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CIVIC COALITION FOR FREE AND FAIR ELECTIONS

Promo-LEXASSOCIATION

REPORT
on the monitoring of new local elections - 16 May 2010

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This is an unofficial translation of the Report into English language

Executive summary

Promo-LEX salutes the special attention paid by the electoral administration (CEC) to the elections in Singera through the organization of massive voter education activities, intensive cooperation with national media and observers, direct monitoring of the elections organization by the CEC members and the use of the new technologies for the organization of the electoral process. At the same time, Promo-LEX is concerned by the reduced level of attention paid by the electoral administration to the rest of the locations, while some polling stations had inadequate infrastructure; the observers reported failures of power and telephone lines.

Promo-LEX found multiple deviations from the electoral legislation and other deficiencies related to the good organization of elections. At the same time, although this report includes a critical approach towards some of the problems in the organization of elections, Promo-LEX is conscious that the electoral administration (CEC) is making considerable efforts to establish the practices of good organization of the polls. Promo-LEX proposes a constructive collaboration between the monitors and the electoral administration towards strengthening both the good practices and the citizens' trust in the electoral process.

The observers found shortcomings pertaining to the interpretation of the current legislation. Promo-LEX observers reported that some polling stations were formed for more than 3000 voters, which is above the maximum size for a polling station permitted by the law. While the Electoral Code leaves room for interpretation in terms of exact definition of the term "party represented in the Parliament," at least two political formations that are currently part of Parliament (MAE and MU-EM) were not represented in the electoral bodies for the polls of May 16, 2010.

Additionally, some electoral bodies performed their duties in a less accurate manner. Because the voters' lists were kept inside the offices of the authorities, voters had a partially limited access to verify them. With some exceptions, electoral authorities failed to organize voter education campaigns explaining the voting procedures, electoral education materials never reached some district electoral councils. Contrary to the actual legislation provisions, the operators in charge of testing the electronic register were present during the entire day in the polling station. Some members of the polling bureaus allowed voters to cast their votes in the absence of their identification documents. The quality of the voters' lists continues to be a problem, with voters failing to find themselves on the lists or finding registration inaccuracies. Some polling stations received an insufficient number of ballot papers in comparison to the number of voters included in the voters' lists.

Electoral contenders continue the placement of electoral posters in restricted areas, as well as during the "electoral silence" period. Some political parties failed to use their right to delegate members to the electoral bureaus.

Voters continue to take advantage massively of the voting at home option, without a suitably justified reason for making such requests. In the meantime voters in Singera proved skeptical towards the Internet voting option.

Promo-LEX put forward a list of concerns based on its findings. Promo-LEX expresses its concern towards the interpretation of legal provisions with regard to the forming of the district electoral councils and polling electoral bureaus, as well as towards the involvement of unauthorized persons in the electoral procedures and the quality of the voters' lists. The Association is doubtful of the bona fide of the electoral contenders regarding the placement of electoral advertisement, and is concerned with parties represented in Parliament not using their right and moral obligation to delegate members to the electoral bodies.

Promo-LEX observed local by-elections in 5 out of the 15 locations where the elections have been carried out during May 10-15, 2010. The locations were selected based on the criteria of size and diversity, as follows: town of Singera, Chisinau mun; Rusestii Noi village, Ialoveni rayon; Carpineni village, Hancesti rayon; Congaz and Copceac villages in Gagauzia. Additionally, Promo-LEX deployed mobile teams to monitor elections in all the polling stations where local by-elections have been carried out.

Promo-LEX findings reflect the situation in the monitored locations and cannot be indicative for the entire country area, although the concerns are formulated in such a manner as to be relevant for the electoral process at the national level.

In the electoral constituency of Singera, the CEC conducted the testing of the electronic voter register for the second time in the history of Moldovan elections. Internet voting test has been implemented for the first time, in Singera. Promo-LEX has monitored the first testing of the electronic register on November 15, 2009. In this regard a report with the main concerns and findings has been developed (http://promolex.md/upload/publications/ro/doc_1258618169.pdf).

