



Office for Democratic Institutions and Human Rights

REPUBLIC OF MOLDOVA
2009 PARLIAMENTARY ELECTIONS

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

20 – 22 January 2009



Warsaw
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**REPUBLIC OF MOLDOVA
PARLIAMENTARY ELECTIONS 2009**

OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

In anticipation of a written invitation from the Government of the Republic of Moldova to observe the forthcoming parliamentary elections, the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE) undertook a Needs Assessment Mission (NAM) to the Republic of Moldova from 20 to 22 January 2009.

The purpose of the OSCE/ODIHR NAM was to assess the pre-electoral environment and the preparations for the elections, and to make recommendations regarding possible observation activity by the OSCE/ODIHR. The Needs Assessment Mission included Mr. Konrad Olszewski, Deputy Head of the OSCE/ODIHR Election Department, and Ms. Tatyana Bogushevich, OSCE/ODIHR Election Adviser.

The OSCE/ODIHR is grateful to the Ministry for Foreign Affairs and European Integration of the Republic of Moldova for its assistance and co-operation. It also expresses its appreciation to the OSCE Mission to Moldova for its support throughout the OSCE/ODIHR NAM. The OSCE/ODIHR would also like to thank the representatives of state authorities, Central Election Commission, political parties, media, civil society and the resident diplomatic community in Chisinau who took the time to meet with the OSCE/ODIHR NAM. The list of meetings is attached to this report.

II. EXECUTIVE SUMMARY

The forthcoming parliamentary elections will be conducted to elect 101 members of the Parliament through proportional representation system in a nationwide constituency. To gain representation in the Parliament, political parties have to overcome a 6 per cent threshold, and independent candidates must obtain at least three per cent of valid votes nationally. For an election to be valid, at least 50 per cent of registered voters must take part in voting.

At the time of the OSCE/ODIHR NAM visit, the date of the election was not yet set; however, the election is widely expected to take place in spring 2009. In line with the legislation, the Parliament is to call the election at least 60 days before polls. Since the second and last tenure of President Vladimir Voronin expires shortly after the parliamentary elections, the next Parliament will elect the new President of the country.

The election will be regulated primarily by the Election Code as amended in 2008. The Code generally provides an adequate framework for the conduct of democratic elections. However, some recent amendments, including the increase of the threshold from 4 to 6 per cent and the ban on pre-electoral blocs, represent a setback and have been criticised by the opposition.

A three-tier multi-party election administration, comprising the Central Election Commission (CEC), 36 District Electoral Councils (DECs) and some 1,970 Precinct Electoral Bureaus, will administer the election. The CEC was assessed by most interlocutors as implementing its duties in a transparent and professional manner. To tackle the long-standing problem with the accuracy and completeness of voters' lists, the CEC is working on developing a centralized electronic voter register to be used in the forthcoming elections, if completed in time. Some 2.9 million voters will be eligible to cast ballots.

The legislation provides guarantees for electoral contestants to compete freely and under conditions of equality. However, some opposition political parties complained about pressure and intimidation, including through the initiation of legal proceedings by law-enforcement bodies. The opposition, as well as the majority of interlocutors, were also critical of the situation in the media. They cited in particular unequal access of political parties to the public media, failures of the public broadcaster to provide balanced reporting and the controversy around the renewal of the license of PRO TV, a television channel that is widely regarded to be a source of accurate and balanced reporting.

All interlocutors welcomed the deployment of OSCE observers and emphasized that their presence is crucial during the pre-electoral period. In addition, the importance of comprehensive media monitoring was underscored. The OSCE/ODIHR NAM recommends that a standard Election Observation Mission (EOM) be deployed to the Republic in Moldova to observe the forthcoming parliamentary elections, contingent upon the receipt of an official invitation from the Moldovan authorities. In addition to the deployment of a core team of experts, the OSCE/ODIHR will request participating States to second 20 long-term and 200 short-term observers.

