



Office for Democratic Institutions and Human Rights

REPUBLIC OF MOLDOVA
EARLY PARLIAMENTARY ELECTIONS
29 July 2009

OSCE/ODIHR Election Observation Mission Final Report



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**REPUBLIC OF MOLDOVA
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I. EXECUTIVE SUMMARY

Following an invitation by the Ministry of Foreign Affairs and European Integration of the Republic of Moldova to observe the 29 July early parliamentary elections, the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) deployed an Election Observation Mission (EOM) on 26 June 2009. The OSCE/ODIHR EOM observed the elections in order to assess their compliance with OSCE commitments and other international standards for democratic elections, as well as with domestic legislation. On election day, the OSCE/ODIHR EOM joined efforts with the delegations from the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), and the European Parliament (EP) to form an International Election Observation Mission (IEOM).

The parliament elected on 5 April 2009 failed to elect a new president twice and therefore had to be dissolved. As a result, early parliamentary elections were called for 29 July 2009. These elections were well administered overall and allowed for competition among political parties representing a plurality of views. While many OSCE commitments were met, the campaign environment was negatively affected by subtle pressure, intimidation, misuse of administrative resources and bias in media coverage. The electoral process underscored the need for continued democratic reforms to restore public trust.

Candidates were able to campaign across the country, although there were cases of disruption of opposition rallies. During the electoral campaign, party programmes and policy issues were generally not discussed. The campaign atmosphere was highly polarized and the campaign discourse was dominated by mutual accusations between the governing party and the opposition on the responsibility for the eruption of violence during demonstrations in the aftermath of the 5 April elections.

Media generally made an effort to report on the campaign activities of all contestants. Regrettably, two nationwide TV channels, public *Moldova 1* and private *NIT*, did not provide impartial and fully balanced coverage and showed preferential treatment of the Party of Communists of the Republic of Moldova (PCRM) in their news programmes. The Audio-Visual Co-ordinating Council (CCA) did not take resolute action to address imbalances in media coverage and did not exercise its sanctioning power.

The legal framework provided an overall adequate basis for the conduct of democratic elections. Although the June 2009 amendments to the election code, such as the lowering of the threshold for party representation in parliament and the turnout requirement for the

¹ This report is also available in the state language and Russian. However, the English version remains the only official document.

elections to be valid, partially addressed previous recommendations by the OSCE/ODIHR and the Venice Commission of the Council of Europe,² further improvements are required.

The election administration operated transparently, with political parties, media and civil society enjoying broad access to its work. The Central Election Commission (CEC) administered the elections in a professional, transparent and effective manner, despite shortened electoral deadlines. The District Electoral Councils (DECs) occasionally did not apply CEC instructions in a timely and consistent manner; however, not all CEC instructions were sufficiently detailed and clear.

Considerable efforts were made to improve the quality of voter lists, which had been a contentious issue during the 5 April elections. The CEC, with the support from the international community, attempted to create a central database of voter lists to enable cross checks for multiple entries. Nevertheless, limited resources available to local authorities responsible for voter list compilation, a tight timeframe, as well as technical shortcomings hampered these efforts.

Election day was calm and voting was well administered. IEOM observers assessed voting very positively, with some procedural shortcomings noted. While counting was also assessed generally positively, some election commissions experienced difficulties in completing result protocols and nearly half of them failed to post protocols in polling stations for public review, in contravention of the law. Tabulation of results at DECs was orderly overall; however, IEOM observers noted that documents submitted by Precinct Election Bureaus (PEBs) frequently had to be altered to apparently correct mathematical errors, and subsequently recounts in some polling stations were ordered in 11 DECs.

The CEC released preliminary results throughout the election night, with over 98 per cent of preliminary results broken down by polling station posted on the CEC website in the morning following election day, thus increasing transparency. In contrast, obstructions faced by some international observers during counting and the mistreatment of members of an NGO coalition invited to observe these elections undermined transparency.

The complaints and appeals process was open and transparent. The CEC adjudicated complaints in a timely manner, issuing well reasoned decisions. However, it did not take formal decision on complaints, but instead issued letters with no legal force, thus denying complainants the right to appeal.

On 5 August, the CEC transferred the preliminary results to the Constitutional Court for validation, within the legal deadline. The Constitutional Court validated the results on 14 August, dismissing complaints by one political party requesting a recount and another two parties contesting the method for the allocation of parliamentary seats.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation by the Ministry of Foreign Affairs and European Integration of the Republic of Moldova to observe the 29 July early parliamentary elections, the OSCE/ODIHR established an Election Observation Mission on 26 June 2009. The OSCE/ODIHR EOM was

² See the OSCE/ODIHR and Venice Commission of the Council of Europe Joint Opinions on the Election Code of Moldova, Opinion nos. 357/2005, 413/2006, 455/2007, 484/2008 available at www.osce.org/odihr-elections/13811.html.

led by Ambassador Boris Frlec and consisted of a 13-member core team based in Chisinau and 20 long-term observers (LTOs) deployed to all regions throughout the country.³

For election day observation, the OSCE/ODIHR EOM joined efforts with the OSCE PA, PACE and EP to form the International Election Observation Mission. Mr. Petros Efthymiou, Head of the OSCE PA Delegation, was appointed as Special Co-ordinator by the OSCE Chairperson-in-Office to lead the OSCE short-term observer mission. Mr. Mevlüt Cavuşoğlu led the PACE Delegation and Mr. Marian-Jean Marinescu led the EP Delegation.

On election day, the IEOM deployed some 300 short-term observers from 40 OSCE participating States, including some 180 observers seconded to the OSCE/ODIHR by the OSCE participating States, 38 members of the OSCE PA delegation, 16 from PACE and 11 from the EP. The IEOM observed voting in some 1,000 polling stations and vote counting in 108 out of a total of 1,986 polling stations. The IEOM was also present in all 35 DEC's to observe the tabulation of results.

The OSCE/ODIHR wishes to thank the Ministry of Foreign Affairs and European Integration, the Central Election Commission and other state and local authorities for their support and co-operation during the course of the observation. The OSCE/ODIHR also wishes to express its appreciation to the OSCE Mission to Moldova and other international organizations and embassies accredited in Moldova for their support throughout the mission.

III. BACKGROUND

The 29 July early parliamentary elections were the eighth elections observed by the OSCE/ODIHR in the Republic of Moldova.⁴ The elections were triggered by two unsuccessful attempts by the parliament to elect a new president. None of the four political parties that entered parliament following the 5 April elections⁵ secured the necessary three-fifths majority (61 votes) to elect the new head of state.⁶ Subsequently, the parliament was dissolved and, on 15 June, the president called early elections.⁷

The OSCE/ODIHR concluded that while the 5 April parliamentary elections met many OSCE and Council of Europe commitments, "further improvements are required to ensure an electoral process free from undue administrative interference and to increase public confidence." The observation of the post-electoral period, which was overshadowed by violent demonstrations, revealed "further shortcomings that challenged some OSCE commitments, in particular the disregard for due process in adjudicating complaints of

³ The OSCE/ODIHR EOM published two interim reports before election day available at: www.osce.org/odihr-elections/38671.html.

