

# Office for Democratic Institutions and Human Rights

# FINAL REPORT

#### PRESIDENTIAL ELECTIONS IN THE REPUBLIC OF MOLDOVA

## November 17 and December 1, 1996

#### 1. INTRODUCTION

The OSCE's Office for Democratic Institutions and Human Rights (ODIHR) was invited by the Ministry of Foreign Affairs on 24 September 1996 to observe the Presidential Elections of the Republic of Moldova. The legal basis for the International Observation is given in Article 3 (4) of the Law on the Election of President of the Republic of Moldova of 16 May 1996, with Amendments of 15 October 1996, and in the Resolution from the Central Election Commission of 13 September 1996 regarding the activities of foreign observers.

As a response to the invitation, the ODIHR sent Kåre Vollan (Norway) as the On-site Coordinator to Moldova from 17 October 1996 to 5 December. He was joined by six long term observers during the pre-election phase as well as for the two rounds of elections on 17 November and 1 December 1996. The team was supplemented by three members of the OSCE Mission to Moldova.

During the first round of the election there were 81 observers from the following OSCE participating States: Austria, Bulgaria, Canada, Czech Republic, Denmark, Finland, France, Georgia, Germany, Great Britain, Greece, Hungary, Netherlands, Norway, Poland, Romania, The Russian Federation, Sweden, Turkey and USA.

The observers worked in teams of two, 39 teams were deployed throughout the country. 12 of these were based in Transdniestria or along the Dniestr river, including four of the OSCE Mission to Moldova monitoring polling stations specially organised for Transdniestrian voters and assessing the freedom of access to polling stations and the provision of and access to transport on Transdniestrian controlled territory.

For the second round there were 61 observers from the following countries: Bulgaria, Canada, Czech Republic, Finland, France, Georgia, Germany, Great Britain, Hungary, Netherlands, Norway, Poland, Romania, The Russian Federation, Sweden, Ukraine and USA. 31 teams were deployed in total, 10 of which were based in Transdniestria or along the Dniestr river.

The ODIHR observation delegation would like to thank the OSCE Mission to Moldova, headed by Ambassador Donald C. Johnson, for allocating staff and invaluable assistance in the planning of the mission and in the actual observation work. The ODIHR had a close and positive co-operation with the Central Election Commission and with officials at all levels who provided all information requested. The Protocol Office for the observers set up jointly by the CEC and the Ministry of Foreign Affairs provided valuable assistance. The ODIHR observers delegation would also like to thank the local embassies of OSCE participating States for their full co-operation and support in the execution of the observation mission.

### 2. THE LEGISLATIVE FRAMEWORK

Moldova's 1994 Constitution gives the basic provisions defining the role of the President, the terms in office, the basic structure for elections, etc. The Law on the Election of the President of the Republic of Moldova was passed on 16 May 1996, and amendments were made on 15 October 1996. In addition a number of other laws are also pertinent to the elections, such the Law on Administrative Violations of 29 March 1985 and its subsequent amendments. This law prohibits campaigning material on public buildings and in polling stations.

A number of decisions made by the Central Election Commission (CEC) provided the details of how the elections should be organised. Some of these were made too close to Election Day to be implemented successfully, and the Polling Station Commissions were often confused as to what the latest decisions were. Examples include:

- a) The Decision regarding how Transdniestrians should vote was made on 5 November 1996, only 12 days before the first round of the election.
- b) This decision was then changed on 14 November.
- c) Extra public buses for Transdniestrian voters were organised less than one week before the first round.
- d) The decision on the provisions for voting for people without valid residence certificate ('propiska') was made on 15 November. In the same decision, the instruction of what ID documents were acceptable was also defined.
- e) In the second round, hospital patients were allowed to vote without a voter's card. This decision was made at noon on Election Day itself.

