

**INTERIM REPORT No. 1**  
**24 February – 6 March 2009**

**I. EXECUTIVE SUMMARY**

- On 5 April, 101 seats in Parliament will be contested by closed party lists and independent candidates in one nationwide constituency through proportional representation. Independent candidates are considered elected if they receive at least three per cent of the valid votes. Lists are eligible for allocation of seats if they receive at least six per cent of the valid votes. At least 50 per cent of the registered voters have to participate for the election to be valid.
- The Election Code, last amended in April 2008, generally provides for the conduct of democratic elections. A number of recommendations offered jointly by the Council of Europe's Venice Commission and the OSCE/ODIHR remain to be addressed.
- By the 6 March, the Central Election Commission (CEC) registered fifteen party candidate lists and three independent candidates in an overall inclusive process. Applications for registration of another five independent candidates are under review. Several party lists include names of prominent figures previously affiliated with other political parties, some of which did not submit lists of their own.
- A three-tiered election administration comprising the CEC, 37 District Electoral Councils (DECs) and some 2,000 Precinct Electoral Bureaus (PEBs) will administer the elections. Election preparations appear to be generally on track. To date, the CEC performs its duties in a transparent manner and appears to enjoy the confidence of election stakeholders.
- The campaign is taking place in an overall pluralistic environment and has been low key. A rise in campaign activities is anticipated following completion of candidate registration. While incumbents assert that the elections will be democratic, opposition parties allege unequal access to media, intimidation and, at times, election day fraud through manipulated voter lists.
- Election debates broadcast by the electronic media were due to start on 9 March. On 27 February, the EOM commenced monitoring of seven TV channels, two radio stations and nine newspapers to assess media performance during the election period.
- Under the new Law on Public Assemblies, the organizers of outdoor campaign events are no longer obliged to seek permission from local authorities, but only to notify them. A case of violation of the law was brought to the attention of the OSCE/ODIHR EOM.
- Before the elections were called, criminal investigations against a number of opposition party leaders were initiated. Final court rulings are not expected prior to election day. Some 75 complaints have been filed with the CEC by 4 March, including some 25 media-related ones.

- On 25 February, Nisporeni-based TV channel *Albasat* was subject to a police inspection; no official search warrant was presented. The Ministry of Interior claimed that the search was lawful, but the channel challenged this action in court.

## II. INTRODUCTION

Parliamentary elections will be held on 5 April 2009, as announced on 2 February by the Parliament of the Republic of Moldova, in line with the requirement of the Election Code to call elections at least 60 days before the polls. Following an invitation by the Central Election Commission of the Republic of Moldova and the conduct of a Needs Assessment Mission, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 24 February. The OSCE/ODIHR EOM, led by Mr. Nikolai Vulchanov, consists of a 13-member core team based in Chisinau and 24 long-term observers deployed on 2 March to 11 regional centers around the country. To date, the OSCE/ODIHR EOM is drawn from 22 OSCE participating States. In addition, the OSCE participating States have been requested to second 200 short-term observers to follow opening, voting, counting and tabulation of the votes.

## III. BACKGROUND

After the 5 April elections, the newly elected Parliament will elect a new president. Following completion of two consecutive terms, the incumbent President Mr. Vladimir Voronin, Chairman of the Party of Communists of the Republic of Moldova (PCRM) with the largest faction since the parliamentary elections in 2001, cannot stand for re-election.<sup>1</sup> President Voronin's mandate expires on 7 April and he will continue to execute his duties until his successor is sworn in. Within 45 days of the expiration of the mandate of the President, the Parliament shall elect a new President. If no candidate obtains a 3/5 majority (61 parliamentary votes), a second round shall be held within three days, between the two highest scoring candidates. In case neither of them receives a 3/5 majority, a repeat election of the President will be called by Parliament within 15 days of the first round of the failed election. In case the repeat election for President fails, the acting President shall dissolve the Parliament and set a date for parliamentary elections.<sup>2</sup>

## IV. POLITICAL CONTEXT

The political party landscape has been characterized by frequent fragmentation and realignment. The public perceptions of political parties are most commonly dictated by the prominence of their leaders, rather than party programs. Following the 2005 parliamentary elections, three political entities succeeded in gaining representation, including the PCRM, the Christian Democratic People's Party (PPCD) and the Electoral Bloc "Moldova Democrata". Presently, 8 political parties are represented in Parliament.<sup>3</sup>

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<sup>1</sup> According to Article 80, paragraphs 1 and 4 of the Constitution, the President shall not serve more than two consecutive mandates of 4 years each.