⁴ The reports by all previous OSCE/ODIHR election observation missions are available at: www.osce.org/odihr-elections/14498.html.

⁵ During the 5 April elections, of 101 parliamentary seats, the governing PCRM gained 60 seats, the Liberal Party (PL) 15 seats, the Liberal Democratic Party of Moldova (PLDM) 15 seats and the Alliance "Our Moldova" (AMN) 11 seats.

⁶ The former President Vladimir Voronin was elected for his second and constitutionally last term on 4 April 2005 and his mandate should have expired on 7 April 2009. However, he remained an acting President until 11 September 2009, when he resigned from the post.

⁷ For the first time elections were held on Wednesday. The day was declared a public holiday in Moldova.

alleged irregularities and deficiencies in the compilation of voter lists lodged by opposition parties”.⁸

As in previous elections, voting did not take place on the territory that since 1992 is under the *de facto* control of the Transdnestrian authorities. Voters residing in Transdnestria could vote at eleven specially designated polling stations on the western bank of the river Nistru/Dniestr.

IV. LEGAL FRAMEWORK

The 101 members of the Parliament of the Republic of Moldova are elected within a single nationwide constituency through proportional representation. Electors vote for closed party lists or for self-nominated independent candidates.

The legal framework for the conduct of elections includes the Constitution, the Election Code, organic laws on the courts, Laws on Political Parties and on Public Assemblies, as well as regulations and decisions of the CEC. The legal framework provided an overall adequate basis for the conduct of democratic elections; however, the Election Code continues to contain ambiguities and inconsistencies.⁹ Provisions of the Code that proved particularly problematic and lacked precision included those related to voting by students, mobile voting, compilation of voter lists and sanctions for violations of the Code. In addition, the powers and responsibilities of various bodies responsible for the review of complaints and appeals are not clearly defined allowing for overlapping jurisdiction and remained a cause of confusion.

The most recent amendments to the Election Code of June 2009 addressed only partially previous recommendations of the OSCE/ODIHR and the Venice Commission of the Council of Europe. The electoral threshold for political party representation in the parliament was reduced from six to five per cent¹⁰ and the turnout requirement for an election to be valid was lowered from half to one third of the registered voters. However, the Code still prohibits the formation of pre-electoral coalitions and precludes candidates with multiple citizenships from taking up parliamentary seats unless they renounce their other citizenships.

V. ELECTION ADMINISTRATION

Elections were administered by a three-tiered election administration comprising the Central Election Commission, 35 District Electoral Councils¹¹ and 1,986 Precinct Electoral Bureaus (PEBs).¹² The CEC is a permanent body.¹³ The composition of DEC and PEBs has changed

⁸ See OSCE/ODIHR Final Report on 5 April 2009 parliamentary elections at: www.osce.org/item/38185.html.

⁹ OSCE/ODIHR and Venice Commission of the Council of Europe Joint Opinions on the Election Code of Moldova, *op. cit.*

¹⁰ The electoral threshold of three per cent for independent candidates to receive parliamentary seats was retained.

¹¹ With 37 territorial-administrative units, Moldova is subdivided into 37 electoral districts. However, two DEC in Bender and Tiraspol, located in Transdnestria, were not established.

¹² The total number of polling stations initially was 1,987; however, voting did not take place in a polling station in the disputed commune Corjova. The premises were blocked by an organized crowd on election day, with voters subsequently being directed to the neighboring villages of Cocieri and Ustia.

following the April parliamentary elections to reflect the representation of political parties in the newly elected parliament. All 35 DECAs established for these elections had 11 members, with two members appointed by district courts and the remaining nine members nominated by political parties proportionally to their parliamentary representation.¹⁴ The PEBs had seven, nine or eleven members; three of them were appointed by local councils and the remaining ones were nominated by parliamentary parties.¹⁵ When political parties could not fill all the positions in PEBs assigned to them, the local councils nominated the remaining members.¹⁶

Following the announcement of early parliamentary elections, the parliament adopted a law on application of Article 76 paragraph 3 of the Election Code, which provided for a reduced timeframe for the conduct of early elections. Having been called 44 days (instead of 60 days) before election day, all electoral deadlines were shortened by one fourth.

The CEC functioned in a transparent and professional manner, holding regular meetings twice a week and additional meetings as necessary. The CEC meetings, including the agenda, were announced on the CEC website. The meetings were well organized and open to the public, media and observers. Decisions were published by press release and on the website, generally within 24 hours. Most politically sensitive decisions were passed with 6 to 3 votes, with representatives of opposition AMN and PDM in most instances voting differently from other CEC members. However, no CEC commissioners attached a dissenting opinion to any of the CEC decisions, including the one on the results of the 29 July early elections. With the assistance of international donors, the CEC set up a system for the transmission of preliminary results from the DECAs and their publication on the CEC website on election night. The electronic data processing worked well and allowed for swift release of provisional results.

The CEC provided training to DEC and PEB leadership, who in turn trained the PEB members, as well as to DEC IT personnel. The CEC had also prepared training manuals, videos and voter education spots in co-operation with international organizations.

Most of the decisions adopted by the CEC in preparation for the 5 April 2009 parliamentary elections were applicable during the 29 July elections. These included the decisions on creation of polling stations abroad, enfranchisement of voters without registered residence or with expired national IDs, expired Moldovan international passports for voting abroad, and on stamping of the voter IDs to prevent multiple voting. In the run-up to early elections, the CEC amended regulations on PEB activity stipulating that the supplementary voter lists were to be compiled exclusively by the respective PEB's Secretary, and that each PEB member was to be assigned a part of the voter list to be handled exclusively by this member and signed by him/her at the end of voting. According to the CEC, these measures were aimed at improving the integrity of voter lists, enhancing compliance with the Election Code and increasing the accountability of PEB members.

¹³ The CEC in its current composition was appointed in 2005 for a 5 year term and includes nominees from the PCRM - 2, AMN - 2, PDM - 2 and Christian-Democratic People's Party (PPCD) - 1, as well as one appointee each by the government and the President.

¹⁴ PCRM - 6, PL - 1, PLDM - 1, AMN - 1.

¹⁵ In an 11-member PEB, PCRM had 5, PL - 1, PLDM - 1, and AMN - 1 member; in a 9-member PEB, PCRM had 3, PL - 1, PLDM - 1, and AMN - 1 member; in a 7-member PEB, PCRM had 3, PL - 1, PLDM - 1, and AMN - 0 members.

¹⁶ For example, local councils in Gagauzia had to fill the positions of PEB members in 63 out of 64 PEBs from the reserve list.

The CEC also adopted two decisions on election day - one to enfranchise voters who were registered to vote abroad at an embassy or a consulate but were on vacation in Chisinau and were not registered in any polling station in Moldova.¹⁷ Another decision extended voting hours for those voters who were at 21:00 waiting in line outside polling stations in Bologna and London. As in previous elections, the CEC provided voters residing in the Transdnestrian region with an opportunity to vote in 11 special polling stations on the western bank of the river Nistru/Dniestr where they were included in supplementary voter lists.