I. THE PROMO-LEX MONITORING EFFORT

The Promo-LEX Association is national, non-profit and non-politically-affiliated NGO that pursues the public good and carries out its activities in conformity with the legislation in force in the Republic of Moldova, founded in 2002. The mission of the Promo-LEX Association is to contribute to the development of democracy in the Republic of Moldova through promoting and defending human rights and through strengthening civil society.

Promo-LEX is a member of the Civic Coalition for Free and Fair Elections – a voluntary union of non-governmental organizations that implement projects to improve the electoral process and to raise citizens' confidence in elections. Election monitoring programs within the Coalition are implemented by Promo-LEX, and by other members of the Coalition.

The Promo-LEX Association, in the period 10-15 May 2010, monitored the run-up to new local elections in the five localities: the town of Sîngera, in the municipality of Chişinău; the village of Ruseştii Noi, Ialoveni rayon; the village of Cărpineni, Hînceşti rayon; and the villages of Congaz and Copceac in the autonomous territory of Găgăuzia. On 16 May 2010, Promo-LEX observers monitored events at all the polling stations where new local elections were carried out. The Promo-LEX monitoring effort deployed four static observers in polling stations in the town of Sîngera (Chişinău municipality), where the electronic register was tested, and 11 observers that formed mobile teams and monitored the elections in the other 14 localities.

This present report is a general document on all the observations made during the elections the 16 May 2010. Promo-LEX's findings reflect the situation in the localities monitored and cannot be indicative of the whole country, or other localities. Nevertheless, our recommendations have been formulated in such a way as to be relevant for the electoral process at a national level.

The Promo-LEX monitoring effort recognizes the financial support and technical assistance offered by the National Democratic Institute for International Affairs (NDI), and by the United States Agency for International Development (USAID).

II. INTRODUCTION. PRE-ELECTORAL CONTEXT

On May 16 2010, new local elections for the function of Mayor took place in 15 localities in the Republic of Moldova. The previous Mayors had been chosen following general local elections on 3 June 2007.

In the locality of Beleavini (Briceni rayon) and Selişte (Orhei rayon), the function of Mayor had become vacant due to the death of the mayors elected in June 2007.

The mandates of the mayors in the village of Floreni (Anenii Noi rayon), in the town of Floreşti (Floreşti rayon), in Roşcani (Străşeni rayon), and in the villages of Congaz and Copceac (the autonomous territory of Gagauzia), had terminated early in connection with the incompatibility of their function with another role.

The mandates of the mayors in the community of Cărpineni (Hînceşti rayon), and in the village of Hansca and the community of Ruseştii Noi (Ialoveni rayon), had terminated early in connection with the resignation of the previous mayors.

The mayors of the town of Sîngera (municipality of Chişinău), the village of Vişniovca (Cantemir rayon), the communities of Ciolacu-Nou (Făleşti rayon), the village of Şestaci (Şoldăneşti rayon) and the community of Albota de Sus (Taraclia rayon), were sentenced, through a permanent and irrevocable court decision, thus their mandates were terminated early due to the entry-into-force of the court sentence.

In the electoral constituency of Sîngera, by decision of the Central Electoral Commission, it was decided, for the second time in the history of elections in the Republic of Moldova, to test the electronic voter register. The Promo-LEX Association monitored the election of 15 November 2009 when electronic voter register was tested for the first time, and subsequently compiled a report (http://promolex.md/upload/publications/ro/doc_1258618169.pdf) in which the main concerns referring to the testing of electronic registration were mentioned.

II.FINDINGS FOR THE PRE-ELECTION PERIOD

The findings are based on facts, events, systemic actions or inactions, that were repeated during the time of / or on the territory of the electoral constituencies of Sîngera, Cărpineni, Ruseștii Noi, Copceac and Congaz, during the period 10-15 May 2010 and that raised the concern of the Promo-LEX monitoring effort.

