral lists should be posted at least 20 days prior to election day to allow the verification of their accuracy when compiling the lists;
- it is necessary to undertake a random check at national level regarding the observation of the law on the mandatory character for public posting of the electoral lists;
- the advantages for computerization of the electoral process, such as the opening of real perspectives for ensuring the right to vote for all citizens who are abroad, should be popularized;
- a group of observers and experts appointed by the political ruling and opposition structures should be established under the CEC to ensure the transparency and verification of the electoral process automation.

NOMINATION AND REGISTRATION OF CANDIDATES

Radical changes in the regulation of the process for nomination and registration of candidates were not necessary as the electoral system is not modified and the electoral threshold for independent candidates remains high. The Electoral Code was amended and completed with stipulations which settle some problems observed during the previous elections, and with regulations associated with more details regarding some deficient procedures. But a part of previous concerns still persists, namely: the use of administrative resources by the candidates who hold public positions (although the electoral legislation provides for the obligation of self-suspension from public positions for certain categories of officials, the liability for this case is not clearly established); the procedures for contesting and examination of contesting the registration or non-registration of some candidates, procedures that are sometimes too long, even up until the day of elections; the publicity of the information about candidates, including declarations about their income and property.

Recommendations that need further attention:
- the need to strictly observe the provisions regarding the suspension from positions of those candidates holding incompatible positions, or positions that grant them access to administrative (public) resources; to modify in this respect the legislation (art.13 of the Electoral Code) for directly providing the cancellation of the registration and interdiction of validation when the suspension from the incompatible position or the position directly provided for by the law was not carried out;
- the procedures for collecting and verifying signatures have to be interpreted and fulfilled so as to not impede the registration of candidates based on reasons that do not depend on their will (administrative restrictions, excessive bureaucratic formalism, differentiated treatment, abuses, delays, etc.);
- rapid examination of the contestation regarding the registration/non-registration of candidates, for them to be able to exercise their rights and for the voters to have enough time to get to know them beforehand;

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62 In particular, there was a regulated time interval between the publication of the decision regarding the place and time for receiving the documents, and the moment since the documents started to be received; the procedure on casting lots was additionally regulated, etc.
the previous recommendations coming from the representatives of the international entities regarding the set up of additional conditions for participation in elections of the national (ethnic) minorities and women remain in force;  
the parties and the CEC, in collaboration with mass-media, should ensure the correct and full information of voters about the persons included in the candidate lists and the eventual modifications. Adequate information would reduce the negative effect of the closed lists and voting based on the proportional electoral system, which is less and less supported by the public;  
the model of the statements regarding the incomes and property of the candidates, which are to approved by the CEC, must ensure the presence of as much information as possible in line with art.44 par.(1) letter e) of the Electoral Code, and the content of these statements should be made public immediately after the end of candidate nomination through all available means (placing the data on the web, dissemination through mass-media, publishing special brochures and posting them at all polling stations, etc.);  
enforcement of the provisions of the Electoral Code regarding the cancellation of the registration represents an exceptional measure, but the present-day regulations are not sufficiently explicit and may be applied in an abusive way. Thus, they need more attention, and even legislative intervention: the possibility to request the cancellation of the registration under the pretext of “serious violations of the given code” (art.26 let.p); the request to cancel the electoral candidate’s registration if “he/she received undeclared monetary means or financial means from abroad in his/her account” (art.36 par.(2)).  

VOTING  

- citizens’ electoral education should be intensified on the eve of elections, materials should be disseminated to help the electors better understand the model of the voting ballot and the method for correctly completing the voting ballot;  
- the quality of the paper for printing the voting ballots should be much better, with the same characteristics, protection signs, filigree and/or consecutive numbers for increasing security and public confidence;  
- the development and use within all polling stations of a manual of electoral procedures (organization of the voting process and counting of the votes) for improving the electoral process;  
- the usage of envelopes or of folding voting ballots for guaranteeing the secrecy of votes;  
- the usage of transparent ballot boxes to increase the level of confidence in the electoral process;  
- to introduce the practice according to which the first voter who visits the polling station is asked to complete a statement confirming the start of voting and the fact that the ballot box was initially empty; this statement should be introduced in the ballot box before the first voting ballot;  