While most members of newly composed DEC and PEBs had prior election experience, some provisions of the Election Code or CEC decisions were not systematically and evenly implemented. Occasionally, DEC did not apply CEC instructions in a timely and consistent manner; not all CEC instructions were sufficiently detailed and clear. For instance, the CEC decision regarding mobile voting procedures lacked precision and was issued late in the process resulting in not all PEBs being aware of it on election day. In addition, despite the legal requirements, only a few polling stations visited by the OSCE/ODIHR EOM observers during the pre-election period opened 14 days before the election and in most polling stations visited, the voter list was not displayed.

With elections being held in summer, a controversy arose over arrangements for voting by students, many of whom had temporary registration and were thus registered to vote in Chisinau where they studied, but were away at their place of permanent registration during the summer break. Two political parties, AMN and PL, requested the CEC to adopt special provisions to facilitate voting by students. The CEC ruled against adoption of any additional regulations. This decision was later upheld by the Supreme Court, which agreed with the CEC that the Election Code was sufficiently clear about the procedure for voters with both permanent and temporary residence.

Those voters could a) obtain an Absentee Vote Certificate (AVC) from the PEB they are registered to vote in, what would have allowed them to vote in any polling station in the country or b) declare their current place of residence rather early in the process, by the deadline of 26 June.¹⁸ Political parties argued both solutions were inadequate and creating obstacles for students in exercising their right to vote. In addition, students, whose temporary residence had expired by 1 July 2009 at the end of the school year, should have been allowed to vote in their place of permanent residence. However, the lack of clear instructions from the CEC to the DEC and PEBs, uneven application of the law, as well as limited knowledge about the provisions among students, resulted in some students not having been able to vote.

VI. VOTER REGISTRATION AND VOTER LISTS

Moldovan citizens, who have reached the age of 18 by election day have the right to vote with the exception of those declared incapacitated by a final decision of a court and those sentenced to imprisonment for serious, very serious and exceptionally serious crimes. The voter list includes the names of voters, who have valid permanent or temporary registration on the territory of a precinct. Supplementary voter lists are compiled by PEBs on election

¹⁷ Only 5 voters used this opportunity to vote, according to the CEC.

¹⁸ Election Code Article 39(2): "All the persons enjoying the right to vote who have changed residence after their last participation in elections have the right within a period of 45 days until the next elections to declare their current place of residence at the body of local public administration in order to be included into the list of voters at the respective polling station." The total number of these requests was 6,761.

day. The following categories of voters were included in the supplementary voter lists: a) voters with address registration in the precinct, whose names were mistakenly not included in the regular voter list; b) voters using AVCs; c) voters without any registration - permanent or temporary voting at the place of their last registration; d) voters in hospitals, health care institutions, pre-trial detention centers and prisons; e) voters residing in Transdnistria; and f) voters, who have applied for mobile voting. Supplementary voter lists were also used at the polling stations opened at embassies and consular offices of the Republic of Moldova.

The compilation of voter lists is highly decentralized with some 917 heads of local authorities being legally responsible for the content of voter lists. At the same time, the CEC co-operates with the Ministry of Information Development (MID) to ensure proper voter record keeping. The MID provides the lists of the voting age population to the CEC, which in turn distributes the data to the respective local authorities for revisions and updates. While the MID maintains the permanent State population register, and is also the body in charge of issuance of identification documents, it does not have a clearly defined role and responsibility in voter registration process.

For these elections, as a rule, the voter lists from the 5 April elections were used as a basis, including the relevant records from the supplementary lists.¹⁹ In addition, the MID provided the CEC with updated information on deceased citizens and on voters who had turned 18 or changed their residence after the 5 April elections.

In line with the shortened election timeline, the CEC set the deadline for transferring the voter lists from local executive authorities to the PEBs for 14 July. From that day, the voter lists were to be displayed for public scrutiny. The OSCE/ODIHR LTOs reported that the public display of voter lists rarely occurred. Most were accessible only upon request at PEB offices during working hours. In fact, voters have little incentives to check their entries in the voter lists as according to the Election Code, names omitted may be added to the supplementary voter lists upon presentation of a valid identification document accompanied by a confirmation of temporary or permanent residence within a precinct.

The accuracy of voter lists was one of the most contentious issues during the 5 April elections and remained controversial during the electoral campaign. The election administration, local authorities, as well as non-governmental organizations vested considerable efforts into attempts to improve the quality of voter lists. Due to financial constraints, the CEC was unable to establish a centralized electronic voter register as outlined by the 2008 Law on the Concept of State Automatic Information Systems "Elections." The CEC suggested an interim solution aimed at creating a national voter list database. It was to allow for a centralized review of voter lists compiled by local authorities in order to track multiple entries and other errors. Initially, the CEC requested local authorities to submit electronic copies of voter lists to the CEC by 6 July. Technical problems²⁰ forced the CEC to extend the deadline to 11 July.²¹ Despite this extension, the database was still incomplete by

¹⁹ The OSCE/ODIHR LTOs reported that the following sources were used during voter list compilation: regular and supplementary voter lists used during the 5 April elections; lists provided by the MID in April; civil status books kept by the local mayor's office; household books in villages. In Orhei, a district court, which in line with the legislation stored voter lists after 5 April elections, rejected a request by a Mayor to provide access to 5 April supplementary voter lists.

²⁰ The problems were partially caused by the CEC itself. After a series of trainings held by CEC members for representatives of local authorities between 16 and 22 June, when participants were instructed to use an MS Excel template for the compilation of voter lists, the CEC decided to change the format of the template for an MS Word one in early July.

²¹ Decision N 2713 dated 8 July 2009.

election day.²² At least 15 per cent of entries lacked the crucial identification document number necessary for an effective track of multiple registrations. Three non-governmental organizations monitored the compilation of VLs.²³ Their findings underscored the absence of uniform procedures and frequent omissions of identification document numbers in the voter lists.

According to the CEC, the number of voters included in the voter lists was 2,708,381, an increase of some six per cent compared to April 5 parliamentary elections.²⁴ Of those, 105,223 voters were included in the supplementary voter lists. As in previous parliamentary elections, 33 polling stations were opened at embassies and consular offices of the Republic of Moldova for citizens residing abroad. Of 26,429 voters registered abroad, 17,544 participated in the elections. In addition, 5,674 voters from Transnistria participated in the elections.

VII. CANDIDATE REGISTRATION

On 12 July, the registration of independent candidates²⁵ and party lists was completed. In an inclusive process, the CEC registered ten political parties as well as one independent candidate.²⁶ Before election day, two political parties, the National Liberal Party (PNL) and the European Action Movement (MAE), as well as the independent candidate, withdrew from the race. According to the leadership of the PNL, the only reason for the party to register for the elections in the first place was to avoid the party's dissolution.²⁷ Both PNL and MAE withdrew in favour of other opposition parties.

The ballot contained eight contestants in the order of their registration with the CEC:²⁸ PCRM, PPCD, AMN, PL, PLDM, PDM, PSD (Social-Democratic Party) and PEMAVE (Green Alliance).