### 3. THE ELECTORAL ADMINISTRATION

The highest administrative unit organising the elections is the Central Election Commission (CEC). It was appointed on 12 July 1996, with nine members from the judicial structure, and one member from each of the candidates, the latter with a consultative vote only. Of the full members, three were nominated from the Supreme Court of Justice, three from the General Prosecutor's Office and three from the Supreme Council of Magistracy. The CEC had the following chairing members:

Mr. Petru Railean (Chairman)

Ms. Anastasia Pascari (Vice Chairman)

Ms. Valeria Sterbet (Secretary)

The next level consists of District Election Commissions (DECs). There is one DEC for each municipality (municipale), autonomous territory with special status and region (raionale). These constitute the administrative units of Moldova, and all together there are 4 municipalities, 1 autonomous territory (U.T.A. Gagauzia) and 38 regions in the country, which gives a total of 43 DECs, including Transdniestria. The *de facto* control of Transdniestrian territory by the self-proclaimed leaders of the so-called 'Moldovan Republic of Transdniestria', made it impossible for the Moldovan legal authorities to appoint DECs in two municipalities and five regions in Transdniestria. Two of the Districts (Camenca and Dubossar) are partly in Transdniestria and partly on the right bank of the Dniestr, and two DECs are appointed to cover the government controlled parts, under the names of Sanatauca and Cocieri. Therefore, all together there were 38 appointed and working DECs.

The third level of organisation is the Polling Station Commissions. There were supposed to be approximately 2,450 Polling Station Commissions, 1984 on the right bank and 466 in Transdniestria. The latter were not appointed for this election. In addition, there were 13 polling stations based at Moldovan representations abroad.

For each polling station there were between 30 and 3,000 registered voters.

Out of the budget allocated for the election administration by the Parliament, only a small portion was actually transmitted to the CEC. This resulted in local election officers not being paid, and the elections were to a large extent carried out due to the enthusiasm and hard work of Election Commission members all over the country.

### 4. VOTER AND CIVIC EDUCATION

The Presidential elections were technically quite straight forward from a voter's point of view in that there was only one ballot paper, and only one indication was to be given on the ballot paper. There was, however, a clear need for issuing information to the electorate on several issues:

- □ The place to vote. Voters belonging to a polling station would receive an invitation from the Election Commission indicating which polling station they have to come to. A large number of voters were, however, not listed in the ordinary lists, and did therefore not receive an invitation. On the other hand, the polling stations were set-up in schools or other local public buildings in the neighbourhood, and they had been used for the last Parliamentary elections as well as for the local elections, and were thus well known to the public. An exception to this was the Transdniestrian situation, which is dealt with separately below.
- □ The right to vote. There was a last minute decision by the CEC to allow voters without a certificate of residency in their passport, and without being listed in the ordinary voters register, to vote so long as they accepted a stamp in their passport. This decision was made public in the media only a few days before the election.

- □ Marking the ballot papers. The method by which a voter was to indicate their preference on the ballot paper was a complicated technical issue, in that the law prescribed that the voter had to draw two crossed lines in the circle next to the candidate he or she wanted to vote for. This rule was interpreted strictly, and in instances where voters had indicated clearly which candidate they were voting for, but who did it in a slightly different manner to the regulated "cross" (X) filling the circle, the vote would be declared invalid. In the local elections of 1995, 12 % of the votes were declared void, and effort was made to improve the situation. The CEC asked IFES (International Foundation for Electoral Systems) to make TV advertisements that were transmitted intensively before both rounds showing how to act in the polling station and how to indicate one's preference on the ballot paper.
- □ *Transdniestria*. The decision on how voters in Transdniestria should vote was taken on 5 November, with some changes on 14 November. Thirteen polling stations were designated on the Government controlled territory, and Transdniestrians could vote at one of them, dependent upon which village or town they were living in. The changes made to the Election law on 15 October, had given the right to vote not only to Moldovan citizens, but also to those people living in Transdniestria that would have had the right to gain Moldovan citizenship if they had applied for it earlier. Only a couple of days before the election, the CEC decided to organise buses for prospective voters over the control line to the polling stations. These arrangements were published in the Moldovan press, but it cannot be said that the information was adequate for such a large task.

#### 5. VOTER REGISTRATION

The local authorities were responsible for drawing up the voters' lists. Lists were established on the basis of the official citizens registers, and the authorities were supposed to go from door to door to check the lists' accuracy, and to enter the correct passport numbers in the lists. Ten days before the election, the lists were to be published, and voters could demand to have the lists corrected if they had not been entered. The authorities' resources were limited and especially in Chisinau they were not able to register all those with the right to vote. People did also not seem to be very eager to check the lists, possibly because they knew they were able to register even on Election Day itself.