<sup>2</sup> See Article 78 of the Constitution and Articles 2, 9 and 10 of the Law on the Procedures for Electing the President.

<sup>3</sup> The outgoing Parliament includes: PCRM - 55 seats, Alliance "Our Moldova" (AMN) – 13 seats, PDM - 11 seats, PPCD – 7 seats and 15 members of Parliament formerly belonging to other factions. They have represented during the legislative period the following parties: Social-Political Movement "European Action" (MAE), Social Democratic Party of Moldova (PSDM), Liberal Democratic Party of Moldova (PLDM) and the National Liberal Party (PNL).

The 2005 parliamentary elections and especially the 2007 local elections have demonstrated the decrease in popular support of the ruling PCRM. In 2005, President Voronin was re-elected with the support of the PPCD, the Democratic Party of Moldova (PDM) and the Social-Liberal Party (PSL)<sup>4</sup>. The latter two parties had split from the pre-electoral bloc “Moldova Democrata” after the 2005 elections.

In accordance with the new Law on Political Parties of December 2007, political parties were obliged to adjust their party statutes to meet new legal requirements by 1 October 2008. By the end of January 2009, documents of all 28 political parties were reviewed by the Ministry of Justice and were found in line with the new Law, although some parties experienced difficulties in the process.

The campaign is taking place in an overall pluralistic environment and has been low key. Political contenders were allowed to start campaigning following registration by the CEC, the final deadline for which was 12 March. A rise in campaign activities is expected with the end of the registration period, as well as with the subsequent start of election debates broadcast by the electronic media. While incumbents assert that the elections will be democratic, opposition parties allege unequal access to media, intimidation and, at times, election day fraud through manipulated voter lists.

Before the elections were called, criminal investigations have been initiated against a number of party leaders, mainly from the opposition, for a variety of alleged offences, such as embezzlement, fraud and/or corruption. A prominent case is the investigation against Mr. Serafim Urechean, Chairman of the AMN, for an alleged conspiracy to assassinate the Deputy Speaker of Parliament.<sup>5</sup> None of these cases are likely to be ruled on by courts prior to the election.

Allegations of intimidation and pressure on candidates and parties have been brought to the attention of the OSCE/ODIHR EOM by a number of party representatives. Allegations mostly relate to threats of job loss for party members and candidates of opposition parties by state authorities. Some interlocutors raised concern about local authorities not complying with the requirement of making meeting places available to political contenders. The alleged use of “administrative resources” by candidates of the ruling party has also been an issue for political contenders.

While the legislation foresees the resignation from office of candidates who are Ministers or hold other public offices, the Head of State, the Prime Minister and the Speaker of Parliament are exempted from resignation by the relevant provision of the Election Code.

The Election Code provides regulations on campaign financing and obliges contestants to disclose all campaign-related transactions in bi-weekly reports submitted to the CEC. On 6 February, the CEC established a ceiling for campaign funds for electoral competitors, allowing the use of up to 12 million lei (about 886,000 Euro) for political parties and 500,000 lei (about 37,000 Euro) for independent candidates. The CEC also established that electoral contestants are entitled to receive interest-free loans. In a decision of 20 February, the CEC further detailed that donations from unknown sources, from abroad, from international

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<sup>4</sup> The PSL later joined PDM.

<sup>5</sup> There have been reports about the disappearance of the mayor of Voronicheni (AMN) after being acquitted of corruption charges in the district court of Straseni. The OSCE/ODIHR EOM will follow up on this case.

organizations or government-funded institutions are not allowed. On 3 March, then registered parties reported to the CEC total expenditures of 9.4 million lei.<sup>6</sup>

## V. LEGAL FRAMEWORK

The Constitution was adopted in 1994 and has since been amended on several occasions, most recently in 2006. The Constitution states that the Republic of Moldova is a democratic State governed by the rule of law. It foresees the protection of the fundamental civil and political rights and freedoms.

