OSCE Office for Democratic Institutions and Human Rights Limited Election Observation Mission Republic of Moldova Presidential Election, 1 November 2020



INTERIM REPORT 22 September – 8 October 2020

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I. EXECUTIVE SUMMARY

- The presidential election will take place on 1 November. For the election to be valid, participation is required from at least one third of registered voters. If no candidate obtains a majority of votes in the first round, the winner will be determined in the run-off to be held two weeks later. There is no turnout requirement for the run-off.
- Electoral legal framework underwent numerous amendments since the last presidential election. The Election Code was most recently amended in July 2020 when the CEC was given more responsibilities for organizing voting abroad. Substantial amendments initiated before this election are pending in parliament. The law provides for observation of the entire electoral process by citizen and international observers, as well as representatives of the candidates.
- The election will be managed by a three-level administration, comprising the Central Election Commission (CEC), 36 District Electoral Council (DECs) and 2,004 Precinct Electoral Bureaus (PEBs) in the country. Additionally, 139 PEBs will conduct polling in 36 countries abroad. So far, the CEC has met the legal deadlines. Voter information campaign is ongoing, also in minority languages. An instruction on the preventive measures related to COVID-19 pandemic during the electoral period was adopted by the authorities.
- The centralised voter register, maintained and updated by the CEC, is extracted from the population register. As of 8 October, there were 3,287,140 registered voters, including 256,230 voters registered in the localities on the left bank of Nistru (Transnistria) who will have the opportunity to vote in 42 special polling stations. In view of the COVID-19 pandemic, mobile voting was extended to voters in quarantine or with symptoms of respiratory diseases.
- Presidential candidates may be nominated by political parties and electoral blocs or stand independently. All prospective candidates must submit a minimum of 15,000 supporting signatures collected in the majority of administrative-territorial units. Out of 13 registered initiative groups, nine submitted nomination documents to the CEC, which registered eight candidates and rejected one. Two registered candidates are women.
- The official campaign period began on 2 October. The campaign started with several small rallies and statements in the media by the candidates, outlining their main campaign topics. Current restrictions due to the COVID-19 pandemic limit participation in public events to 50 people. Although not explicitly required by law, on 2 October incumbent president Igor Dodon announced he would be taking unpaid leave for the time of the campaign.
- Candidates' campaigns may be funded from private donations by individuals and legal entities, as well as interest-free loans. The CEC is responsible for the implementation and oversight of campaign finance regulations. The CEC's explanation, which considerably limits the amount of permitted financial support from political parties to their candidates, caused controversy and disputes.

- The media landscape is diverse, with numerous broadcast, online and printed media. The legislation provides for equitable conditions for contestants in media and free airtime as well as print space in public media outlets. The Audiovisual Council oversees the campaign coverage of broadcasters, conducts its own monitoring, and considers complaints against broadcast media. The national public broadcaster plans to organize debates between candidates.
- The CEC handles most election-related complaints, including on campaign finance. So far, several appeals against CEC decisions and actions were made to courts related to candidate registration, the establishment of polling stations abroad and polling stations for voters from Transnistria, and on campaign finance. Most of these appeals were rejected as inadmissible.

II. INTRODUCTION

Following an invitation from the Ministry of Foreign Affairs and European Integration of the Republic of Moldova (MFAEI), and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed a Limited Election Observation Mission (LEOM) on 22 September. The LEOM, headed by Ms. Corien Jonker, consists of a 10-member core team based in Chisinau and 24 long-term observers deployed throughout the country from 30 September. Mission members are drawn from 14 OSCE participating States.

III. BACKGROUND AND POLITICAL CONTEXT

Under the Constitution, the executive power is exercised by the government led by the prime minister. The president serves as the head of state and holds certain powers in foreign relations and national security. A Constitutional Court ruling in 2016 reintroduced direct presidential elections, reversing constitutional provisions on indirect presidential election in force since 2000. On 21 May, the parliament called the presidential election for 1 November.

Igor Dodon, then nominated by the Party of Socialists of Moldova (PSRM), won the second round of the presidential election in 2016 over Maia Sandu, nominated by the Party of Action and Solidarity (PAS). Following the February 2019 parliamentary elections, the newly elected 101-member parliament comprised three political parties and one bloc: PSRM, ACUM bloc, Democratic Party of Moldova (PDM) and Shor Party. Negotiations to form a governing coalition were unsuccessful for several months, while the government continued to be led by Pavel Filip from the PDM.