63 It is necessary to further implement civic education programs and to ensure the right to vote for the representatives of different ethnic groups (especially Roma people); “family” voting has to be totally obstructed as it affects the secrecy of the vote. Please see the recommendations from point 9 of the Joint Opinion of the Venice Commission and OSCE/ODIHR No. 484/2008, dated 06.10.2008.  
64 Concerns under this chapter were expressed several times by the experts of the Venice Commission and OSCE/ODIHR (Joint Opinions 2007, 2008).  
65 It would be best for these “serious” cases to be directly and exhaustively listed in the content of the Electoral Code.  
66 The sanction may be enforced only in cases when evidence is brought forth regarding the deliberate fraudulent receiving and deliberate use of the respective financial means. In the present version, the sanction becomes operational even for the simple fact for money to the financial means to arrive in the account, thus leaving plenty of room for abuses and tendentious interpretation.
the increased security of voting ballots, validation stamps and mobile ballot boxes may be achieved by improving the guidelines and the measures for filling in and signing ballots by those who operate with this electoral material.

OBSERVATION OF ELECTIONS

It is recommended that the CEC improve the Regulation on Observer Status and the procedure for accrediting the observers so as to eliminate the existent gaps regarding:

- security increase for voting ballot, validation stamps and mobile ballot boxes may be achieved by improving the guidelines and the measures for completing and signing some ballots by those who work with this electoral material;
- registration of observers before an electoral period, and their status;
- monitoring the pre-electoral and post-electoral situations;
- understanding the wording “is able to exercise civic functions in elections”;
- setting concrete reasons to be used by the electoral entity to refuse accreditation of any particular observer.

COUNTING VOTES AND TOTALING ELECTION RESULTS

Although the legislation was improved, the previous reports on elections’ observation and the expertise of the Electoral Code undertaken by international experts pointed out some drawbacks regarding the procedures dealing with the counting, totaling, announcing, and validating of election results, a part of which are valid for the present moment as well, before the parliamentary elections in 2009.

- to implement with maximum promptness and efficiency the State Automated Information System “Elections”, ensuring the system’s full security and training of authorized officials;
- to improve CEC guidelines and field regulations, and to provide training so that electoral officials can focus on solutions to problematic situations, and on ways to avoid violations that had been frequently registered in previous elections;
- to remove unauthorized persons from the polling stations, and to not admit persons other than the members of electoral entity to lead the counting/totaling process;
- to unequivocally ensure the posting of the minutes at the polling station and the constituency council, and the delivery of these minutes to all authorized requestors;
- CEC publishing of election results should be as detailed as possible (down to the constituency level), being carried out with maximum promptness and through all available media coverage means. The periodic publishing of the detailed results on the CEC’s official web page should be a priority;
- the causes in line with which it is possible to ask for re-counting of votes should be clearly and exhaustively listed in the Electoral Code so as to preclude abuses and unnecessary delays;
- the members of the polling station electoral bureaus should also be trained to decrease the number of invalid ballots through their correct identification;

67 OSCE/ODIHR and CoE reports, evaluation reports of IFES/ADEPT, monitoring reports of the organizations under the 2005-Coalition and the 2007-Coalition.
68 Reports of CoE experts, expertise and recommendations of the Venice Commission, OSCE/ODIHR.
69 Please see also pct.84-86 from the Joint Opinion of the Venice Commission and OSCE/ODIHR No. 484/2008, dated 06.10.2008.
• a clear procedure should be established according to which only one member of the electoral bureau will be entitled to take the voting ballots after opening the ballot boxes for identifying the electoral candidates in whose favor the votes were expressed, and to send them to be placed in separate piles for each of the electoral candidates;
• after counting the votes, the minutes should be prominently displayed in each polling station where the electoral officials provide the results of the vote counting, in line with the provisions of the Electoral Code; the copies of the minutes should be accessible in every polling station in order to be offered for completion and confirmation by the leadership of the electoral bureau whenever the independent observers and observers on behalf of the electoral candidates approach them.

CONSIDERING AND SETTLING ELECTORAL LITIGATIONS

The enforcement of the sanction dealing with cancellation of electoral candidates’ registration should be regulated in more details, with clear and exhaustive reasons to be indicated in the content of the Electoral Code so as not to admit the invocation of any new reasons during the electoral period.