A. LEGAL FRAMEWORK

Ignoring the recommendations of civil society

The previous elections (2005 and 2009) were monitored by numerous national and international organizations that found certain tendencies, expressed concerns and suggested changes to the electoral legislation and procedures. The main concerns and recommendations referred to the improvement of the legal framework and its implementation, including the quality of the voters' lists, the use of public resources for electoral campaigns and the provision of equal chances to all electoral candidates and voters. To a great extent, these findings and recommendations were ignored by the Moldovan authorities, or were implemented only selectively.

In particular, the Central Electoral Commission (CEC) ignored the recommendations of the Promo-LEX Association, included in the report *Monitoring of the mayoral by-elections in the villages of Ștefănești and Semionovca, in the district of Ștefan Vodă, carried out on November 15, 2009*, referring to the incorrect informing of the voters regarding the elections procedures. The CEC did not take into account these recommendations, continuing to place in the constituency of Sîngera informational posters, which misinformed voters about the identity documents on the basis of which voting was carried out.

Opening of polling stations contrary to legal norms

According to the provisions of para.2, art.29 of the Electoral Code, polling stations are established for a minimum of 30 and a maximum of 3000 voters. The voting station 253/4, in Sîngera, was opened contrary to these legal norms, being opened for 3008 voters.

The defective establishment of constituency electoral councils and the electoral bureaus

According to the provisions of art. 27 para. 4 of the Electoral Code, a number of members of the constituency electoral council is delegated by the parties represented in Parliament, the same norm being specified in art.29, para. 11 of the Electoral Code, referring to the members of polling station bureaus. The Electoral Code does not give a precise definition of the concept of a political party represented in Parliament, so that if we interpret directly the norms mentioned, at least two political formations indirectly represented in Parliament at this time (MAE and MU-EM), and in the election of 16 May 2010, were not represented in the electoral bodies.

B. THE VOTER LISTS

Restriction of the free verification of the electoral lists

The general rule is that the electoral lists should be displayed in the locations of the polling stations 20 days before the day of the election. Promo-LEX observers checked the procedure of displaying the voters' lists in the following localities: the town of Sîngera (mun. Chișinău); the village of Ruseștii Noi, (Ialoveni rayon); the village of Cărpineni, (Hîncești rayon); the villages of Congaz and Copceac (autonomous territory of Găgăuzia). It was found that the voters' lists were displayed in the working offices with limited access, a fact which made it more difficult for voters to check the lists. These kinds of situations were also registered in the localities of Ruseștii-Noi, Congaz and Cărpineni.

C. ELECTORAL CANDIDATES

The unequal treatment of electoral candidates by representatives of the local public administration

In the election period observers found that the representatives of the local public administrations treated the electoral candidates unequally. Thus, in the locality of Congaz, even on the entrance door of the Central Election Constituency (the administrative building of the Congaz Mayoralty), below their poster, campaign material of the PCRM party candidate were displayed.

The giving of gifts during the electoral campaign

Isolated cases were found involving the giving of gifts to voters, by public individuals during electoral meetings. Such a case was registered in the locality of Ruseștii Noi, Ialoveni (Valentina Buliga, of the PDM, offered a wheelchair to a person with disabilities).

The display of campaign material in prohibited locations

The unauthorized display of campaign material was found in all the monitored constituencies, particularly on fences and posts.

Indifference of some political parties regarding delegating members to the electoral bodies

In particular, this tendency was noted in the electoral constituencies of Congaz and Copceac, Găgăuzia, in which the parliamentary parties of the PL and AMN formally delegated representatives to the bureaus, without preparing necessary accompanying documents in strict conformity with the legislation in force. On obtaining the refusal to register the members, they did not contend the respective decisions.

Conflicts between electoral candidates

Conflicts, apparently with the use of force, between the electoral candidates (AMN and MU-EM), were found in the locality of Sîngera, in connection with the destruction of electoral material. It is to be mentioned that electoral material of both candidates were displayed in unauthorized locations.

D. THE USE OF PUBLIC RESOURCES FOR ELECTORAL PURPOSES

The use of public resources

Isolated cases were found involving the use of public resources for electoral purposes. Such a case was found in Congaz on May 13 2010, where Caraseni Demian, the vice-president of the popular assembly Gagauz Eri, came to a meeting with voters in his work car RMA 193.