The main provision of the Election Law is that every voter has the right to vote in one specific polling station, the one where he or she is registered. There are some exceptions to this rule, and voters included in the following categories may vote outside their home district:

- □ Military personnel and people residing in hospitals and institutions could be transferred to the lists of the polling station where they are posted, provided a list had been sent in advance by the station/institution management.
- Those who knew in advance that they would be staying outside their district on Election Day were able to get a voting card from their ordinary polling station to give to the polling station where they wanted to vote. These voters were listed in so-called supplementary lists in the Polling Station where they were voting.

The supplementary lists were, per the law, to be used in the following situations:

- □ Voters who came to a Polling Station with a local residence certificate (propiska) in the passport which belonged to this Polling Station area (meaning that they should have been in the ordinary lists but for some reason were not).
- □ Persons with a voters card issued from another Polling Station indicating that the person was temporarily absent from his/her own Polling Station area.
- □ Voters that cast votes at mobile units.

The CEC made a decision on 15 November, to the effect that the following persons could also vote:

□ Voters with no address in their passport. These voters have to accept a stamp in their passport on page 27. In the second round the stamp should be dated by hand, to differentiate it from a stamp given in the first round.

In the first round the ODIHR observed in some polling stations up to approximately ten per cent of the voters being registered in the supplementary lists, particularly in Chisinau. This creates a potential risk for double voting (see Section 9). In between the two rounds effort was made to register more voters in the ordinary lists, especially in Chisinau. In the second round, the ODIHR observed a decrease in the use of supplementary lists in Chisinau, but the figure was still high elsewhere.

The official protocols did not differentiate between voters from ordinary lists and voters from supplementary lists.

#### 6. CANDIDATE REGISTRATION

The nomination of candidates ceased on 17 October. One candidate, Dr Marina Livichi had been rejected by the CEC because it did not accept the 20,000 signatures she presented. She appealed to the Supreme Court, which ruled in her favour. Thus, all the candidates presenting a list of signatures on time were accepted to run for the presidency. The candidates were:

President Mr. Mircea Snegur (Party of Revival and Accord)

Prime Minister Mr. Andrei Sangheli (Agrarian Democratic Party)

Parliament Chairman Mr. Petru Lucinschi (independent)

Member of Parliament Mr. Valeriu Matei (Party of Democratic Forces)

Mr. Vladimir Voronin (Communist Party)

Director Ms. Iuliana Gorea-Costin (independent)

Pensioner Mr. Anatol Plugaru (independent)

Director General Ms. Veronica Abramciuc (independent)

Member of Parliament Dr Marina Livichi (independent)

### 7. THE PRE-ELECTION CAMPAIGN

The OSCE / ODIHR observers monitored a number of rallies by the three candidates holding high public office, as well as the six less well known nominees. Most of the candidates were also interviewed by the observer mission before the elections. A general complaint from the six candidates was that the three candidates in high public office had easier access to the support of the local authorities, such as mayors. Article 24 of the Election Law gave all candidates the right to the same material support from local authorities. However, mayors are mostly elected on a political basis, so their presence at some meetings and not at others can hardly be criticised. The use of state funds, transport etc. should be assessed by the Parliament.

Campaign rallies were sometimes held in an unusual context, as candidates appeared at meetings called for a totally different purpose, such as a Kolkhoz meeting, a concert etc. This seemed to be accepted by the audience.

### 8. THE MEDIA

Long term observers followed the media, in particular the state owned newspapers in a systematic manner, by use of standardised report forms. The conclusion of the ODIHR mission is that all candidates had access to the media, but the state-owned media were not neutral throughout the election. In the second round, it was evident that the two major national newspapers, in Romanian and in Russian, as well as the state TV, supported Lucinschi. The Parliament should consider giving clear rules as to how the state-owned media should operate in relation to the electoral process, and in their coverage of controversial issues in general.

### 9. OBSERVATION OF POLLING DAY

For the polling days three checklists had been prepared for the ODIHR observers. During the night of the elections, a statistical analysis was prepared based upon the observers reports. The results were presented in the observers' debriefing, and oral reports were received from the observers as well.

The voting was generally well organised, and it was conducted in a calm and peaceful manner. Even though observers reported isolated instances of irregularities, there is no indication of any serious or systematic violations. However, the situation for voters from the territory controlled by the Transdniestrian leadership represented a major concern for the ODIHR (refer to section 10).