VIII. ELECTION CAMPAIGN

Political parties and independent candidates were allowed to start campaigning upon registration with the CEC. Off to a slow start, the campaign gained momentum towards election day, and some rallies were held, albeit small in scale. While parties resorted predominantly to door-to-door canvassing and placed posters, several parties also used billboards. Generally, the campaigns of PPCD and AMN were less noticeable and those of PEMAVE and PSD hardly visible at all, reportedly due to a lack of funds.

²² By 27 July, voter lists of 83 polling stations were still not processed. In total, some 2,4 million names were included in the database.

²³ Moldovan League for Defense of Human Rights (LADOM), Moldovan Institute for Human Rights (IDOM) and the Alliance INFONET. The IDOM report is available at www.idom.md/files/admin/IDOM%20Final%20Report%20Electoral%20Lists%20ENGL.pdf.

²⁴ According to the CEC, the number of registered voters on the regular voter lists during 5 April parliamentary elections was 2,564,710.

²⁵ Independent candidates were required to submit not less than 2,000 and not more than 2,500 valid signatures of supporters for their registration.

²⁶ Incomplete documentation resulted in the CEC's refusal to register two other independent candidates.

²⁷ The Law on Political Parties (Article 22) stipulates that the Ministry of Justice shall begin a court procedure to dissolve a party in case of non-participation in two consecutive elections.

²⁸ In case of registration of more than one party per day, the order of these parties on the ballot was decided upon by the drawing of lots organized by the CEC at the end of that day.

The campaign atmosphere was very strained with severe polarization between the governing party and the opposition, which exchanged accusations regarding the eruption of violence during the 7 April demonstrations.²⁹ At campaign events throughout the country, the PCRM showed a film “Attack on Moldova” portraying opposition parties, with some foreign involvement, as organizers of the 7 April events. Likewise, during their campaign events, the PLDM, AMN and PL used footage depicting the events as instigated by the PCRM. The only party that openly called for an end to what it described as “political war”, urging opponents to engage in a constructive dialogue, was the PDM under its newly elected chairman Marian Lupu, a former prominent PCRM leader who left the party in June 2009.³⁰

A number of complaints were lodged by the opposition parties regarding the content of the film used by the PCRM. In its decisions on these complaints, the CEC ruled that there was no evidence that the film was produced by the PCRM and, thus, it was not considered campaign material. The political parties claimed to have been showing their respective films for “educational purposes”.

Negative campaigning was observed throughout the pre-electoral period. Campaign materials often contained aggressive and offensive language aimed at denigrating political opponents. On 24 July, Vladimir Voronin in his capacity as chairman of the PCRM described the early elections as a choice “between development and chaos, stability and pogroms, civil dignity and political treason.”³¹

The OSCE/ODIHR EOM received numerous allegations of misuse of administrative resources during the campaign from various parties, some of which were verified. For instance, the OSCE/ODIHR EOM observed six cases of PCRM campaign events taking place in state enterprises, such as the State Railway Company, Moldtelecom and the Bank of Economy, with employees of these institutions being expected to attend.³² In another confirmed case in Nisporeni, persons implementing a social-assistance programme on behalf of the Ministry of Health distributed free-of-charge medicine while at the same time campaigning for the PCRM. The rehabilitation of a kindergarten in Iujnoe, Cahul, was paid for in cash by an anonymous sponsor during a PCRM rally observed by the EOM.

In the polarized campaign atmosphere, substantive campaign topics, such as the ongoing economic crisis and social issues, were not addressed and party programs were generally not presented. Tensions between the governing party and the opposition also lead to an atmosphere of intimidation, with the authorities using methods of subtle pressure to control the campaign environment. Several cases of intimidation of voters and candidates were confirmed by the OSCE/ODIHR EOM, such as the disruption of opposition party rallies by provocateurs in at least four locations;³³ a case of a PDM supporter having been questioned

²⁹ Following the 5 April vote, initially peaceful demonstrations by students and young people took place in Chisinau between 6 and 12 April alleging electoral fraud. On 7 April, elements within the demonstrators initiated violence and entered the buildings of the president’s administration and the parliament they vandalized a number of offices. The demonstration was dispersed by the police. Some 150-200 persons were reportedly arrested by the police on 7 and 8 April, with further arrests carried out in the subsequent days, including detentions in universities and arrests of minors. Three fatalities were reported allegedly in connection with the demonstrations and detentions. See OSCE/ODIHR Final Report on 5 April parliamentary elections.

³⁰ Following Marian Lupu’s leave, around 30 PCRM members defected to the PDM.

³¹ Address by the Chairman of the PCRM, Vladimir Voronin, to Moldovan voters on 24 July 2009, www.ava.md/01-politika/02812-obrashenie-k-narodu-respubliki-moldova-lidera-pkrm.html.

³² Edinet (8 and 15 July), Orhei (7 and 10 July), Cahul (4 July) and Chisinau (17 July).

³³ Balti, 13 and 16 July; Orhei, 11 and 18 July. The provocateurs were directly linked to the PCRM.

by the mayor in the presence of the police after placing a campaign poster;³⁴ and – similar to an incident during the 5 April elections – a fire at the entrance of the PL office in Orhei.³⁵ On election day, the Liberal Party in Edinet reported that students, who were transported by the party to vote in Chisinau, were held by the police for two hours.³⁶ In Ungheni, a minibus that was hired for the same purpose was damaged by unknown persons. Both incidents were confirmed by the EOM observers. A recurrent feature was the apparent passiveness of the police observing or investigating these incidents.

In general, the shortcomings observed during the campaign were not fully compliant with paragraphs 5.4 and 7.7 of the 1990 OSCE Copenhagen Document requiring *inter alia* clear separation between political parties and the state, and that the campaign environment be free from intimidation in which neither violence or intimidation bars the election contestants from freely presenting their views or prevents voters from learning and discussing them.

IX. MEDIA

A. BACKGROUND

While a range of television channels operate in Moldova, public television *Moldova 1* with nationwide coverage remains the main source of political information in many parts of the country. The media remain vulnerable to political influence, with main broadcast media failing to provide critical and investigative reporting which would offer the electorate a broader picture of the campaign and contestants. In the run-up to the elections, the OSCE Representative on Freedom of the Media urged the authorities to renew the license of private *Pro TV*, perceived as one of the few sources offering diverse political reporting.³⁷

B. LEGAL AND REGULATORY FRAMEWORK FOR THE MEDIA

The Election Code, the Broadcasting Code and the CEC Media Regulations, adopted on 23 June, constitute the legal framework for media coverage of the campaign.³⁸ The Broadcasting Code obliges media to provide accurate, balanced and impartial coverage of contestants. The CEC Media Regulations add that the coverage of the campaign should not violate the principle of equality of contestants. The Election Code prohibits privileged treatment of candidates who hold official positions.³⁹ The CEC Media Regulations further specify that high-ranking officials registered as candidates could not be shown, give interviews and make statements on their field of activity to prevent them from gaining undue advantage from their official positions. Most of the monitored media, including public *Teleradio Moldova* (TRM), generally followed these legal provisions.⁴⁰

³⁴ In a village of the Donduseni district.