III. FINDINGS

A. POLITICAL CONTEXT

The OSCE/ODIHR has been following electoral processes in Moldova since 1996, including observation of the previous parliamentary elections held on 6 March 2005 and the local elections of 3 and 17 June 2007. The OSCE/ODIHR concluded that while these elections were generally well administered, they fell short of some OSCE commitments that are central to a genuine competitive election process. Cases of intimidation and pressure, unequal campaign conditions and constrained media coverage represented particular concern.¹

As a result of the 2005 parliamentary elections, only three political formations gained representation in the Parliament, namely the governing Party of Communists of the Republic of Moldova (PCRM), the Christian-Democratic People's Party and the Electoral Bloc "Moldova Democrată". Following a number of party splits and mergers,

¹ Final Reports of the OSCE/ODIHR EOMs to 6 March 2005 parliamentary elections (www.osce.org/documents/odihr/2005/06/14919_en.pdf), and 3 and 17 June 2007 local elections, (www.osce.org/documents/html/pdftohtml/26372_en.pdf.html).

8 political parties² are represented in the current Parliament, with the majority of seats (56) being held by the PCRM.

A new political party, the Liberal Democratic Party of Moldova (PLDM), was established by Mr. Vladimir Filat, formerly a member of the Democratic Party of Moldova, in December 2007. According to opinion polls³, the party has rapidly gained popularity and is expected to become one of the main competitors of the governing party. Similarly, the interlocutors of the OSCE/ODIHR assessed that the Centrist Union of Moldova, which was formed back in 2000 but recently gained prominence with the appointment of former Prime Minister Vasile Tarlev as its chairman in December 2008, could challenge the PCRM in the forthcoming elections.

In line with the new Law on Political Parties adopted in December 2007, all registered political parties were obliged to undergo re-registration with the Ministry of Justice by submitting party statutes adjusted in accordance with the new legal requirements. The Ministry of Justice informed the OSCE/ODIHR NAM that out of 28 political parties only 16 submitted applications for re-registration, of which 12 were accepted and four were rejected. The Ministry stated that the rejected applications⁴ failed to meet basic requirements and contained obvious mistakes. It emphasized, however, that at this stage the denials to re-register the adjusted statutes did not imply de-registration of these parties. Some political parties which were eventually successfully re-registered, reported having come across procedural hurdles in the process.

With the last parliamentary elections having been held in 2005 and the term of the Parliament being 4 years, the next elections are expected to take place in spring 2009. At the time of the NAM visit, the date of the elections was not yet set by the Parliament. In line with the Electoral Code, elections take place 60 days after being announced. The forthcoming elections are assessed as very important in determining the future political make-up of the country's leadership for the reason that the second and last mandate of the current President Vladimir Voronin will expire on 7 April 2009. The next Parliament will elect the new President by three fifths of its members.

As during previous elections, voting will not take place on the territory of Transdnistria, which *de facto* has not been under the control of the Moldovan authorities since 1992.

Women's rights are guaranteed by the Constitution and the Law on Equal Opportunities. The participation of women in public affairs and their representation appears to be gradually increasing. The OSCE/ODIHR NAM was informed that while political parties make efforts at including women in candidate lists, quotas are not used and are often regarded as discriminatory.

² These include the Party of Communists of the Republic of Moldova, Christian-Democratic People's Party, Alliance Our Moldova, Democratic Party of Moldova, National Liberal Party, European Action Movement, Social Democratic Party of Moldova, and Liberal Democratic Party of Moldova.

³ Public opinion survey by the Institute of Public Policy, www.ipp.md/barometru1.php?l=en&id=34.

⁴ Re-registration was denied to the Party of Patriots of Moldova, Party Casa Noastră-Moldova, Unionist Movement of Moldova, and the European Action Movement.

According to the 2004 census, national minorities make up some 23 per cent of the country's population. The principles of equality of rights and non-discrimination against national minorities are enshrined in the Constitution and the Electoral Code.