The Election Code, adopted in 1997 and most recently amended in April 2008, governs the conduct of all elections and referenda in the country. It is generally conducive for the conduct of elections in line with OSCE commitments. The Code has been reviewed jointly on several occasions by the Council of Europe's Venice Commission and the OSCE/ODIHR and a number of recommendations remain to be addressed. The comprehensive legal framework for elections also includes the Law on Political Parties, the Law on Public Assemblies, organic laws on the courts and regulations and decisions issued by the CEC.

Under the 2008 Law on Public Assemblies, the organizers of rallies do not have to request any prior authorization from local public authorities, as was previously necessary. A notification of the relevant local authorities 5 days in advance is sufficient. Public assemblies and rallies can be held in any public place and can be banned by a court decision only. The OSCE/ODIHR EOM has thus far received one report on the infringement of the freedom of assembly in Telecau (DEC Orhei) related to the intervention of the local mayor prohibiting an outdoor rally.

## VI. ELECTORAL SYSTEM

The Parliament of the Republic of Moldova is unicameral and has 101 members serving a four-year term. Members of the Parliament are elected within a single nationwide constituency through proportional representation. Voters vote for closed party lists or for self-nominated independent candidates. The threshold for gaining representation in Parliament is six per cent of the valid votes for political parties and three per cent for independent candidates.<sup>7</sup> Eligible independent candidates receive mandates first and the remaining mandates are allocated among eligible party lists proportionally to the votes cast for them using the d'Hondt-method.

The threshold for parliamentary representation has been changed several times over the past years. After the 2005 parliamentary elections, the threshold for parties was lowered from six to four per cent. The OSCE/ODIHR and the Council of Europe's Venice Commission have credited this reduction as an improvement. However, the 2008 amendments to the Code have raised the threshold back to six per cent.

Elections are considered valid if more than 50 per cent of registered voters participate. The OSCE/ODIHR EOM was informed by the CEC that the total number of registered voters includes all voters registered on the regular voter lists and those registered on supplementary lists. In case the turnout requirement is not met, a second round of voting is conducted 14

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<sup>6</sup> For the first 20 days of the campaign, the following use of campaign funds was reported: PSDM – 2,6 million lei, PCRM – 2,3 million lei, PLDM – 1,6 million lei, PPCD - 277,000 lei, UCM - 111,000 lei. The Social-Political Movement "European Action" (MAE) and the Conservative Party (PC) declared that they have not used any funds for campaigning.

<sup>7</sup> In previous elections, no independent candidate has ever passed the threshold.

days after the election, requiring at least one-third of the registered voters to participate for the repeat elections to be valid.

In the Joint Opinions of the Venice Commission and the OSCE/ODIHR, it was repeatedly recommended to remove the turnout requirement in order to avoid possible cycles of failed elections and potential electoral malfeasance. Domestic interlocutors appear confident that the turnout will be over 50 per cent.

## VII. ELECTION ADMINISTRATION

The structure of election administration for the parliamentary elections consists of the Central Election Commission, 37 District Electoral Councils and some 2,000 Precinct Electoral Bureaus. The CEC is a permanent body with a five-year term, while DEC and PEBs are established during election periods, 50 and 20 days prior to election day respectively.

The CEC appears to enjoy the confidence of all participants of the electoral process and thus far has been operating in a transparent manner. Its meetings are announced beforehand with the agenda published on the CEC website one day in advance, as well as through press releases. The CEC holds regular meetings twice a week and convenes extraordinary sessions when necessary. Its meetings so far have been well organized, as well as open to the public, domestic media and observers, with decisions published on the website. Preparations for the election are generally on schedule.

The CEC comprises nine members, including one member appointed by the President, one by the Government and seven by the Parliament, five of which represent opposition parties. The CEC has a staff of 29 full-time employees and seemingly no extra staff envisaged for the electoral period. DECs have between seven and 11 members, of whom two are appointed by district courts and the remaining members nominated by parliamentary parties proportional to their representation in the Parliament. PEBs have between five and 11 members, of whom three are appointed by local councils and the remaining ones by parliamentary parties. Members of the CEC and district courts' nominees to the DECs may not be members of political parties. Parliamentary political parties with factions are entitled to appoint DEC and PEB members proportionally to the number of seats held in the legislature. The chairpersons, deputy chairpersons and secretaries of election bodies are elected by secret vote by all commissioners of the respective body.