An ACUM-PSRM coalition was agreed in June 2019 under Prime Minister Maia Sandu, following the departure from the country of Vladimir Plahotniuc, an influential businessman and PDM leader. Sandu's government was ousted in a motion of non-confidence initiated by PSRM in November 2019 and replaced by a PSRM-PDM coalition under Prime Minister Ion Chicu. Due to changed affiliations by parliamentarians since their election, the governing coalition now holds 50 seats, one short of a majority. President Igor Dodon publicly stated that he would seek early parliamentary elections in case of his re-election. The geopolitical positioning of Moldova, economic issues and the fight against corruption are important topics in the current political discourse, as is the interpretation of the role of the president.

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The president is elected for a four-year term through a single nationwide constituency. For the election to be valid, participation is required from at least one third of registered voters. A candidate who obtains at least half of the votes cast is considered elected. If no candidate obtains the required number of votes, a second round is held two weeks later between the two candidates with the most votes. In the second round, the candidate who obtains the higher number of votes is considered elected, regardless of voter turnout.

Presidential elections are primarily regulated by the 1994 Constitution, the 1997 Election Code, other relevant laws, and CEC decisions.² The electoral legal framework underwent numerous amendments since the last presidential election. Amendments to the Election Code in 2019 reintroduced a campaign silence period for a day before and on election day, allowed private donations from incomes from abroad, lowered donation limits from physical persons and legal entities and established a ceiling for a contestant's campaign fund. In July 2020, the Election Code was amended to give the CEC more responsibilities in organizing voting abroad. Other amendments initiated before this election are pending in parliament.³

V. ELECTION ADMINISTRATION

The presidential election is managed by a three-level administration, comprising the Central Election Commission (CEC), 36 District Electoral Councils (DECs), and 2,004 Precinct Electoral Bureaus (PEBs) in the country. Out-of-country voting will be conducted by additional 139 PEBs for polling stations established in diplomatic representations and other localities in 36 countries.

The CEC is a permanent electoral authority with a five-year mandate. It consists of nine members, one nominated by the president and the others by the parliamentary factions proportionally to their representation. The current CEC was appointed in June 2016, however, three new members were appointed and new leadership elected following resignations in July 2019.⁵ There are no women among current CEC members.

The lower-level electoral bodies are appointed for each election. The DECs were formed on 11 September and their membership can vary from 7 to 11 members. Courts and local councils nominate two DEC members each. DECs establish PEBs, consisting of 5 to 11 members, including 3 nominated by local councils. Each parliamentary party has the right to nominate one member to each DEC and PEB.

In case of insufficient turnout, repeat elections should be conducted within two weeks from the declaration of invalidity by the CEC with the same candidates, voter lists, and election bodies.

Including the 2007 Law on Political Parties, the 2008 Law on Assemblies, the 2018 Audiovisual Code, the 2002 Criminal Code, the 2018 Administrative Code, and the 2008 Code on Contraventions.

In July 2020 the parliament adopted in the first reading a draft Law on Amending the Election Code, the Administrative Code and the Audiovisual Code. In their <u>Urgent Joint Opinion</u>, ODIHR and the Venice Commission concluded that "the draft includes some improvements and addresses several prior ODIHR, PACE and Venice Commission recommendations", but also noted concerns about the hasty drafting procedure and the lacking transparency of the process.

There are 37 administrative districts. However, as previously, voting will not take place in the Bender and Tiraspol districts in Transnistria, which are not under the control of the constitutional authorities of the Republic of Moldova. To administer polling for registered voters from these two districts, a designated DEC located in Chisinau was established.

The CEC, DEC and PEB members elect their leadership from among themselves.