E. THE PERFORMANCE OF THE ELECTORAL ADMINISTRATION

The lack of a civic education campaign on the voting procedure

With the exception of the polling stations in the town of Sîngera, in the other 4 electoral constituencies monitored, informational leaflets about the voting procedure and the identity documents needed to vote were not distributed by the CEC. It is to be mentioned that such informational materials were published by the CEC and were probably included in the budget for the holding of new local elections in all the polling stations.

The defective interpretation of the provisions of the Electoral Code by the electoral bodies

Within the electoral constituency in the village of Copceac (Găgăuzia), as a result of the defective interpretation of the provisions of the Electoral Code, the candidates put forward by the candidate Ivancioglo Mihail (PDM) were not included in time. The pretext given was that he had not submitted all the documents required by the current legislation. Only after the electoral candidate had notified the CEC twice did the situation change and representatives designated by the PDM were included as members of the respective electoral bodies. The same thing happened with the members designated by the PL and AMN, but these did not contest the decision of the council of the electoral constituency.

IV. FINDINGS ON THE DAY OF THE ELECTION

A. LEGAL FRAMEWORK

Ignoring the recommendations of civil society and international bodies

In particular, the Central Electoral Commission (CEC) ignored the recommendations of the Promo-LEX Association, included in the report *Monitoring of the mayoral by-elections in the villages of Ștefănești and Semionovca, in the district of Ștefan Vodă, carried out on November 15, 2009*, referring to the incorrect informing of the voters regarding the elections procedures, and the presence of unauthorized people at the polling stations.

Opening of polling stations contrary to legal norms

According to the provisions of para.2, art.29 of the Electoral Code, polling stations are established for a minimum of 30 and a maximum of 3000 voters. The voting station 253/4, in Sîngera, was opened contrary to these legal norms, being opened for 3008 voters.

The defective establishment of constituency electoral councils and the electoral offices

According to the provisions of art. 27 para. 4 of the Electoral Code, a number of members of the constituency electoral council is delegated by the parties represented in Parliament, the same norm being specified in art.29, para. 11 of the Electoral Code, referring to the members of polling station bureaus. The Electoral Code does not give a precise definition of the concept of a political party represented in Parliament, so that if we interpret directly the norms mentioned, at least two political formations indirectly represented in Parliament at this time (MAE and MU-EM), and in the election of 16 May 2010, were not represented in any of the electoral bodies that administrated the elections.

B. ELECTORAL LISTS

The acceptance of incomplete and/or sub-quality electoral lists by the CEC

Letter d., article 22 of the Electoral Code stipulates that the CEC „... exercises control over the timely preparation and checking of the electoral lists...”.

In the polling stations where Promo-LEX observers had access to the voters' lists, it was found that the lists did not include people living within the radius of the respective electoral constituencies, and data from identity documents had been entered with mistakes. Such a situation was found at the polling stations in the village of Hansca (Ialoveni rayon), and in the village of Cărpineni (Hîncești rayon).

The quality of the electoral lists is also confirmed by the big number of voters that voted on the supplementary lists, for example in the electoral constituency nr.18 Copceac, 395 voters voted on supplementary lists of the total 4709 included on the voters' lists.

The delivery of an insufficient number of voting ballots to the polling stations

This situation was registered in the following polling stations: 8/46 Vișniovca (on the lists there were 1326 people, but only 1322 ballot papers were received), 3/10 Albota de Sus (on the lists there were 819 people, but only 817 ballot papers were received), 8 Ciolacu Nou (on the lists there were 914 people, but only 911 ballot papers were received), 37/18 Ruseștii Noi (on the lists there were 271 people, but only 268 ballot papers were received), 253/4 Sîngera (on the lists there were 3008 people, but only 3000 ballot papers were received).