Out of 37 DECs, only 35 have been formed. Two DECs designated for Transdniestria were not established. While voting will not take place on the territory under the *de facto* control of the Transdniestrian authorities, 10 PEBs will be created on the western bank of the river Nistru/Dniestr for voters from the eastern bank, who will be added on supplementary voter lists in these polling stations.

There will be 33 PEBs formed at embassies and consulates of the Republic of Moldova for Moldovan voters abroad. All such precincts will be attributed to the Chisinau DEC. A controversy, which has reached the courts, has developed over the request by some political parties and individuals to open additional polling stations for out of country voting to enfranchise a larger number of Moldovan citizens abroad.

The CEC informed the OSCE/ODIHR EOM that it has provided training to political parties and their prospective nominees as members of election commissions in a "train the trainers" format in late 2008. It is envisaged that additional training will be provided to PEB chairpersons, who will be expected to train the rest of PEB members. The CEC has also

prepared training manuals, videos and voter education spots in co-operation with international organizations and NGOs.

## **VIII. VOTER REGISTRATION**

Citizens of the Republic of Moldova, who on election day have reached the age of 18, have the right to vote. Exceptions include those declared incapacitated, and those sentenced to imprisonment by a final decision of a court for serious, very serious and exceptionally serious crimes.

Voter lists are based on the information provided by the Ministry of Information Development extracted from the civil registry, which is passed on to the CEC upon request prior to an election. According to the Election Code, the CEC then passes the voter lists to local authorities, which are obliged to carry out an annual update and to submit information back to the CEC no later than 1 March. This year, the CEC extended the process of data collection until 15 March, which is the official date for the publication of the voter lists. Persons who have changed their residence after the last elections were encouraged by the CEC via public service announcements to inform the respective local authorities about their current place of residence until 45 days before the elections. Voters have the right to vote at the place of their registered permanent residence or declared temporary residence, with the latter taking priority in case a voter has both types of residence at the same time. In case of change of residence after the 45-day deadline, or in case of known inability to vote at a designated PEB, voters are entitled to an absentee vote certificate.

The OSCE/ODIHR EOM was informed that compared to voter registration data from past elections, the number of voting age citizens across Moldova, according to the state register, appears to have increased by several hundred thousands. The OSCE/ODIHR EOM is following up on this issue.

## **IX. CANDIDATE REGISTRATION**

The CEC was receiving registration requests from electoral contenders between 5 February and 5 March. Decisions on the registration are taken within seven days of the application. Electoral lists of political parties should contain at least 51 and at most 103 candidates. Independent candidates are required to submit a minimum of 2,000 and not more than 2,500 signatures in support of the request for registration. Party lists and independent candidates running in the elections will appear on the ballot paper in the order of their registration with the CEC. In cases when several applications for registration were submitted at the same time, the CEC organized the drawing of lots.

A total of 1,383 candidates have been registered to run in the election as of 6 March. The majority of these candidates appear on 15 lists put forward by political parties. Following the prohibition to form pre-electoral alliances introduced in election legislation in 2008, some party lists include candidates who had been prominent members of other parties until recently. Whilst candidates do not need to be members of the nominating party, they also cannot be members of any other party. Apart from candidates nominated by political parties, three independent candidates were registered and the documents of another five were under review by the CEC at the time of writing of this report.

With the latest amendments to the Election Code in April 2008, a restriction to the right to be elected has been introduced with regard to persons with multiple citizenship. These citizens can stand as candidates, but if elected, they have to renounce their other citizenship(s). On 18

November 2008, the European Court of Human Rights ruled against the Republic of Moldova, judging this restriction a violation of the right to be elected under Article 3 of Protocol No. 1 to the European Convention on Human Rights<sup>8</sup>.