B. LEGAL FRAMEWORK

The conduct of parliamentary elections, including on the territory of the Administrative Territorial Unit of Gagauzia, is regulated primarily by the Electoral Code, which was adopted in 1997 and last amended in 2008. In a Joint Opinion on the revised Election Code published in October 2008, the OSCE/ODIHR and the Venice Commission of the Council of Europe (VC/CoE) stated that while the Code continues to provide an adequate basis for the conduct of democratic elections, the latest amendments did not address most of the previous recommendations⁵. Furthermore, the Opinion was critical of some newly instituted restrictions, particularly the increase of the threshold for party representation in the Parliament from 4 to 6 per cent, the prohibition on forming pre-electoral alliances and the limitation of the rights of dual citizens in taking up elected posts.

On 18 November 2008, the European Court of Human Rights (ECHR) ruled against Moldova in its judgment on an appeal by two potential candidates in the elections, holders of both Moldovan and Romanian citizenships, who complained that their right to be elected was violated by the new restriction. The ECHR ruled that the restriction did result in a human rights violation in case of one of the appellants⁶. With reference to this matter, the CEC clarified the OSCE/ODIHR NAM that the provision did not infringe on a dual citizen's right to stand as a candidate and to be elected, as it is only after the validation of a mandate that an elected candidate with dual citizenship would be obliged to declare the intention to surrender the citizenship of another country.

The interlocutors of the OSCE/ODIHR NAM appeared to be generally satisfied with the legal framework for the conduct of elections. However, all opposition representatives criticized the increase of the threshold and the prohibition of pre-electoral coalitions. Assessing the impact of the latter amendment, the Ministry of Justice stated that party mergers that already took place and discussions among some political parties to include candidates from other parties in their lists indicated that the grievances expressed by the opposition with regard to the ban on pre-electoral alliances were exaggerated.

C. ELECTION SYSTEM

The forthcoming elections will be conducted to elect 101 members of the unicameral Parliament through proportional representation system in a single, nationwide constituency. Passive and active voting rights in Moldova are extended to Moldovan citizens over 18 years of age, with the exception of individuals declared incapacitated or sentenced to imprisonment by a final court decision for serious crimes. The right to nominate candidates is granted to registered political parties and Moldovan citizens

⁵ Joint Opinion on the Election Code of Moldova as of 10 April 2008 (CDL-AD(2008)022), 23 October 2008, at www.osce.org/documents/html/pdf/34561_en.pdf.

⁶ See *Tănase and Chirtoacă v. Moldova* (application no. 7/08), www.echr.coe.int.

through self-nomination. Independent candidates are obliged to submit to the CEC a minimum of 2,000 support signatures of voters in order to be registered.

The Code requires that at least 50 per cent of registered voters cast ballots for an election to be valid. In case of lower turnout, repeat elections will be held two weeks later. Repeat elections are deemed valid if at least one-third of registered voters turn out to cast ballots. The OSCE/ODIHR and the VC/CoE have previously recommended removing the turnout requirement, as it has the potential to lead to cycles of failed elections.

To gain parliamentary representation, political parties need to overcome a threshold of six per cent of valid votes cast. Mandates are distributed to political parties using the d'Hondt formula, and candidates are awarded seats in the order they appear on candidate lists. Independent candidates must receive at least three per cent of valid votes nationwide to be elected.

D. ELECTION ADMINISTRATION

The forthcoming elections will be administered by a three-tier structure. The Central Election Commission is a permanent body elected by the Parliament for a five-year term, whereas 36 District Electoral Councils and some 1,970 Precinct Electoral Bureaus are appointed by higher-level commissions 50 and 20 days before an election, respectively. In addition, polling stations will be established in Moldovan diplomatic representations abroad.

The composition of election commissions at all levels allows for nominations from parliamentary political parties, and also includes nominees from district courts and local councils at the DEC and PEB levels, respectively. In addition, political parties participating in the election have the right to nominate members with a consultative vote to all commissions⁷.

Informing the OSCE/ODIHR NAM of planned pre-electoral activities, the CEC stated that it intended to pay particular attention to training of election officials and voter education, as recommended in previous OSCE/ODIHR EOM reports. The CEC is collaborating with a number of international actors, including the International Foundation for Election Systems (IFES) on the development of an election procedures video and manuals for DEC and PEBs; the United Nations Development Programme (UNDP) on training of election officials and development of an electronic voter register; and the International Republican Institute (IRI) and National Democratic Institute (NDI) on training of partisan election observers.