Recent legal amendments vested the final decision on the allocation of polling stations abroad with the CEC, in co-operation with the MFAEI.⁶ For voters registered in the localities on the left bank of Nistru (Transnistria), 42 polling stations will be established in the neighbouring areas that are under government control.⁷ Several ODIHR interlocutors voiced concerns over the implementation of criteria used for establishment of polling stations abroad.⁸

To date, the CEC has carried out preparations according to the legal deadlines. The commission has held regular sessions that were open to the accredited observers and media and live-streamed online. Due to the current epidemiological situation, the CEC Rules of Procedure were amended to allow remote participation of the CEC members via an online conference platform. The sessions and their agendas have been announced in advance. The decisions adopted and minutes from the sessions have been published on the CEC website in a timely manner.

The National Extraordinary Commission for Public Health issued instructions on the preventive measures against the spread of COVID-19 during the electoral period, including use of protective equipment, social distancing and additional arrangements in polling premises. However, some ODIHR LEOM interlocutors questioned whether these instructions provide sufficient guidance for election day.

The CEC and its Centre for Continuous Electoral Training (CICDE) have launched an extensive training programme for election officials and other stakeholders well in advance before elections, mostly online. CICDE also prepared a voter information campaign for online and social media, covering election procedures in-country and abroad, accessibility of polls for voters with disabilities, and preventive measures against the spread of COVID-19. Video spots in the state language are supported by sign-language interpretation, as well as Russian and Gagauz subtitles. Printed campaign materials are available in five languages.⁹

VI. VOTER REGISTRATION

The system for voter registration is passive and continuous, based on information extracted from the State Population Register. Citizens aged 18 or older by election day are eligible to vote, unless deprived of the voting rights by a court decision. The centralised State Register of Voters (SRV) is maintained and updated by the CEC.

As of 8 October, the SRV included 3,287,140 voters. Voters with registered residence or domicile are included in the main voter list which, on 8 October, comprised 2,798,306 registered voters. According to the CEC, 232,631 voters are registered without domicile or residence, and the SRV includes 256,203 voters from Transnistria, an increase of some 26,000 since the 2019 parliamentary elections. Voters without a registered address and those from Transnistria are not

According to the CEC decision of 26 September, 92 PSs will be opened in EU countries, 14 in North America, 17 in the Russian Federation, and 14 in other countries.

Gagauz, Romani, Romanian, Russian, and Ukrainian.

Voters abroad and from Transnistria had the possibility to express their interest in participating in the election by pre-registering online or by mail for an extensive period of time. According to the CEC, 59,936 voters abroad and 161 voters from Transnistria used this opportunity.

The three criteria used were: 1) voter turnout in the last election in a given country; 2) number of voters who pre-registered to vote there; 3) data on Moldovan citizens residing in a foreign country obtained by the MFAEI. An investigation has been launched for alleged falsified pre-registrations in certain countries.

Voters who have both domicile and residence registered are assigned to a precinct based on their residence address.

According to the CEC the increase is caused by increase of Moldovan passport holders residing in Transnistria and limited reporting on deceased voters from this territory.

included in the main voter list and will be recorded in the supplementary voter lists on election day. Voters can request an absentee voting certificate to vote in a different locality than their residence up to the day before election day. Elderly voters, voters admitted to health institutions, and those in detention centres and prisons may request mobile voting. In view of COVID-19 pandemic, mobile voting was extended to voters in quarantine or with symptoms of respiratory diseases. ¹²

From 12 October, voter lists should be available for public scrutiny in premises of the PEBs. A simplified version of voter lists should be also accessible for each polling station through an interactive map on the CEC website. ¹³ Further, voters have the possibility to verify their personal data and assignment to the polling stations via an online application on the CEC website and may request corrections and amendments up until 31 October. The August 2019 legislative amendments permitted to use IDs and expired passports for voter identification abroad on election day.

VII. CANDIDATE REGISTRATION

Presidential candidates may be nominated by political parties and electoral blocs or run independently. Citizens eligible to vote may stand for the presidential office if they are at least 40 years of age by election day, have resided permanently in the country for at least 10 years, and are proficient in the state language.¹⁴

Registered initiative groups for prospective candidates are required to submit between 15,000 and 25,000 supporting signatures, with a minimum of 600 signatures from at least 18 out of the 35 second-level administrative-territorial units. Contrary to previous ODIHR recommendations and international good practice, voters could sign in support of only one candidate.