Some irregularities were reported during the vote, the most important being:

# a. Supplementary lists

A large number of voters were not entered in the ordinary voters' lists, primarily due to the lack of resources of the local authorities. To accommodate all citizens eligible to vote, the Election Law gave everybody the right to enter their name in a supplementary voters' list on Election Day, at the Polling Station where they had their passport address. At some polling stations there were several hundred names on the lists. The check that a person had not already been listed in the supplementary list, or had already voted from the ordinary lists, was at times limited, and there was a clear possibility for voters to vote more than once.

The late change of regulations, allowing persons with no address in their passport to vote, provided they accepted a stamp in their passport, also caused some confusion. This practice was not allowed for in the law, and the Polling Station Commissions did not normally check if the passport had been stamped at another Polling Station. This could clearly enable some voters to vote twice.

There were no reports of any organised attempts to vote twice for any candidate, and there was no evidence of large scale double voting. However, the extensive use of supplementary lists should be reduced in the future.

### b. Mobile Ballot Boxes

The Law allows voters, who for reasons of health could not come to the Polling Station, to call for a team of three Polling Station Commission members to come to their residence to enable them to vote. In some polling stations this possibility was extensively utilised, leading to many requests not being met. A cut off time for calling the mobile team (e.g. the day before) would have helped the Commissions to plan their schedule on Election Day.

#### c. ID cards.

The practise in the requirements for ID varied between polling stations. The law requires an ID card to be produced before receiving a ballot paper. In some villages where the Commission members knew every voter, they did not necessarily ask for an ID card if the voter was listed in the voters' lists. Yet in other villages where the situation was similar, voters were not allowed to vote if they did not produce a passport. A clear rule should be made that would remove this ambiguity. If the voter does not appear on the ordinary list, an ID should always be required.

# d. Undue presence of members of the authorities in polling stations

Many reports were received from observers about mayors and kolkhoz directors being present in the polling stations, despite having no official duty there. There were, however, in total not many reports of undue instruction to voters. However, the mere presence of such authority figures can have an influence on voters. Clear rules about who can be present at polling stations should be established.

Police officers were also often present inside the Polling Stations, though they generally played a positive role in keeping order. It should, however, be considered if the police officers should remain outside the polling station, and only be called in if actually needed.

### e. Family Voting

In the second round approximately 40 % of the observer reports indicated instances of family voting. This high figure was recorded despite an effort by the CEC to instruct the polling station commissions to reduce family voting.

### f. Overcrowded Polling Stations

Approximately ten per cent of the observers reported that the general lay-out of some Polling Stations was poor, and that some Polling Stations were not generally well organised. The most common comment was that there were too many people inside the Station at the same time, be it voters, observers or other persons. It should be considered whether the commissions should be instructed to allow only a limited number of voters in at the same time. This would facilitate the control of both the supplementary lists and the practice of family voting.

The number of observers from parties and candidates was also high. Even in the second round with only two candidates, more than twenty observers were present in some stations. Observers provide an important element in instilling confidence in the final results, but it is hard to see the need for so many to be present. Moreover, some of these observers tended to be more active participants in the electoral process than is proper.

According to the law, each candidate is allowed to appoint a member to every Election Commission, though enjoying only a consultative vote. At polling station level a clear distinction between these members and observers from parties and candidates was not made. It was also not clear from the law whether commission members appointed by candidates not proceeding to the second round would have to resign from the commissions.

# g. Spoiled Ballot Papers

At some polling stations, voters requesting a new ballot paper after having spoiled their first one were denied this request. Clear guidelines on this issue need to be established and implemented.

### 10. TRANSDNIESTRIA

There are possibly as many as 450,000 voters on the left side of the river Dniestr, and giving these people a realistic opportunity to exercise their civic right to vote, in line with universal human rights, was a major concern for the ODIHR. The responsibility for the situation whereby these voters do not enjoy the same practical opportunity to vote as other Moldovans rests solely with the authorities of Transdniestria. In order to somewhat remedy this situation, the CEC designated 13 polling stations on the Moldovan controlled territory for Transdniestrian voters. However this meant that these people had to travel some distance from their home and risk potential harassment from the Transdniestrian authorities. In the first round 6,500 voters from Transdniestria voted, and in the second 9,500. The turnout was thus not more than two percent.