Most interlocutors of the OSCE/ODIHR NAM positively assessed the work of the CEC to date, stating that the CEC operates in a transparent and professional manner and that its members aspire to organize the election in line with the legislation.

⁷ These members are entitled to the same rights as regular election commission members, including participation in commission's meetings and discussions and access to information, however, do not have the right to take part in voting on decisions adopted by a commission.

E. VOTER REGISTRATION

Following the adoption in June 2008 of a Law on the Concept of State Automatic Information System “Elections”, which envisages electronic management and implementation of all the stages of the electoral process, the CEC is currently working on developing the system’s primary component, the centralized electronic voter register. It is planned that the voter register will be based on the state population register maintained by the Ministry of Information Development (MID) in order to ensure maximum accuracy⁸ and to allow for online tracking of the electoral process to prevent possible multiple voting. All interlocutors of the OSCE/ODIHR NAM expressed hope that the register will be developed in time for its use in the forthcoming elections, in light of long-standing problems with the accuracy and completeness of voters’ lists. However, many interlocutors expressed doubts that the register will be operational on time.

The CEC informed the OSCE/ODIHR NAM that due to this concern, the CEC has made arrangements for conventional voters’ lists to be prepared by local councils on the basis of extracts from the population register, in parallel to the work on the electronic register. The CEC also stated that it considered introducing additional safeguards against possible multiple voting that could ensue *inter alia* from the use of supplementary lists on election day⁹.

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. The MID informed the OSCE/ODIHR NAM that out of the total of 2,957,781 eligible voters, there are currently 35,124 voters with both types of residence. The MID stated that it was within the responsibility of local councils and election commissions to ensure that these voters are entered in only one voters’ list.

The finalized voters’ lists are to be posted for public scrutiny 20 days before the election. During this period voters can complain against omissions or incorrect data to the respective precinct commission and subsequently appeal to a court. Voters changing their residence after the publication of lists are entitled to receive an absentee vote certificate.

F. CAMPAIGN AND CAMPAIGN FINANCING

The conduct of the campaign is regulated by Articles 46 and 47 of the Election Code, which provide for the equality of conditions and opportunities during the pre-electoral period. However, the majority of the OSCE/ODIHR NAM interlocutors concurred that the pre-election environment has deteriorated as compared to the 2005 elections and expressed concerns as to the existence of conditions for genuine electoral competition. The representatives of the opposition appear increasingly critical of the authorities and accuse them of various types of pressure and intimidation, including through the initiation of criminal cases by law-enforcement agencies against key opposition figures.

⁸ The MID estimates that the population register contains 99.9 per cent correct and complete data on citizens of the country in the age group of 16 plus.

⁹ Prior to the 2006 amendments, the Electoral Code provided for stamping of the inserts to voters’ passports after s/he was issued a ballot paper. This measure served as a safeguard against possible multiple voting.

The OSCE/ODIHR NAM was informed that investigations are currently ongoing against Mr. Nicolae Andronik of the People's Republican Party, Mr. Serafim Urechean of the Alliance Our Moldova, Mr. Vladimir Filat of the PLDM, and Mr. Dorin Chirtoaca of the Liberal Party, current Mayor of Chisinau.

The conduct of large-scale meetings and rallies in public places is regulated by the new Law on Public Assemblies, in force since April 2008. The Ministry of Interior assessed that the new law is rather liberal since the organizers of meetings are no longer required to obtain permission from the authorities, but must only notify them. The Ministry informed the OSCE/ODIHR NAM that all representatives of law-enforcement agencies received training on the revised law and pledged to ensure the non-interference of police in campaign events. The OSCE/ODIHR NAM, however, received a number of reports of opposition meetings being hampered by police or by civilians believed to be affiliated with law-enforcement agencies.

The pre-electoral campaign starts on the day of registration of parties and candidates. Campaign activities on election day and the preceding day are prohibited. The Code provides regulations on campaign funding and obliges contestants to disclose all campaign-related transactions in regular reports submitted to the CEC. Following the 2008 amendments to the Code, the CEC now has the authority to warn and sanction electoral contestants for violations of campaign financing regulations.