³⁵ The police carried out a quick investigation and requested the local prosecutor to close the case as reportedly “there was not sufficient evidence that the fire was caused by a third party”.

³⁶ A complaint filed with the CEC on 29 July was rejected for a lack of evidence.

³⁷ The license of *Pro TV* had expired in December 2008 and was opened to a tender. Following the concerns expressed by the international community, the tendering process was postponed until after the 5 April elections, and, on 10 June, the tender was again deferred until after the early parliamentary elections. See also, the OSCE Representative on Freedom of the Media Report to the OSCE Permanent Council, 2 July 2009 available at: www.osce.org/documents/rfm/2009/04/38607_en.pdf.

³⁸ The CEC Media Regulation was based on the Concept adopted by the CCA on 16 June.

³⁹ Article 47 (4) of the Election Code.

⁴⁰ Coverage of President Voronin’s official activities in public media did not exceed two per cent of relevant coverage, both on *Moldova 1* and *Radio Moldova*.

The Election Code obliges public broadcasters to offer electoral contestants an opportunity to take part in debates (considered free airtime), which are set by the law to last 90 minutes per day, and to purchase a maximum of 120 minutes of paid airtime during the whole electoral period. Private broadcasters may offer free and paid airtime under the same conditions. The CEC Media Regulations, as during 5 April elections, explicitly provided for the coverage of campaign activities in news programmes.⁴¹

C. MEDIA MONITORING FINDINGS

The OSCE/ODIHR EOM's media monitoring⁴² commenced on 26 June and focused on eight television channels, two radio stations and six newspapers.⁴³ Some domestic organizations also carried out media monitoring projects.⁴⁴

While most of the monitored media made an effort to report on the activities of all contestants in their news coverage, discernable differences were observed, both in quantity and tone. Public TV *Moldova 1* did not provide impartial and fully balanced coverage in its news programmes. It dedicated the largest share of its relevant news to the PCRM, amounting to 21 per cent of predominantly positive and neutral information. The PLDM followed with 13 per cent and the PL with 9 per cent.⁴⁵ The coverage of AMN, PDM, PL and PLDM was mostly neutral or negative. Similarly, *Radio Moldova*, as part of TRM, in its news reporting also showed preferential treatment to the PCRM, both in terms of quantity and tone, with 22 per cent of mostly neutral and positive coverage. All other parties received less than 10 per cent of coverage each, mostly neutral in tone.

The nationwide private channel *NIT* in its news showed a clear bias in favour of the PCRM, which received 36 per cent of relevant coverage in almost exclusively positive and neutral tone. A number of reports about the PCRM were of promotional nature, in contradiction to the impartiality requirement set forth in the CEC Media Regulations and the Broadcasting Code. The amount of time given to other contestants was significantly lower and most of them were covered in a negative tone with frequent use of discrediting language (AMN, PDM, PL, PLDM).⁴⁶ *Prime TV*, the third nationwide channel, decided not to cover the election campaign at all.

⁴¹ CEC Media Regulations, Article 19: "in the informative and news programs of the audiovisual institutions, events about the electoral campaign will be reflected". During the 2005 and 2007 electoral campaigns, campaign events were not covered in news programmes as Article 47 (4) of the Election Code was interpreted as limiting media coverage of the campaign exclusively to free and paid airtime. Article 47(4) states that "It is prohibited to air, apart from the air time granted free of charge during debates, spots and TV or radio reports, on the activity of the electoral contestants or on their or their trustees participation with the voters, on working visits of the electoral contestants who hold offices at republican or rayon level."

⁴² Media monitoring included quantitative and qualitative analysis of the coverage, assessing both the amount of time and space allocated to each contestant and the tone of the coverage. The coverage of other relevant subjects, such as the government and the President, was also analysed.

⁴³ The media outlets were as follows: *Moldova 1* (public service broadcaster), *Prime TV*, *NIT TV* (nationwide TV channels), *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 Chisinau*, *Moldova Suverana*, *Timpul*, *Komsomolskaya Pravda*, *Nezavisimaya Moldova* (newspapers).

⁴⁴ Media monitoring projects were carried out by the member-organizations of "Coalition 2009", the Independent Centre for Journalism (CIJ) and by the Association of Electronic Press (APEL).

⁴⁵ AMN – 7 per cent, PPCD - 6 per cent, PDM and SDP – 5 per cent respectively, PEMAVE – 1 per cent.

⁴⁶ PLDM received 10 per cent. All the other contestants received less than 8 per cent each.

Among non-nationwide channels, the private *N4* demonstrated bias in favour of the PCRM. *EU TV* offered more balanced news. However, the decision of *EU TV* to avoid covering the PLDM and the AMN in response to their withdrawal from the channel's debates was not in line with the requirement of equal treatment of contestants. *Pro TV* and *TV 7*, channels with more limited geographical reach, offered their viewers a more balanced coverage of the campaign.

Beyond the news, public media complied with legal requirements on paid advertisements and on allocation of free airtime through debates. While almost all monitored private media, including a number of local channels, launched debates after the completion of candidate registration on 12 July, the CEC obliged the TRM to start organizing debates already as of 8 July.⁴⁷ All contestants utilized their right to purchase spots on public TV.⁴⁸

While newspapers in Moldova have low circulation and therefore limited impact, they did offer readers diverse views. The former state-funded newspapers, *Moldova Suverana* and *Nezavisimaya Moldova*, clearly promoted the incumbents. By contrast, *Timpul* and *Journal de Chisinau* presented different views, displaying a critical approach towards the authorities and the PCRM. *Komsomolskaya Pravda*, the newspaper with the highest circulation, did not devote much of its content to election-related information.

D. MEDIA COMPLAINTS AND APPEALS

The CEC received and considered a large number of media-related complaints. Most of the cases were related to failures by different broadcasters to respect the right to reply and to TV spots not meeting the technical requirements contained in the CEC Media Regulations⁴⁹ or being “unethical.”⁵⁰

According to the Broadcasting Code, the Audio-Visual Co-ordinating Council is the competent authority to ensure *inter alia* that “the media cover elections in an accurate, balanced and impartial manner”, and to impose sanctions as necessary. However, the obligations of the CCA under the Broadcasting Code were blurred by the CEC Media Regulations, which stated that media-related disputes were to be settled by the courts. In light of these ambiguities in the regulatory framework, the CCA chose not to act on media related complaints transferred by the CEC⁵¹ or referred the contestants to courts.

⁴⁷ Two electoral contestants, PEMAVE and MAE, registered after the start of the TV debates (on 9 July), were provided with compensatory free airtime in public TV and radio.

⁴⁸ Public *Moldova 1* offered paid campaign spots for 480 euro per minute, the highest rate among operating broadcasters.

