LCRM – Legal Resources Centre from Moldova

Public statement regarding the adoption of the draft law no. 263/2020 on amending electoral and related legislation after holding genuine public consultations

Gribincea Vladislav · Wednesday, September 30th, 2020

The signatory organizations, members of the Civic coalition for Free and Fair Elections (CALC),

Call the Parliament of the Republic of Moldova:

- *To organize genuine public consultations within a reasonable timeframe on the draft law no. 263/2020, revised according to the Venice Commissions' and OSCE/ODIHR's recommendations expressed in the urgent joint opinion of 19 August 2020,*
- *To adopt in its final reading, as a matter of priority, the amended draft law following the recommendations from: the Venice Commission and OSCE/ODIHR, national and international election observation missions and proposals collected during public consultations,*
- *To decide the immediate implementation of technical provisions of the draft law no. 263/2020 which do not affect fundamental elements of the electoral legislation;*

On 9 July 2020 bill no. 263 on amending the electoral legal framework and related legislation passed first reading, without prior public consultations. The public consultations were organized later, on 14 July 2020 by the Parliamentary Committee on Legal Affairs, Appointments and Immunities, but were merely formalistic. Proposals submitted by civil society were rejected by default, with some minor exceptions, without the Legal Affairs Committee presenting any explanations during its hearing on 15 July 2020.

On 24 July 2020, the Ministry of Justice of the Republic of Moldova, on behalf of the Parliament, requested the Venice Commission and the OSCE / ODIHR to provide an urgent legal opinion on draft law no. 263. On 19 August 2020, the Venice Commission and the OSCE / ODIHR issued an urgent joint opinion on draft law no. 263/2020.

The authors point out that the principle of stability of electoral law needs to be respected. Any fundamental change that would be applied for the upcoming elections in November 2020 should be adopted long before the electoral process. At the same time, the Venice Commission and the OSCE / ODIHR recommend amending and applying the technical legislative provisions for the November 2020, provided that they are necessary and enter into force before the electoral process.

On 24 September 2020, during the meeting between the representatives of the CEC (Central Electoral Committee), the Minister of Justice and the Venice Commission, one of the main topics of discussion was the suitability to adopt draft law no. 263/2020 prior to the official launch of the electoral campaign on 2 October 2020.

We emphasize the fact that, so far, the Parliament has not fully followed the six legal referrals formulated by the Constitutional Court when validating the presidential elections of 30 October (13 November) 2016. According to art. 28/1 of the Law on the Constitutional Court, a period of maximum 3 months is established for the examination of the observations (findings) of the Court and its information about the results of the examination. The current version of the draft law no. 263 only partially answers the problems stated in the Referrals of the Constitutional Court.

At the same time, we repeatedly warn that the draft law no. 263, in its current version, contains several controversial and dangerous provisions with regards to the fair and free conduct of electoral processes. The most problematic of these provisions refer to the mass-media coverage of the electoral campaign, the activity of observers and the organization of the electoral process.

Therefore, we think that the draft law no. 263 should be brought back to Parliament's work agenda as soon as possible, by adjusting the draft text to the recommendations expressed in the Urgent Joint Opinion of the Venice Commission and the OSCE / ODIHR and the subsequent organization of genuine public consultations, in line with the principles of open dialogue.

The Civic Coalition for Free and Fair Elections is a permanent, voluntary entity, comprised of civil society organizations from Moldova, whose aim is to contribute to the development of democracy in Moldova, through advocacy and implementation of free and fair elections according to the standards of ODIHR (OSCE), the European Council and its specialized affiliated institutions.

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