Given the situation, the process would have benefited from clear and early decisions by the CEC in order to allow sufficient time for these decisions to be made public, so that there could be no doubt vis-à-vis the modality of voting for eligible voters from Transdniestria. The establishment of only 13 polling stations, with just one covering the cities of Tiraspol and Bender, indicated that a large voter participation was not expected. The observers sent to the Transdniestrian side reported that people were not well aware of the election.

Transport was organised by the Central Election Commission on the Moldovan controlled territory, and the ordinary transport crossing the river was supposed to work as normal. However, during the first round some incidents were reported: in Molovata Noua, buses were prevented

from crossing into Transdniestrian territory and in Dubossar/Coznitsa, the so-called Transdniestrian 'border guards' checked every vehicle wanting to cross.

The polling station in the village of Vasilievca was closed after militia officers from Transdniestria came to the station and demanded that the voting be stopped. At that time 76 out of 102 registered voters had already voted. This village is situated on the Transdniestrian territory patrolled by the peace-keeping forces, but the population appears to be loyal to the Moldovan authorities. In the second round, Vasilievca did not have a polling station, and no such incidents were reported. These voters had to take a bus to Cocieri to vote there.

The Transdniestrian radio announced the day before the second round that voters were encouraged to vote, and the higher turnout in the second round may be attributed to less fear among the voters, but above all to the extra time people had to become more familiar with the practical arrangements regarding voting.

The turnout in some polling stations was high compared to the general capacity, even though it was far from the potential. In Varnita more than 4,000 voted in the Transdniestrian polling station, all by entering their name in supplementary lists. This made it very difficult to check in every instance that the name had not already been listed. A proposal from the ODIHR before the elections that the supplementary lists should divided by addresses or by letters of the alphabet to secure a higher degree of control, was not implemented.

Both before the first and second rounds, the ODIHR tried, in close co-operation with the OSCE Mission to Moldova, to encourage the Transdniestrian leaders to allow voting to take place on the territory they control. Failing this, the ODIHR later urged the leadership to refrain from putting any hindrances against voters and observers, and to even encourage voters to participate. In advance, as a courtesy, the ODIHR sent to Mr. Smirnov, the Transdniestrian leader, a list of observers who would be on the Transdniestrian side to observe freedom of access to the polling stations. Any attempt by the Transdniestrian leaders to formally accredit the observers was rejected by the ODIHR.

In the first round the situation was tense, but in the second round the atmosphere was more positive. However, the voting in Transdniestria cannot be seen as a success, particularly in view of the very low voter turnout.

### 11. OBSERVATION OF COUNTING

In general, the observers reported a well organised count, though with some deficiencies, partly due to a lack of clear instructions to the Polling Station Commissions. The main problems were:

a) There was no clear, detailed instruction on how the count should be conducted. The Election Law prescribed that the surplus of ballots should be counted, packed and sealed before the ballot boxes were opened, and there was an instruction on how to fill in the protocol. The protocol had the information that was required by the law, but it was not clear that the number of voters as per the voters lists should be counted first and that this figure later should be reconciled with the number of ballots in the box (the latter at least not being larger).

- b) The reconciliation was not clearly described. For example, it was said that the number of ballots in the box plus the number of unused ballots should be equal to the total number of ballot papers given to the polling station. This was sometimes taken as a formula on how to fill in the form, not as a final control that the figures match. No procedure for a recount was in place in case the figures did not match. One of the observed polling stations in the second round did report 25 ballots more in the box than the number given to the station, less the unused ballots. This was not disclosed in the report, because an actual re-conciliation was not carried out.
- c) An important issue relating to the count was the definition of a void vote. The practise in the first round was rather harsh as to what crosses could be accepted as a correct indication from the voter. The number of void votes went down from approximately 4.7 % to approximately 2.6 % in the second round, probably due to the instruction from the CEC to be more favourable to the voters in the judgement. This figure is quite good compared to the 12 % recorded in the 1995 local elections. But still some 35 % of the ODIHR observers reported a too strict assessment of invalid votes. In some Polling Stations plus signs were rejected and only X-signs accepted, despite the fact that the law prescribes only two crossed lines. A clear instruction with examples should be instituted for later elections.