⁴⁹ Under Article 47(5) of the Election Code, campaign materials must contain the name of the candidate, date of publishing, name of the publishing house and number of copies published. Article 24 of the CEC Media Regulations requires the term “archive” to be used when either video or audio archive material is used. Article 36, which was abrogated by the Supreme Court during the campaign, initially forbade showing administration buildings, foreign or historical personalities and to combine colors or sounds that would evoke the national symbols. Under Article 25 of the CEC Media Regulations campaign material must contain the notation “paid from the electoral fund.”

⁵⁰ Article 47(1) of the Election Code prohibits campaign material that disturbs public order or is unethical. There is no definition of the term “unethical” and the OSCE/ODIHR and Venice Commission of the Council of Europe have previously criticized these provisions as being so broad that they could violate freedom of speech and expression. See Joint Opinion on the Electoral Code of Moldova, No. 357/2005, *op. cit.*

⁵¹ In at least five cases, four related to broadcasting of *NIT TV* and one related to *EU TV*, the CEC passed the complaints to the CCA.

The CCA took a passive approach and failed to live up to its responsibilities. During the campaign, the CCA only issued two press releases and one decision of a general and advisory nature, both reminding broadcasters of their legal obligations.

The only case, in which CCA proactively intervened during the pre-electoral period involved the local *TV2 Comrat*, owned by a PLDM representative of Gagauzia DEC. The CCA filed a complaint with the Comrat Court of Appeal against the legality of the broadcasting license of *TV2 Comrat* issued by the authorities in Gagauzia.⁵² The CCA argued that only central authorities have the right to grant broadcasting licenses in Moldova.

X. COMPLAINTS AND APPEALS

A. COMPLAINT PROCEDURES

The procedures for handling election-related complaints and appeals are outlined in the Election Code and CEC regulations. Any voter or election contestant may complain about actions, inactions or decisions of election commissions at all levels. Appeals concerning actions and decisions of electoral bodies, including regarding inaction, must be filed with the higher electoral body or a court within three days of the action or decision complained of.

The lack of clear written procedural rules and guidelines regarding handling of complaints and appeals by election commissions along with the fact that the Election Code gives the complainant the choice of filing a complaint with the electoral body or the court create the potential for conflicts of jurisdiction.

B. COMPLAINTS FILED WITH ELECTION ADMINISTRATION

The CEC handled a total of 110 complaints during the electoral period and issued 71 decisions. The CEC met its responsibility to consider and adjudicate complaints in a timely manner. CEC decisions on complaints were well reasoned and were based on the relevant legal provisions. Nevertheless, the complaint process was hampered by a lack of procedural rules and a lack of authority of the CEC to impose sanction for violations of the Election Code. The CEC can only warn or recommend that a party be deregistered.⁵³

The CEC maintained a regularly updated register of complaints and its decisions were generally posted on the website within 24 hours of issuance. As during the 5 April elections, the CEC continued responding to numerous complaints by letter instead of issuing a decision, thereby denying the complainant the right to a hearing and the possibility to appeal.⁵⁴

The CEC approach to complaints related to unethical campaigning and libel was inconsistent. In one case, the CEC accepted the complaint regarding a defamatory content of a campaign leaflet printed by the Liberal Party and decided to prohibit its further distribution. In 14 other complaints alleging unethical campaigning, the CEC referred the complainants to courts quoting Article 16 of the Civil Code.

⁵² The authorities of Gagauzia granted a broadcasting license in 2002 and renewed it on 17 June 2009.

⁵³ Decisions on a deregistration of a party for violations of the Election Code is to be made by a court.

⁵⁴ 19 complaints were resolved by the issuance of a letter instead of a formal decision.

The CEC also referred several cases to the appropriate agencies for further investigation. Five complaints were referred to the CCA for sanctioning of media. One case was referred to the Ministry of Finance, one to the Police and seven to the General Prosecutor's Office for investigation. Two of the cases forwarded to the General Prosecutor were related to a falsified campaign material, the origin of which could not be determined.

The DEC's received some 300 complaints mainly dealing with the destruction of billboards or posters, cases of alleged misuse of administrative resources, interference in campaigning by local authorities and the disruption of rallies by provocateurs or police. In adjudicating complaints, there were many instances of DEC's failing to follow legal procedures, not meeting deadlines, and making decisions that did not comply fully with the Election Code and the CEC regulations.

C. SUPREME COURT DECISIONS

Decisions of the Chisinau Court of Appeal can be appealed to the Supreme Court that heard 31 appeals on 41 such decisions during the electoral period. The most significant appeals related to student voting, banning of TV spots for not complying with the technical requirements, access to voter lists,⁵⁵ the right to reply and the provisions of the CEC Media Regulations.

On 29 July, the Supreme Court reversed a decision of the Chisinau Court of Appeal with regard to a brochure by *Posta Moldovei*. The brochure contained a phrase "Choose No.1" written in red letters and was distributed to every household ahead of election day. The Court of Appeal ruled on 28 July that the brochure was a subtle attempt to support the PCRM as the party's colour is red and it is listed first on the ballot paper.

The Supreme Court also overturned two provisions of the CEC Media Regulations. In the first case, the Court found illegal part of Paragraph 9 of the Regulations, which stated that all media complaints were to be lodged with courts. The provision conflicted with the Election Code, which gave the CEC the authority to consider such complaints.

In the second case, the Court found paragraph 36 of the Regulations to be beyond the authority of the CEC. This paragraph prohibited the depiction of administration buildings such as the Parliament and presidential administration, historical personalities of Moldova and of other countries, symbols of foreign states, international bodies, images of foreign officials and national symbols of Moldova in campaign materials. The Court argued that Article 47(1) of the Election Code limits the authority of the CEC with regard to campaign advertising only to cases of materials that are unethical or disturbing public order. The appeal was filed by the PCRM against the CEC decision ordering the party to stop showing TV spots because they contained images of the Parliament building.

XI. PARTICIPATION OF WOMEN

Most political parties did not address issues related to women or gender equality in their campaign platforms. Women made up a total of 29.6 per cent of all candidates; however, they were generally less present in top positions on candidate lists. The AMN and the PDM did not have any women among the first ten candidates on their party lists. Out of 101 elected

⁵⁵ An NGO complained that it could not get access to voter lists and the Supreme Court ruled that because the VL contained private information, access was legally denied.

members of Parliament, 25 are women (24.7 per cent), slightly more than in the previous Parliament.

Women were well represented at the lower levels of election administration; however, they were under-represented in leadership positions at all levels. Out of nine CEC members, only one, the deputy chairperson, is a woman. Eleven out of 35 DEC members were headed by women. Women were deputy chairpersons in 11 and secretaries in 23 DECs.

XII. PARTICIPATION OF NATIONAL MINORITIES

Issues related to national minorities did not play a prominent role in the election campaign but were subsumed by the controversy between the PCRM and the opposition about issues such as Moldovan statehood, national identity and patriotism. Representatives of the Gagauz minority expressed concerns during the pre-election campaign that their viewpoints were not taken into account in the capital.

Official information, party campaign and election materials were printed both in the State language and in Russian. However, on election day, a number of cases were reported of voters not having been provided with ballots in Russian upon request. While no official data on the ethnicity of candidates was made available by the CEC, it appears that several parties included representatives of national minorities in their candidate lists.