G. MEDIA FRAMEWORK

The situation in the media has been assessed by a number of domestic and international actors to have deteriorated over the course of the last four years¹⁰. Interlocutors drew the attention of the OSCE/ODIHR NAM to the lack of pluralism and balance on public television and most private television channels, which allegedly provide reporting that praises the achievements of the authorities and the governing party and portrays the opposition negatively.

Representatives of the opposition were especially critical of the work of the public broadcaster *Teleradio Moldova* (TRM), the only television channel with nationwide coverage offering locally produced news and social-political programs. While they expected that the TRM would respect free airtime allocation requirements in the forthcoming election campaign,¹¹ they expressed misgivings that the opposition currently receives minimal news coverage and mostly in a negative tone. Denying these allegations, the TRM Chairperson informed the OSCE/ODIHR NAM that the channel does invite opposition to take part in various analytical programs. OSCE/ODIHR EOMs observed a lack of balance in the work of the TRM during the 2005 and 2007 elections¹².

Media conduct during elections is regulated by the Election Code, the Broadcasting Code, as well as the Concept of Media Coverage, which is developed for each election

¹⁰ See for instance: May 2007 statement by diplomatic representations in Moldova, www.osce.org/documents/html/pdf/html/24373_en.pdf.html, statement by the OSCE Mission to Moldova, www.osce.org/moldova/item_1_23833.html.

¹¹ The amount of free airtime/space to be provided to electoral contestants during the pre-electoral campaign is determined by the CEC in co-operation with the Audiovisual Coordination Council.

¹² Final Reports of the 2005 and 2007 OSCE/ODIHR EOMs, op. cit.

by the Audiovisual Coordination Council (CCA)¹³ and approved by the CEC. The Broadcasting Code obliges all broadcasters to provide equitable conditions for electoral contestants and to ensure fair and impartial campaign coverage. However, Article 47.4 of the Election Code appears to include excessive limitations on media coverage of the campaign, as it prohibits any editorial reporting on activities of electoral contenders outside free and paid airtime. This provision has had negative impact on the diversity and comprehensiveness of campaign-related reporting in previous elections. The draft Concept of Media Coverage developed by the CCA contains a similar clause, which was criticised by most of the OSCE/ODIHR NAM interlocutors.

Another matter of concern for the majority of the OSCE/ODIHR NAM interlocutors was the situation of PRO TV, a private channel that is widely regarded to be a source of accurate and balanced reporting. The CCA refused to renew PRO TV's broadcasting licence, which expired in December 2008, and announced that the channel's frequency would be put up for tender. The CCA decision met strong criticism locally and internationally,¹⁴ which led to a decision by the Council to establish a moratorium on license renewal procedures until after the elections. The CCA Chairperson stated that actions of the Council were in full compliance with the Broadcasting Code, and that the PRO TV case was intentionally politicized whilst there were another 12 broadcasters whose licenses were expiring during the pre-electoral period.

H. CIVIL SOCIETY

The election legislation provides adequate conditions for the effective work of observers. The League for Defence of Human Rights "LADOM" has already launched its observation activity and deployed 6 regional coordinators and 37 long-term observers. Some 2,000 short-term observers from LADOM will follow election day proceedings. In addition, a number of non-governmental organizations plan to carry out a range of election-related activities, including parallel vote tabulation, media monitoring, voter education, legal help lines and training of election observers.

IV. CONCLUSIONS AND RECOMMENDATIONS

All interlocutors welcomed the deployment of international observers and emphasized that their presence is crucial during the pre-electoral period. In addition, the importance of comprehensive media monitoring was repeatedly underscored. The NAM recommends that a standard Election Observation Mission (EOM) be established to observe the forthcoming parliamentary elections, contingent upon the receipt of an official invitation from the Moldovan authorities. The NAM also recommends that the OSCE/ODIHR request OSCE participating States to second 20 long-term observers to follow the election process countrywide, and 200 short-term observers to observe election day procedures, including voting, counting of votes and tabulation of results at all levels of the election administration.