Candidate nominations were made between 1 September and 1 October. Out of 13 registered initiative groups, 9 submitted nomination documents together with supporting signature lists to the CEC, which had five days for signature verification. The CEC reviewed the nomination documents within the deadline and registered eight candidates, including two women. The companies of the co

VIII. CAMPAIGN

The official campaign period began on 2 October and will end at midnight on 30 October, with campaign silence the day before and on election day. Candidates can start campaigning after their registration.¹⁷ Local public authorities are obliged to designate campaigning spaces and venues for meetings for all candidates within three days of the beginning of the campaign period. The use of

Voters can submit applications for mobile voting within two weeks before election day. On election day, such application together with medical certificate can be submitted until 15:00. Voters who show symptoms of respiratory diseases and fever when arriving to the polling station will be required to request mobile voting.

These lists will contain only full names of the registered voters and the year of birth. The PEBs will be provided with both full voter lists containing all data for individual inspection and a copy of the simplified list for public scrutiny.

The Election Code sets additional restrictions, prohibiting candidacies of active military personnel, those sentenced to imprisonment or with active criminal records for intentional crimes, and persons deprived of the right to hold positions of responsibility by a court decision.

Candidates meeting the requirements should be registered within seven days of the submission of nominations.

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Seven candidates are nominated by political parties and blocs: Dorin Chirtoacă (Electoral Bloc UNIREA), Tudor Deliu (Liberal Democratic Party), Violeta Ivanov (Shor Party), Andrei Năstase (Platform DA), Maia Sandu (PAS), Octavian Țîcu (National Unity Party), and Renato Usatîi (Our Party). The incumbent President Igor Dodon is standing as an independent candidate. One prospective candidate, Adrian Candu, was rejected for not meeting the required numbers of supporting signatures.

The campaign has, therefore, started later for the candidates registered after 2 October.

state resources is forbidden, as is the use of foreign funding, symbols or the involvement of foreign citizens in the campaign. Current restrictions due to COVID-19 pandemic limit participation in public events, both indoors and outdoors, to 50 participants. In this context, ODIHR LEOM interlocutors expect an enhanced campaigning in the media, including social media.

Although not explicitly required by law, on 2 October President Igor Dodon announced an unpaid leave from his office for the time of the campaign. The campaign started with several small rallies and statements in the media by the candidates, outlining their main campaign topics.

IX. CAMPAIGN FINANCE

Campaign finance regulations apply to initiative groups and electoral competitors. Campaigns may be funded from private donations by individuals and legal entities, as well interest-free loans. All campaign expenses are to be incurred via dedicated campaign fund accounts.¹⁸

A candidate's campaign fund may receive up to 0.05 per cent of the state budget (MDL 18.92 million, some EUR 953,000), with donation limits set for individuals and legal entities. Legal entities can donate only via bank transfers while individuals may donate up to 3 average salaries in cash. In-kind donations are permitted within the same limits. Public funding for candidates is available through interest-free loans from the state budget, in the amount up to MDL 50,000 (some EUR 2,500), which is to be repaid partially or in full. Anonymous donations and donations from foreign, public, non-commercial, trade-union, charitable and religious organizations are prohibited.

On 15 September, the CEC issued a "circular" on campaign financing for this election, explaining that political parties are bound by the same donation limits as other legal entities. ²¹ This explanation was criticized by several political parties. The CEC claimed that this document was not legally binding, which complicated the judicial review of this act. ²²

Campaign finance oversight is carried out by the CEC. The law requires contestants to submit financial reports on all transactions to the CEC within 3 days from the moment the account is opened and then every week, with the final report due 48 hours before election day. The CEC reviewed financial reports of initiative groups and did not impose any

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According to the CEC, since political parties do not have the status of a contestant in presidential elections, the Election Code limits their financial support to the amount applicable to legal entities.

Candidates who refuse to open an account should inform the CEC and may receive only in-kind donations.

One Euro is approximately 19.8 Moldovan Lei (MDL). Individuals may donate up to 6 average salaries (a total of MDL 41,850); individuals with income from abroad – up to 3 average salaries (MDL 20,925); legal entities may donate up to 12 average salaries (MDL 83,700). The law does not set a specific limit for a candidate's own contribution to the election fund.

The loan is cleared by the state in proportion to the number of votes received by the candidate. The remaining part shall be repaid within two months by candidates who obtained less than 3 per cent of valid votes cast or within four months by other candidates. In case of withdrawal by a candidate the loan is repaid in full.