XIII. DOMESTIC AND INTERNATIONAL OBSERVERS

The Election Code provides for election observation by a wide range of stakeholders, including international and domestic non-governmental organizations, representatives of foreign governments, and proxies of electoral contestants. In addition to political party observers, the CEC accredited a total of 2,645 domestic and 488 international observers.

The largest domestic election observation effort was undertaken by the “Civic Coalition for Free and Fair Elections – Coalition 2009”. The League for Defense of Human Rights of Moldova (LADOM), member of the Coalition, deployed 62 long-term and some 2,000 short-term observers, and conducted a parallel vote count in 1,879 polling stations.⁵⁶

The European Network of Election Monitoring Organizations (ENEMO), a coalition of 18 civic organizations from Central and Eastern Europe and Central Asia, addressed the CEC with a request to observe the elections on 2 July. On 22 July, ENEMO received an official invitation. On 24 July, the CEC decided to accredit 53 out of 140 ENEMO short-term observers. In anticipation of the receipt of outstanding accreditations, ENEMO proceeded with the deployment of observers, including those for whom accreditations were pending. However, on 27 July, the CEC denied accreditation to 87 ENEMO observers without stating the grounds for refusal.

Between 26 and 28 July, ENEMO reported that members of its mission that were not accredited were subjected to various forms of mistreatment. Some observers were held for many hours at the airport and were not allowed to enter Moldova; the head of the mission and one LTO were detained and held by the immigration police; hotel rooms of observers

⁵⁶ LADOM has also implemented a voter list monitoring project in some 200 polling stations. Reports of “Civic Coalition for Free and Fair Elections – Coalition 2009” are available at: www.alegeliber.md.

deployed to Balti and Soroca were forcibly entered and observers were pressured to sign a commitment to leave the country within 24 hours.⁵⁷ ENEMO stated that as a consequence of actions by the Moldovan authorities the organization was forced to bring its work to an end, not being able to guarantee the safety of its personnel.

These actions are not in line with the commitments of OSCE participating States to welcome the presence of observers (international and domestic), to facilitate their access to electoral proceeding and to support the vital role of non-governmental organizations in promoting human rights, democracy and the rule of law.

XIV. OBSERVATION OF VOTING AND COUNTING

A. VOTING

On election day, some 300 IEOM observers were deployed to follow opening, voting and counting procedures. Observers visited some 1,000 of 1,986 polling stations and followed the tabulation of results in 35 DEC. The IEOM observers completed 1,444 observation forms.

The voting process was assessed positively in 97 per cent of visited polling stations and voting procedures were generally adhered to; however, some procedural shortcomings were noted. In 3 per cent of visited polling stations, AVCs were not retained by the PEBs, and in another 3 per cent of observations, voters were not given the ballot in the language of their choice. Several polling stations did not open on time and often the mobile ballot box was not sealed at the beginning of election day. Handling of requests for mobile voting was inconsistent,⁵⁸ and the secrecy of vote was not always observed. In particular, group or family voting was observed in 4 per cent of stations, and attempts to influence voters in some 2 per cent. Unauthorized persons were present in 2 per cent of polling stations visited, and in 6 polling stations these persons were directing the work of commissions.

The IEOM observers reported some problems related to the quality of voter lists. In Soroca, Falesti, Singerei and some other areas, between 5 and 20 per cent of entries in the voter lists did not include voters' identification number. In a number of polling stations, voters complained that other persons were registered under their addresses. This sometimes led to arguments with PEBs. In addition, in 18 per cent of observations, individual voters were turned away because they could not provide a valid ID, prove their residence in the precinct, or they refused to have their ID attachment stamped. In 6 per cent of observations, the PEB secretary was not the only person handling the supplementary voter list as stipulated in the CEC regulations.

The IEOM observers noted that in rural areas 3 per cent of visited polling premises were not fully suitable for the conduct of voting, and 61 per cent of visited polling stations were not accessible to disabled persons.

⁵⁷ The ENEMO statement is available at:
www.ndi.org/files/ENEMO_Moldova_Statement_7_29_2009_0.pdf.

⁵⁸ See also section D on election day complaints.

Party observers or representatives were present in 93 per cent of polling stations visited by the IEOM observers.⁵⁹ Domestic observers were present in 83 per cent of visited polling stations, most frequently representing LADOM (74 per cent).

B. COUNTING

The vote count procedures were observed in 108 polling stations. In general, counting was assessed positively in 94 per cent of polling stations visited. The IEOM observers assessed PEBs understanding of the counting procedures as good in 82 per cent of the observed counts, while PEB performance was assessed as bad or very bad in 20 per cent of the observations.

Observers noted procedural errors or omissions in 7 per cent of observations. These included the disregard for the legal requirements to: (a) collect and securely store “VOTAT” stamps before starting the count (in 9 per cent of counts observed), (b) count, cancel and seal unused ballots before opening the ballot boxes (5 per cent), (c) establish the number of ballots issued by counting the signatures in voters lists (14 per cent), (d) establish the number of ballots in the stationary ballot box before counting the ballots for each contestant (14 per cent), and (e) to reconcile the number of ballots in the mobile ballot box with the number of names on the supplementary voter list for mobile voting (9 per cent).

According to the IEOM observers, controversies arose among PEB members in determining the validity of a ballot in 23 per cent of counts.⁶⁰ Unauthorized persons were present during 7 per cent of counts observed.⁶¹ In 4 cases the IEOM observers reported intimidation of PEB members or observers during the count.⁶² In addition, the process was assessed as non-transparent in 9 per cent of cases. In 7 per cent of polling stations visited, the IEOM observers reported that the teams were obstructed in their observation or lacked full view of the closing and counting process.

In 13 per cent of counts observed, the PEB members had problems reconciling the figures in the result protocols. In nearly half of observations, a copy of the result protocol was not posted at the entrance of the polling stations, as required by law.

C. TABULATION AND ANNOUNCEMENT OF PRELIMINARY RESULTS

The Election Code and the CEC manual for the DECs do not regulate in detail the process of submission of PEB result protocols and their tabulation by the DEC.⁶³ The procedures and arrangements for this part of the process appear to be entirely within the discretion of each DEC.

⁵⁹ Party observers from PCRM were present in 82 per cent, PDM in 55 per cent, PL in 69 per cent, AMN in 55 per cent, PLDM in 60 per cent, and PPCD in 25 per cent of observed polling stations.

⁶⁰ This could have partially been caused by the lack of clear and uniform criteria on establishing the validity of a ballot.

⁶¹ For instance, in two stations in Chisinau (No. 1111 and 1031) and at polling station 10044 in Causeni the observers noted that an unauthorized person was directing the work of commissions or interfering in the counting process.

⁶² For example, in polling station 32023 in Stefan Voda, the mayor was registered as an observer and directed the work of the PEB.

⁶³ Only deadlines for the submission of results are established, namely 18 hours from the closing of polls for the submission of PEB protocols to DEC and 48 hours from the closing of polls for the DEC to transfer the record of vote tabulation for the district to the CEC.