¹³ The CCA is a nine-member body appointed by the Parliament for a six-year term to carry out control over the implementation of media regulations.

¹⁴ See statements by Moldovan mass media organizations (www.ijc.md), the OSCE Representative on Freedom of Media (www.osce.org/item/35720.html), and the European Union at the 745th meeting of the OSCE Permanent Council (www.delvie.ec.europa.eu).

ANNEX: LIST OF MEETINGS

State Authorities and Election Administration

Ministry of Foreign Affairs and European Integration

Valeriu OSTALEP, Vice Minister

Anatol URECHEANU, Head, Department of Multilateral Co-operation

Ministry of Internal Affairs

Ghenadie COSOVAN, Vice Minister

Nikolai MAKOVEI, Head of the Department of Public Safety of the Chief Police

Directorate of the Ministry of Internal Affairs

Ministry of Justice

Vitalie PÎRLOG, Minister

Rodica SECRIERU, Advisor to the Minister

Ministry of Information Development

Vladimir MOLOZHEN, Minister

Oleg ROTARU, Vice Minister

Vasily CHERNY, Head of Department of Information Resources

Parliament

Vladimir ȚURCAN, Chairman of the Legal Committee for Appointments and Immunity

Central Electoral Commission

Renata LAPTI, Deputy Chairperson

Mass Media and Media Organizations

Valentin TODERCAN, Chairman, Public National Broadcasting Company “*Teleradio Moldova*”

Gheorghe GORINCIOI, Chairman, Audiovisual Coordinating Council (CCA)

Political Parties

Grigori PETRENKO, Member of Executive Committee, Party of Communists of the Republic of Moldova

Mikhail BARBULAT, Representative, Party of Communists of the Republic of Moldova

Iurie ROȘCA, Chairperson, Christian-Democratic People’s Party

Serafim URECHEAN, Chairperson, Alliance Our Moldova

Vladimir FILAT, Chairperson, Liberal Democratic Party

Corina FUSU, Deputy Chairperson, Liberal Party

Dumitru DIACOV, Chairperson, Democratic Party

Dumitru BRAGHIȘ, Chairperson, Social Democratic Party

NGOs and Foundations

Andrei BRIGHIDIN, Program Manager, Eurasia Foundation

Aleksandar BRATKOVIC, Program Manager, NDI

Olga STRATON, Program Co-ordinator, LADOM

Igor BOTSAN, Executive Director, ADEPT

Nadine GOGU, Interim Director, Independent Journalism Centre

Staffan DARNOLF, Country Director, IFES
Alex GRIGORJEVS, Resident Director, National Democratic Institute
Stevan RADER, Program Director, International Republican Institute

Diplomatic Representations

Veronica NORTH-MINCA, First Secretary, Embassy of France
Kelly KEIDERLING, Deputy Head, Embassy of United States of America
Vladimir RISTOVSKI, Special Representative of the SG of the Council of Europe
Mindaugas KAČERAUSKIS, Political Advisor, Office of the EU Special Representative
Wolfgang BEHREND, Head of Political and Economic Section, Delegation of the European Commission
John MITCHELL, Deputy Head of Mission, Embassy of United Kingdom
Nikolaus von der WENGE GRAF LAMBSDORFF, Ambassador, Embassy of Germany
Valeriy KOUZMIN, Ambassador, Embassy of Russian Federation
Evgeniy LIAPUSTIN, Counsellor, Embassy of Russian Federation
Marcin NOSAL, First Secretary, Embassy of Poland
Hakan ÖZDEMİR, Deputy Head of Mission, Embassy of Turkey
Botond ZAKONYI, Counsellor, Embassy of Hungary
Djovanina DOKOVA, Deputy Head of Mission, Embassy of Bulgaria
Pavel KLÍMA, Deputy Head, Embassy of Czech Republic
Matilda DIMOVSKA, Deputy Resident Representative, UNDP
Charlotte SOUIBES, Public Relations Advisor to the Central Election Commission, UNDP
William HOGAN, Chief Technical Advisor to the Central Election Commission, UNDP