C. HINDERING OF THE MONITORING PROCESS

According to the national legislation of the Republic of Moldova, OSCE commitments, European electoral standards, and other international standards concerning the organization and holding of democratic elections, the authorities are obliged to provide the largest possibilities to observe the electoral process, both to national and international observers. Also, the Code of Good Practice in Electoral Matters of the Venice Commission stipulates that ”observation should concentrate in particular on how the authorities respect their obligation of neutrality”.

Violations of observers' rights

Paragraph 5, article 63 of the Electoral Code provides that ’...accredited observers have the right to attend at all electoral operations, at all meetings of the electoral bodies, including on the day of the elections, without interfering in the electoral process or in other electoral operations, and to inform the president of the electoral body about problems observed’. On the day of the elections, cases were found in which access to electoral documents was limited, in which the possibility to talk to on a phone was limited and in which an observer was encouraged to talk to the press.

D. THE ABUSIVE INFLUENCE OVER, AND INTIMIDATION OF, VOTERS

The presence of unauthorized people within the radius of the polling stations

Contrary to the provisions of the Electoral Code, cases were recorded in which police workers were present on the day of the elections at polling stations in the village of Hansca (Ialoveni rayon) and in the vicinity of polling station number 21/18 Ruseștii Noi (Ialoveni rayon) and in the village of Vișniovca (Cantemir rayon). These were present at a distance of less than 100m from the polling station, that is to say, within the radius of the polling station.

Also, at the polling stations opened in the electoral constituency of Sîngera, it was found that, over the course of the whole day, the operators of the electronic register were present in the voting station, - persons who, according to art. 1 of the Electoral Code, do not have the right to be within the radius of the polling station.

E. ELECTORAL CANDIDATES

Display of campaign material on the day of elections

The campaign material of different electoral candidates was not removed, neither on the day of the election nor on the preceding day, in at least 3 electoral constituencies out of the 15 (the villages of Hansca (Ialoveni rayon), Vișniovca (Cantemir rayon), and Albota de Sus (Taraclia rayon)).

F. PERFORMANCE OF THE ELECTORAL ADMINISTRATION

Voting without identity documents

Observers found several isolated cases in which voters voted without identity documents, only using a copy of their identity bulletin (voter V.C. at voting station 35, Ruseștii Noi (Ialoveni) and voters T.T. and D.T. at voting station 47 in Congaz (Găgăuzia).

The lack of civic education campaigns regarding voting procedures

With the exception of the polling stations in the town of Sîngera and the village of Floreni, in the other 13 electoral constituencies monitored, informational leaflets about the voting procedure and the identity documents needed to vote were not distributed by the CEC. Also, with the exception of these two localities, voters did not receive informational leaflets regarding the identity documents needed to vote. It is to be mentioned that such informational materials were published by the CEC and were probably included in the budget for the holding of new local elections in all the polling stations.

Insufficient arrangements of the polling stations

At the voting station opened in the village of Roșcani (Strășeni rayon), the lack of electricity was noted during the day of the election.

Members of the electoral body were not checking for the accompanying document meant to go with the identity bulletin to confirm the place of residence or domicile of the voter

According to the provisions letter a) para. (3) art.53 of the Electoral Code, voting takes place on the basis of the identity bulletin of the citizen of the Republic of Moldova, with the accompanying document on which the place of residence or domicile of the voter on the voting territory is indicated. To a great extent this legal provision was not adhered to by the members of the electoral bureau, the accent being placed instead on finding the voter on the voters' lists.

At the entry to the polling stations, including at the polling stations in the village of Floreni and the town of Sîngera, informative posters of the CEC were displayed, which misinformed voters about the documents needed to vote

The CEC poster explicitly mentioned only the identity bulletin, without any mention of the accompanying document on which the place of residence or domicile of the voter is indicated.