## X. MEDIA

While radio reaches a significant audience, especially in rural areas, television is the most influential source of information. The public service broadcaster, *Moldova 1*, covers almost the entire territory of Moldova. Newspapers have a limited impact due to relatively low circulation. A private TV channel, PRO TV,<sup>9</sup> faced problems with a license extension in December 2008.

The Constitution guarantees freedom of expression and prohibits censorship. While Moldova decriminalized libel, provisions of the Civil Code concerning defamation still retain conditions that put into question the effective exercise of the right to freedom of expression. The conduct of media during the election campaign is regulated by the Election Code, the Broadcasting Code, as well as the Regulation on the Coverage of Electoral Campaign by Mass Media. The latter was adopted by the CEC on 2 February, based on the concept prepared by the Audiovisual Coordination Council (CCA), a regulatory body for broadcast media.

The Regulation governs in detail the performance of the broadcast media during the electoral campaign, *inter alia* providing for free and paid airtime to all contestants, based on the principle of ‘equal conditions’. Each registered contestant is entitled to receive a maximum of 120 minutes of paid airtime during the campaign on public television and public radio. In addition, contestants are entitled to participate in debates organized by public media free of charge. Private broadcasters may also offer up to 120 minutes per candidate of paid airtime and free of charge debates. On 6 March, public *Teleradio Moldova* organized the first lottery to establish a schedule of debates which were due to start on 9 March.<sup>10</sup>

To date, there have been more than 25 media-related complaints filed with the CEC. A number of complaints were also lodged with the CCA. In some cases, political parties complained to the CEC about the failures by other contestants to include the legally required indication that material is election-related. The CEC warned *EU TV* and *N4* for not complying with the legislation. In another case the CEC decided that PCRM had to withdraw its paid spot as it has featured, contrary to the law, images of foreign officials. In the case of three other parties (AMN, PLDM and PL) the CEC decided that they had to withdraw their TV spots for violating the legal provision, which forbids the use of symbols of the Republic of Moldova and of foreign states. On 6 March, the CEC rejected a complaint by the PCRM appealing preferential treatment of AMN in the news program of public *Moldova 1* as groundless.

On 3 March, the CEC upheld a decision of the Chisinau DEC, which had established a violation of election legislation by an NGO “Association of Independent Press” as a result of it having compiled and published an analytical material critical of the PCRM. The CEC in its decision considered this material constituted campaigning, which it argued the NGO had to

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<sup>8</sup> ECHR ruling of 18 November 2008 in the case of *Tănase and Chirtoacă v. Moldova* (application no. 7/08).

<sup>9</sup> Which, by a number of interlocutors, has been perceived to be a source of accurate and balanced reporting.

<sup>10</sup> Debates will be carried out as moderated duels between two political contestants lasting 30 minutes, both on public TV and public radio.

abstain from based on Article 30(1) of the Law on Public Associations, which provides for “non-participation of public associations ... in supporting political parties, social-political organisations and independent candidates during the elections”. However, this decision appears to run contrary to Article 47(1) of the Election Code providing for citizens’ right “... to put forward for free discussions all aspects of candidates’ programs, and the political, professional and personal qualities of the candidates; and to campaign for or against candidates...”

On 25 February, Nisporeni-based *Albasat* television channel was subject to a police inspection. While according to the subsequent explanation by the Ministry of Interior, the inspection was lawful and prompted by complaints of citizens’ with regard to employment contracts and tax evasion, no official search warrant was presented. The channel challenged this action in court, which heard the case on 27 February, with no decision to date.

On 27 February, the OSCE/ODIHR EOM commenced media monitoring, including qualitative and quantitative assessment of the campaign coverage by seven TV channels, two radio stations and nine newspapers.<sup>11</sup> Another three domestic organizations monitor the work of the media.<sup>12</sup>

## XI. COMPLAINTS AND APPEALS

Voters and electoral contestants may challenge actions or inactions and decisions of the PEBs and DEC to the higher-level electoral bodies and to local courts. Complaints against actions or inactions and decisions of the CEC must be filed with the Court of Appeal of Chisinau. Media compliance with legal requirements is monitored both by the CEC and the CCA. At the same time, it is stipulated that the CEC and/or courts settle disputes between election contestants and media outlets. Overlapping jurisdiction of electoral bodies and courts with regard to complaints and appeals could lead to confusion and conflicting rulings.