The Election Code provides that the CEC shall adopt regulatory acts required for implementing and observing the legislation on electoral campaigns. The Liberal Party and the Liberal Democratic Party challenged this document in the Chisinau Court of Appeals (CCA), which found the complaint inadmissible because it did not affect the subjective interests of these parties. After the Supreme Court returned the case to the CCA, the court again found the complaint inadmissible because the "circular" was not a binding document. The decision was again appealed to the Supreme Court, which then agreed with the CCA and rejected the case as inadmissible.

sanctions.²³ The reports received by the CEC were published on its website within 48 hours, as prescribed by the law.

X. MEDIA

The media landscape is diverse, comprising at least 62 television channels, 55 radio stations, 90 newspapers, 77 magazines and 180 online news portals. Television remains the primary source of political information but the role of online media as a platform for political discourse is growing. According to ODIHR LEOM interlocutors, many media are directly or indirectly affiliated with different political parties, which may affect editorial independence, quality of journalism, and cause stronger polarization. A narrow advertising market increases the leverage of political and economic forces. Several ODIHR LEOM interlocutors raised concerns about limited access to information from the authorities and official registries.²⁴

The 2018 Audiovisual Code provides for editorial independence, protection of sources of information, journalists' safety, the right of reply, and prohibits censorship. The Code also regulates public broadcasters and establishes the Audiovisual Council (AC) as the regulatory body for broadcast media. A number of draft amendments and addenda to the media-related laws proposed by civil society are pending, and some ODIHR interlocutors opined that the authorities lack willingness to improve the media legislation. ²⁶

The legal framework for media coverage during elections comprises the 2018 Audiovisual Code, the Election Code, as well as other relevant acts and regulations. The legislation provides for equitable conditions for contestants in media and calls for balanced coverage.²⁷ It guarantees the contestants free airtime and print space in public media outlets.²⁸ During the campaign, every candidate is entitled to up to two minutes per day of paid ads in each broadcaster.²⁹ The media that rebroadcast foreign content are responsible for compliance with the same provisions. Electoral advertising via Internet and mobile phone text messages is categorized as advertising in print media

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In addition, for the period of the state of emergency due to the COVID-19 pandemic, the National Commission for Emergency Situations extended the deadlines for answering queries from media from 15 working days to 45 working days, and in some cases to 60 days.

Two members of the Audiovisual Council (AC) are nominated by the parliament, one by the president, one by the government, and five by civil society, while the parliament approves the composition. In 2019, three AC members resigned due to disagreement with AC decisions and policies of the chairperson.

In 2018, a new draft Law on Advertising passed the first reading in parliament but its further consideration is pending. Drafts and amendments to several other laws, including the Law on Access to Information, were rejected or their consideration is pending.

Forty-one TV channels and 39 radio stations declared their intention to feature the presidential campaign in their news, debates and other shows and informed the AC and the CEC on their editorial policy, including advertising rates, as required by the law.

The contestant appearance of TV and 10 minutes of radio circline free of above on the

The contestants are entitled to five minutes of TV and 10 minutes of radio airtime free-of-charge on the national broadcaster to present their electoral programmes in the first three days of the campaign, as well as one minute per day of free electoral advertising during the official campaign period.

A minute of paid advertising on the national public TV Moldova1 will cost 900 Euro, which was seen as high by some ODIHR LEOM interlocutors. TV8, which is founded by an NGO, was notified by the AC that they were not entitled to air any political ads during the campaign according to the new Law on Non-commercial Organisations.

Seven out of 13 initiative groups submitted their reports. The CEC found that the PAS' donation to Ms. Sandu's initiative group exceeded the amount permitted for legal entities but decided not to impose any sanctions as the overall spending limit was not exceeded. The highest income was reported by the initiative group of Mr. Usatîi (MLD 463,668), while the highest expenditure by the initiative group of Mr. Dodon (MDL 347,100). Funds unspent by the initiative groups of candidates nominated by political parties and blocs may be returned to these parties and blocs, while for independent candidates such funds are transferred to the state budget.

and is subject to the same rules. While print and online media are self-regulated through the Press Council, the AC oversees the campaign coverage of broadcasters. Based on its own monitoring, the AC will produce bi-weekly reports, which will be submitted to the CEC and made public. The AC informed the ODIHR LEOM that it holds public meetings to react to any communications it receives.³⁰

The national public broadcaster is required to organize debates between election contestants, which it plans to do in co-operation with a domestic observer NGO. Private media are allowed to organize their own debates, and due to the COVID-19 pandemic, also to rebroadcast live debates from the public broadcaster. Online debates may be organized according to the same rules that apply to broadcasters.