G. VOTERS

The desire to vote at home on the part of voters continues. In all the polling stations monitored on 16 May 2010, requests by voters were registered concerning the deployment of members of the electoral bureau with a mobile ballot box to voters' homes, so that voters may vote at home. Obviously, the desire of voters, who, due to objective circumstances, cannot be present at the polling stations, needs to be met. Nevertheless, the large number of such requests raises a lot of questions concerning the good faith of the voters and also makes it more difficult for the members of the electoral office to perform

their duties. In this context, it should be mentioned that at voting station 3/1, Albota de Sus, at 11.54am, 51 requests of such a kind were registered, out of a total of 819 voters (that is, almost 6.23%). At the voting section in the village of Beleavinți, at 14.50pm, 150 requests of this kind were registered, out of a total of 1797 voters (almost 8.35%). At the voting station in Ciolacul Nou, at 10.30am, 68 requests of this kind were registered, out of a total number of 914 voters (about 7.44%)

H. THE PERFORMANCE OF THE ELECTORAL ADMINISTRATION CONCERNING THE TESTING OF THE ELECTRONIC REGISTER IN THE TOWN OF SÎNGERA

Exaggerated trust of the electoral office staff in the electronic register

The performance of the members of the electoral bureau demonstrated insufficient training regarding the testing of the electronic register. In cases in which the operator was confirming the existence of the person on the register - a fact that is only a testing procedure and not the checking itself - the members of the office were not checking the existence of the stamp 'domicile' in the accompanying document to the identity bulletin. We consider it opportune to verify the voter on the electronic register only after he/she receives the ballot paper and not before, especially seeing as this procedure is still being tested.

Limited number of computers

This leads to crowding and does not ensure a smooth flow of voters, in case of possible technical problems with one of the computers.

The computer operators should be members of the electoral office

As has been mentioned already, the operators of the electronic register are not members of the electoral office, nor were accredited in any way by the CEC or other electoral bodies. CEC limited itself to simply contracting these people, this being insufficient to allow them to be present in the polling stations, and to be involved in the electoral proceedings.

Lack of voters' trust in electronic voting

At the electronic register placed at a voting station in the electoral constituency of Sîngera, according to data provided by the technical assistants, only 10% out of a total number of voters included in the voters' lists choose to check their presence on the electoral lists. This fact demonstrates the lack of interest towards this kind of procedure, and the lack of trust in electronic systems.

V. RECOMMENDATIONS

To the Central Electoral Commission

1. To channel its efforts of monitoring the lower level electoral bodies towards
 - a) organization and opening of the polling stations based on the numbers of voters;
 - b) locations of display of the electoral lists, for verification by voters;
 - c) informing voters about the electoral procedures;
 - d) checking the number of voters included in the electoral lists, to avoid cases where insufficient numbers of ballot papers were printed and sent to the electoral offices;
2. To ensure that the lower electoral bodies are equally supplied with the informational material concerning electoral proceeding;
3. To organize the testing of the electronic register in strict conformity with the legislation in force;
4. To ensure quality instruction for members of the lower electoral bodies ;
5. To ensure that the electoral offices have sufficient technical equipment, if testing the electronic register.
6. Develop and implement a mechanism of tackling constructively the recommendations of the civil society organizations that monitor elections.

To the electoral bodies

7. To strictly check the documents on the basis of which voters can vote, thus avoiding cases of voters voting without identity documents;
8. To strictly check the legal provisions concerning the persons that have the right to attend electoral operations;

To Parliament

9. To give a legal definition of the concept of a 'party or socio-political organization represented in Parliament on the date of

the establishment of the electoral bodies';

10. To revise para. 4 art. 55 of the Electoral Code in order to avoid cases of voting at their place of domicile of people who are able to exercise their right to vote in the voting station;

11. Revisit the strategy of implementing an electronic voting system in Moldova and channel the resources towards ensuring the quality of other priority aspect in organizing democratic elections;

To electoral candidates

12. To train people trustworthy people so that they will respect the current legal provisions about the displaying of campaign material, as well as carrying out electoral campaigning, especially during the 'days of electoral silence';

13. To actively exercise their right and respective obligation to delegate members to the electoral bodies;

To Local Public Administration

14. To check the electoral lists to improve their quality;

15. To arrange the places for electoral material, according to the size of the electoral constituency, the number of electoral candidates and voters;