### 12. AGGREGATION AND VERIFICATION OF RESULTS

During both election nights polling station results were transmitted by a computer network to Chisinau, and entered into a central computer that provided results directly to journalists and TV and radio. This increased the transparency markedly, and provided an excellent opportunity for the media to check the results. Only when detailed results are being made public promptly, and when the tabulation can be easily checked by the public, can full confidence in the results be established.

The official results published by the CEC for the first round were taken directly from the district protocols, without a scrutiny against the tabulation of polling station results. This process made it necessary for the CEC to later make amendments to the results, though without a major effect on the over-all conclusion. The ODIHR received the detailed tabulation only after ten days, and even these were with obvious faults.

After the second round, the CEC decided to make the scrutiny before publishing the official results. The ODIHR received the unofficial tabulation after just three days.

When checking how the ODIHR observers' reports from the verified polling stations were tabulated, no significant deficiencies were detected. The quick count based upon the observed sample, gave also the same overall result. In the second round, the ODIHR sample of 39 protocols (Transdniestria counted separately) gave 47.5% to Snegur and 52.5 % to Lucinschi against the results published so far of 46 % and 54% respectively.

According to the ODIHR figures, the turnout in the second round was close to 72 %, increasing from 67% in the first round. The turnout for both rounds is here taken as a ratio of the voters who

participated to the sum of the registered voters both on ordinary and supplementary lists in the second round. Due to sometimes incomplete voters lists and the uncertainty about the total number of eligible voters, these turnout figures are likely to be too high.

### 13. THE REVIEW PROCESS

See the Section above. The scrutiny was not planned for in detail in the first round, and this necessitated amendments to the results later.

### 14. CONCLUSION

The Moldovan Presidential Elections of 1996 were carried out in a peaceful and generally well organised way, despite the specific problems mentioned above. The results recorded reflect the will of the people, and every voter could express their will freely. The main deficiencies noted were due to the *de facto* situation in the Transdniestrian territory. The fact that only a few voters from the area controlled by Transdniestrian leaders were able to express their civic right of electing their leaders freely, is the sole responsibility of the leaders of the self-proclaimed 'republic'.

The Moldovan authorities strove to give everybody entitled to vote an opportunity to vote. Sometimes this eagerness led to a conflict with the rules designed to prevent multiple voting, and at times this conflict was resolved at the cost of the rules. However, there was no sign of groups using this possibility in a systematic manner.

Candidates had access to the media, but the state-owned media were not impartial in the campaign.

### 15. RECOMMENDATIONS

The ODIHR recommendations for future elections are as follows:

- □ The Election Law has too be reviewed again, and this should be done as soon as possible. Inconsistencies should be removed, such as the provision in the law for a vote against a candidate to be registered, and the use of stamps in passports, etc. The authorities should also consider making the law more self-contained, including such things as the rules against posters on public buildings and polling stations.
- □ The use of supplementary voters lists should be reduced to a minimum by making an effort to ensure full and proper voter registration.
- □ The number of voters entered in supplementary lists should be recorded in the official protocols during the count at Polling Station level.
- □ A cut-off time for registering the need for mobile election teams should be considered.
- □ Rules to restrict the number of people allowed inside the polling station at any one time should be considered.
- □ The use of stamps in passports should be avoided. But if used, it should be ensured that the stamps are checked by the polling station commissions for every voter.

- □ All details of the law and instructions to voters and polling station commissions should be published at least one month before the elections.
- □ It is a strong hope and belief that the voting in Transdniestria can be carried out under normal circumstances next time. If this is not possible, arrangements for Transdniestrian voters should be planned well in advance, and proper information should be made available to the voters in good time.
- □ The counting procedure, and the requirements for reconciliation at polling station level should be defined in detail.
- □ The rules for accepting the voter's indication of priority on the ballot paper should be made more in favour of the voter.
- □ The scrutiny of the constituency results based upon the Polling Station results should be planned for well in advance, and the detailed tabulation should be made available to observers and the public promptly.
- □ The requirement to produce an ID card should be made in such a way that the practice is uniform across the country, avoiding the inconsistencies noted when a voter was known to the polling station commission members.
- ☐ Instructions for state-owned media coverage of election campaigns should be established.
- □ A mechanism should be established to ensure the continuity in electoral organisation and administration from one election to the next.