The overall assessment of the tabulation process at the DEC's was positive with observers assessing it as very good or good in 75 per cent of observations. Seven DEC's received a negative assessment.⁶⁴ Major problems reported by the IEOM observers included: conditions not suitable for receiving election materials and the tabulation of the results (in six DEC's); handover not well organized (in eight DEC's); unauthorized persons present (in eight DEC's, including one case – Falesti/DEC 17, where police were invited to control the flow of PEB members waiting in the line for submission of materials); observation obstructed (in seven DEC's) and observers not able to see the computerized tabulation of results (in eleven DEC's).

IEOM observers noted that documents submitted by Precinct Election Bureaus (PEB's) frequently had to be altered to apparently correct mathematical errors. In eleven DEC's, recounts were ordered in at least one PEB.

An electronic system for the transfer of results from DEC's to the CEC operated well and provided election results data for each polling station. The system allowed for swift release of preliminary results and the data on over 98 per cent of polling stations was available in the morning of the day after elections.

The CEC respected the 5-day deadline for preparing the final results protocol and submitted the documents to the Constitutional Court on 5 August. The Constitutional Court validated the results on 14 August dismissing complaints by PPCD, which requested a recount, and by AMN and PL, which contested the method for the allocation of mandates.

D. ELECTION DAY COMPLAINTS

The OSCE/ODIHR EOM is aware of 59 complaints filed with PEB's, DEC's and territorial courts on election day. The majority of complaints were related to posters and campaign materials remaining displayed on election day, what constitutes a violation of the Election Code. Complaints were also filed with regard to inclusion of deceased persons on the voter lists, interference in the work of the PEB's by unauthorized persons and family voting.

A number of complaints were filed with DEC's regarding mobile voting. In four cases, the lists of voters wishing to cast their ballots using the mobile ballot box were presented to the respective PEB's by a Veterans' Association. Under the Election Code, such a request must be made by the voter either by phone or in writing. In three of these cases, the DEC's decided that the submission of lists by the Veterans' Association on behalf of voters was legal and ordered that the mobile ballot box be sent to these voters. In the fourth case, the DEC notified four different PEB's that had received such lists that the practice was illegal and ordered that the requests not be satisfied. In another case, the administration of a hospital in Leova presented to the respective PEB a list of 53 patients wishing to vote with the mobile ballot box. The PEB voted against sending the ballot box. Following a complaint, the DEC reviewed and cancelled the PEB decision; however, the PEB did not comply with the DEC order to satisfy the request.

The CEC received three complaints on election day, two of which were subsequently withdrawn. The remaining complaint was related to a voter having been listed 52 times in the same voter list with different identification document numbers. This complaint was forwarded to the General Prosecutor's Office for investigation.

⁶⁴ Chisinau/DEC No. 1, Anenii Noi/DEC No. 4, Cahul/DEC N7, Cimislia/DEC No. 11, Donduseni/DEC No. 13, Falesti/DEC No. 17 and UTA Gagauzia/DEC No. 36.

XV. RECOMMENDATIONS

The following recommendations are offered for consideration by the authorities of the Republic of Moldova, with a view to support the conduct of elections held in full compliance with OSCE commitments. These recommendations should be read as supplementary to previous OSCE/ODIHR recommendations, in particular those contained in the Final Report of the OSCE/ODIHR EOM to 5 April 2009 parliamentary elections. The OSCE/ODIHR stands ready to assist the authorities of the Republic of Moldova to further improve the electoral process.

A. LEGAL FRAMEWORK

1. Consideration should be given to carrying out a comprehensive review of the Election Code and to adopting relevant amendments with the view to eliminating the inconsistencies, ambiguities and gaps in the legal provisions identified in this and previous reports, as well as in the OSCE/ODIHR and Venice Commission Joint Opinion on the Election Code. To this end, an inclusive consultative process should be established well in advance of the next elections.
2. The utility of the provision in the Law on Political Parties that calls for the Minister of Justice to initiate legal proceedings to suspend a political party that does not participate in two consecutive parliamentary elections could be reconsidered.

B. ELECTION ADMINISTRATION

3. Instructions adopted by the CEC to supplement and detail the provisions of the Election Code should be precise and sufficiently detailed, as well as adopted and conveyed to the bodies concerned in a timely manner. The adoption of last-minute decisions should be avoided.
4. The adoption of instructions on the transfer of election materials and results by PEBs to DEC, and on the tabulation procedures at DEC should be considered in order to ensure uniformity.

C. VOTER REGISTRATION

5. Efforts to create a centralized electronic voter register should be intensified. The quality of voter lists could be enhanced if, instead of voters' identification document numbers, voter lists contained voters' personal identification numbers, which are unique and assigned for life to every registered citizen. The centralized voter register could be available to voters to check their individual entries.⁶⁵
6. Until the centralized voter register is in place, the CEC needs to ensure that voter lists drawn by the local authorities are of uniform format and contain all necessary voter information prescribed by law.
7. The list of categories of voters eligible to vote on supplementary voter lists should be limited to only include voters that are registered in a respective precinct, but were omitted in the regular voter lists. Voting by individuals in such institutions as hospitals and

⁶⁵ In Chisinau the local administration successfully tested a web-based system allowing voters to check individual entries in the voter lists.

prisons should follow the provisions for voting at special polling stations. Separate voter lists should be drawn and separate result protocols designed and used for voting with a mobile ballot box, which is to be used exclusively for homebound voters applying for it in person.

D. ELECTION CAMPAIGN

8. Cases of pressure on and intimidation of voters and/or candidates should be thoroughly investigated and those responsible should be held accountable. Resolute action could help enhance public trust in state institutions.

E. ELECTION DAY PROCEDURES

9. As part of voter information campaign, consideration could be given to printing and displaying poster-sized lists of candidates at polling stations.

F. COMPLAINTS AND APPEALS

10. Rules of procedure could be developed to clarify the legal requirements for filing complaints and the kind of necessary and acceptable evidence. This would facilitate the complaints and appeals review process by both the election commission and the courts.

G. MEDIA

11. The formulations used in Articles 47 (1) and 69 (1) of the Election Code, including the terms “disturb public order”, “unethical”, “infringe the honor and dignity”, are not defined and could be applied in a manner that would violate a person’s right to free speech and expression. As previously recommended, these formulations should be reviewed to ensure that terms are clearly defined.

H. ELECTION OBSERVATION

12. The grounds for refusal to accredit observers, whether domestic or international, should be communicated to the applicant in writing and in a timely manner.

ANNEX: OFFICIAL ELECTION RESULTS

Number of voters on the Voter Lists	Number of voters on the Supplementary Lists	Total number of voters	Number of voters participated in voting	Number of valid ballots	Per cent of turn out
2.603.158	105.223	2.708.381	1.591.757	1.581.517	58.77

Party Names	Percent of valid votes	Mandates
PCRM	44,69	48
PPCD	1,91	
AMN	7,35	7
PL	14,68	15
PLDM	16,57	18
PDM	12,54	13
PSD	1,86	
PEMAVE	0,41	

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights** and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).