On 1 October, the ODIHR LEOM commenced qualitative and quantitative monitoring of six TV channels, five newspapers and four online media.³¹

XI. COMPLAINTS AND APPEALS

Voters and candidates can challenge actions, inaction and decisions of election bodies, other candidates, and media. Complaints must be filed with the election body or a court within three days and resolved within five days, but no later than the election day.³² There are, however, no deadlines for the CEC to resolve complaints on campaign financing. Decisions of election bodies should be first appealed to the higher level body and then to court. Complaints on campaign coverage in broadcast media are submitted to the Audiovisual Council, whose decisions may be appealed in court. Complaints against printed media and the candidates can be filed directly to court.

So far in this election period, 11 appeals against CEC acts were made to the Chisinau Court of Appeals (CCA), challenging the CEC calendar plan, decisions related to candidate nomination and registration, the establishment of polling stations abroad and for voters from Transnistria, and the CEC "circular" on campaign finance. The CCA dismissed all but one appeal as inadmissible.³³ The Supreme Court reviewed 10 appeals against CCA decisions and upheld these decisions in all but three cases.³⁴ Procedural deadlines were respected and court decisions were promptly published online.

XII. CITIZEN AND INTERNATIONAL OBSERVERS

The Election Code provides for observation of the entire electoral process by citizen and international observers, as well as representatives of the candidates. Observers may be accredited to

Since the start of the campaign the AC held one meeting.

Complaints against PEBs and DECs should be considered within three days. Appeals against court decisions must be filed within one day and decided by appeal courts within three days. Complaints submitted on election day should be considered the same day.

The CCA admitted and reviewed the appeal of a rejected prospective candidate, Adrian Candu, who argued that the CEC's signature verification requirements were excessive and had been applied to him in an overly restrictive and subjective manner. The court found that the CEC acted lawfully and within its legal competencies. The Supreme Court rejected Mr. Candu's appeal against the CCA's decision as inadmissible.

The TV are stations: Moldoval (national public broadcaster), *Jurnal* TV, NTV, Prime TV, Pro TV, and TV8; newspapers: *Argumenty i Fakty*, *Gazeta de Chisinau*, *Komsomolskaya Pravda*, *Moldova Suverana*, and *Ziarul de Garda*; politics-related releases at online outlets: esp.md, newsmaker.md, nokta.md, and unimedia.info.

The Supreme Court returned to the CCA for a new consideration one appeal against the CEC campaign finance "circular", the appeal of Electoral Bloc UNIREA and the Liberal Party which challenged the CEC's opening of 9 polling stations in the building in the Embassy of the Republic of Moldova in Moscow, and a candidate Andrei Năstase's appeal against the CEC's decision to set up polling stations for voters from Transnistria.

observe the election both on the territory of Moldova and abroad. To date, the CEC accredited 894 national and 106 international observers. The largest citizen observation effort is expected to be conducted by NGO *Promo-LEX*, which has deployed some 40 long-term observers throughout the country and has published three interim reports since 26 August. For election day, *Promo-LEX* plans to field over 700 short-term observers, including for polling stations abroad.

XIII. ODIHR LEOM ACTIVITIES

The ODIHR LEOM commenced its work on 22 September. The Head of the ODIHR LEOM met with the MFAEI, the CEC, the Audiovisual Council, the Prosecutor General, the public broadcaster, and representatives of OSCE participating States. The ODIHR LEOM has also established contacts with civil society, representatives of the media, and other electoral stakeholders.

The Parliamentary Assembly of the Council of Europe (PACE) intends to deploy a delegation for election day observation. Election-day observation will be the result of a common endeavor involving ODIHR LEOM and PACE delegation.

The English version of this report is the only official document. Unofficial translations are available in the State and Russian languages.