According to the information forwarded by the CEC, 75 complaints have been filed with the CEC by 4 March.

On 6 March, the Supreme Court upheld the decision of the Court of Appeal of Chisinau and rejected the appeal lodged by AMN requesting the CEC to open additional polling stations for Moldovan citizens living abroad. While on 17 February the European Court of Human Rights accepted the application filed by the Liberal Democratic Party of Moldova (PLDM) regarding this same issue, it is unlikely that a decision will be delivered before election day.

The 12 February CEC decision on stamping of voters’ IDs as a measure against possible multiple voting has been challenged in the Chisinau Court of Appeal by MAE. The complaint has been rejected and the appellant subsequently appealed to the Supreme Court with a hearing still pending.

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<sup>11</sup> The media outlets are as follows: *Moldova 1* (public service broadcaster), *NIT TV* (nationwide TV channel), *EU TV*, *N4*, *Pro TV Chisinau*, *TV 7* (TV channels with limited coverage outside Chisinau), *Gagauzia TV* (regional public service broadcaster), *Radio Moldova* (public service broadcaster), *Vocea Basarabiei* (radio station); *Flux*, *Jurnal de Chişinău*, *Moldova Suverană*, *Săptămîna*, *Timpul*, *Ziarul de Gardă*, *Komsomolskaya Pravda*, *Moldovskie Vedomosti*, *Nezavisimaya Moldova* (newspapers).

<sup>12</sup> Media monitoring projects are carried out by member-organizations of “Coalition 2009”, an umbrella-NGO comprising 63 domestic non-governmental organizations, the Independent Centre for Journalism together with the Association of Independent Press and by the Association of Electronic Press. “Civic Control – Elections 2009” group also stated it would conduct media monitoring.

## **XII. PARTICIPATION OF WOMEN AND NATIONAL MINORITIES**

The legal framework provides the basis for equal participation of women and men in the electoral process. Out of 1,383 candidates, 402 are women. In the outgoing Parliament, 21.8 per cent of members are women and there are six female ministers in the government. However, some NGOs have complained that female candidates were relegated to lower positions on the lists and effectively had little chance of being elected.

National minorities enjoy constitutionally protected equal rights, and in general, there is a sound legal framework to allow for the participation of national minorities in the electoral process. According to the 2004 census, national minorities comprise some 24 per cent of Moldova's population. National minorities include Ukrainians (8.4 per cent), Russians (5.9 per cent), Gagauz (4.4 per cent), Bulgarians (1.9 per cent) and Roma. Of all minority groups, the Roma community appears widely excluded from economic life and decision making.

## **XIII. DOMESTIC AND INTERNATIONAL OBSERVERS**

The Election Code provides for the observation of the election process by international and nongovernmental organizations, representatives of foreign governments, domestic civic associations and agents of electoral contestants.

The League for Defense of Human Rights, LADOM, member of "Coalition 2009", at the end of January 2009 deployed 37 long-term observers and 6 regional coordinators to monitor the pre-election campaign. LADOM has issued 3 election monitoring reports. On election day, LADOM plans to deploy some 2000 short term observers and is preparing for the conduct of a parallel vote tabulation in major urban centers. Another NGO umbrella organization, the Coalition "Civic Control – Elections 2009" stated that it plans to deploy some 200 short-term observers around the country to observe the election day procedures.

## **XIV. OSCE/ODIHR EOM ACTIVITIES**

The OSCE/ODIHR opened its office in Chisinau on 24 February 2009. Representatives of the OSCE/ODIHR EOM were received by the Chairman of the CEC, the Minister of Internal Affairs, the Minister of Justice, the Deputy Minister of Foreign Affairs and European Integration, the Chairman of the CCA, the Deputy Minister for Information Development, the Director of *Teleradio Moldova* and other senior State officials. In addition, the OSCE/ODIHR EOM was received by the Head of the OSCE Mission to Moldova, ambassadors of the OSCE participating States and representatives of international organizations. The OSCE/ODIHR has established working relations with the CEC and has conducted meetings with DEC's, parliamentary parties and candidates, civil society and the media.