LCRM – Legal Resources Centre from Moldova

Findings before the presidential election of 1 November 2020

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The Civic Coalition for Free and Fair Elections, which acts unanimously to contribute to the development of democracy in the Republic of Moldova by promoting free and fair elections in accordance with the standards of ODIHR (OSCE), the Council of Europe, and its specialized affiliated institutions, presents the main findings concerning the election process for the presidential election of November 1, 2020:

The legal framework governing elections contains loopholes and problematic provisions

The electoral legal framework applied during this election has not been improved in line with the referrals of the Constitutional Court issued in 2016 and those provided by national election observation missions, the OSCE/ODIHR, and the Venice Commission. Many problematic provisions concerning the sanctioning of the organized transportation of voters, hate speech, incitement to discrimination, the involvement of religious groups in election campaign, and the application of mechanism for solving complaints and litigations concerning the administration of elections remained unresolved. The election campaign also highlighted that the existing legal framework contained ambiguous provisions or did not regulate at all some problematic aspects, thus failing to ensure equal chances for all presidential candidates. These loopholes include the mechanism for suspending the President of the Republic of Moldova from office during presidential campaign, the legality of political parties' support for independent candidates, and grounds for denying an initiative group or an election candidate the opening of a bank account. We consider that the Central Election Commission (CEC)'s circular concerning the limitation of funding for election campaigns by political parties and election blocs that nominated candidates in elections is unfounded and excessive. At the same time, the CEC's decision that prohibited the organized transportation of voters will help to reduce such violations, which were found during past elections.

The pre-registration of voters marked by increased activism but also by suspicions of system fraud

Comparing to the 2019 parliamentary election, as of the day before the 2020 presidential election, the number of Moldovans registered in advance to vote abroad has increased approximately 2.5 times, from 24,125 preliminary registrations in 2019 to 60,035, in September 2020. The largest increase—almost 11 times—in the number of pre-registrations was recorded in the Russian Federation. Compared to other countries, which also had increased number of pre-registrations, in the case of Russian Federation an improper increase was registered, which raised suspicions of

concerted pre-registration. The preliminary registration of voters from Transnistrian region was low, with 59 registered voters. With regard to suspicions of pre-registration system fraud, especially related to those made for Russian Federation, we ascertain the inaction of law enforcement agencies in investigating these cases and informing the public about the investigation results.

The polling stations set up abroad and for the Transnistrian region comply with the principle of representativity, but their establishment was marked by speculation and suspicions

The distribution of polling stations abroad was based on a methodology that assigned equal weight to all criteria set by the law. In the beginning, the formation of polling stations was less transparent, which generated speculation and suspicions among many electoral actors. The CEC informed all interested parties about all phases of the formation of polling stations, the calculation formula, the risks posed by the development of the epidemiological situation, etc.

Most polling stations set up for the Transnistrian region were geographically located in the vicinity of checkpoints. Many mayor's offices refused to open polling stations in their localities, invoking the increased risk of spreading the COVID-19 infection. Although the CEC is not legally obliged to consult with local governments about the opening of polling stations for voters on the left bank of the Nistru, it could have ensured a better and friendlier communication to prevent conflictual situations that have emerged.

Fewer observers and the obstruction of their observation work

Compared to the parliamentary election of February 24, 2019, the number of national observers has decreased by 45% and that of international observers, by 60%. Despite this situation, the CEC refused to get back to the video monitoring of the election process throughout Election Day. This decision could have increased transparency in election procedures on Election Day and help to prevent potential violations or produce evidence concerning them. In approximately 20% (184) of the visited polling stations, Promo-LEX observers had limited access to voters lists with full information about voters.

The use of administrative resource during the election campaign

Promo-LEX observers have identified many cases of use of administrative resources. Most of them concerned the assumption of merits for the work done on public money and the involvement of civil servants in electioneering during business hours or on vacation leaves requested during election campaign. In most cases, administrative resource was used to support candidate Igor Dodon. There were numerous reports where representatives of PSRM, the party that has not nominated its candidate for the presidential election, participated in Igor Dodon's campaign.

The involvement of religious groups and isolated cases of election gifts and intimidation of candidates

Promo-LEX observers have reported isolated cases that could be interpreted as election gifts or vote-buying and at least nine cases of intimidation of candidates or vandalization of their electioneering materials. Where religious groups participated in electioneering, Igor Dodon was the most frequent beneficiary.

Hate speech and incitement to discrimination

The campaign was marked by more than 120 cases of hate speech, incitement to discrimination, and sexist remarks about candidates, politicians, opinion leaders, journalists, and citizens. Renato Usatîi was the electoral candidate who used such messages most frequently.

Unresolved election litigations and complaints

Most election litigations remained unresolved, and complaints filed with courts were not examined on the merits and were declared inadmissible. Parliament's failure to bring the provisions of the Election Code concerning the filing, examination, and resolving of election complaints in line with the provisions of the Administrative Code resulted in the limitation of election candidates' right to challenge the actions of their competitors and practically deprived of the right to an effective remedy.

Campaign financing is still not sufficiently transparent

Not a single initiative group and election candidate has reported their spending on the work of signature collectors, canvassers, and volunteers, and none has declared these services as in-kind donations. According to Promo-LEX's estimations, candidates who did not register with election competitors did not report campaign expenses that exceeded MDL 5 million.

The election campaign was carried out ignoring the COVID-19 prevention measures

The CEC has taken constant steps to prepare for the safe conduct of election campaign and the voting process, by purchasing safety masks, gloves, and disinfectants for election officials. However, many election management bodies ignored the requirements concerning protection measures in a pandemic context, as did many election candidates and their election staffs during campaign activities. By disconsidering anti-COVID-19 measures imposed by the National Extraordinary Commission for Public Health against COVID-19, election candidates showed lack of consciousness and disrespect toward voters, promoted defiant behaviors toward the measures taken by authorities to combat the COVID-19 infection, and created additional risks of spreading the infection among the population.

Media outlets offered disbalanced coverage of the election campaign, failing to inform the public about voting procedures

With a few exceptions, media outlets have behaved biased during the election period and the election campaign presented election candidates in an unbalanced way, and failed to provide the public with complete information about the election process and how to exercise the right to vote. The protagonists of journalistic materials were mostly election candidates—with a significant discrepancy between Igor Dodon and other candidates—local governments, the central government, and to a lesser extent, the CEC. Four TV stations out of the ten that CALC monitored presented all presidential candidates in a relatively balanced and neutral way. Another four TV stations treated candidates in a differentiated way, offering extensive coverage for the campaigns of some candidates and ignoring the campaigns of others. Two TV stations had a slightly disbalanced editorial policy, favoring some election candidates. The Audiovisual Council, the audiovisual regulatory authority, failed to act adequately and promptly to ensure fair and equidistant coverage of candidates by all broadcasters.

As for the online media, with a few exceptions, their editorial offices have openly expressed their election preferences through biased editorial policies and the unbalanced presentation of the

election candidates, in the articles that made no distinction between facts and opinions. Most materials were insufficiently documented, and the right to reply was not offered in the case of the allegations. Several portals had a concerted editorial policy, focused on the massive promotion and placement in a positive context of the candidate Igor Dodon, on the one hand, and the discrediting, labeling and placement in a negative context of the candidate Maia Sandu. We find that a lot of unmarked electoral advertising has been placed in the online press.

Discrimination against people with disabilities

People with disabilities have faced barriers to physical and information accessibility. Over 70% of polling stations are not accessible for people with locomotor disabilities, and only fewer than 1% are accessible. Most election candidates failed to develop and distribute materials in formats that were accessible for people with disabilities (in audio or Braille, with audio description or translation into the sign language, and in other formats that are easy to read and easy to understand), except one except for one electoral contestant who published the platform in Braille. The most complicated situation was noted in the case of people with mental and psycho-social disabilities from residential institutions, which imposed a quarantine on their residents due to the epidemiological situation and restricted their contact even with family members.

These findings show that the election process is carried out with a selective application of standards for a free and fair election process, and non-compliance with anti-COVID-19 preventive measures by election officials may create risks for save voting of citizens. In these circumstances, we **call on state agencies, electoral bodies, and election candidates to make efforts to ensure that voting takes place in compliance with all measures imposed against COVID-19 and to promptly resolve all alerts and complaints against potential violations in the voting process on Election Day.**

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