



INTERNATIONAL ELECTION OBSERVATION MISSION Republic of Moldova – Presidential Election, 30 October 2016

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

PRELIMINARY CONCLUSIONS

The first round of Moldova's first direct presidential election in 20 years provided citizens with ample opportunity to express their preference for a new head of state. The campaign, taking place against a backdrop of economic hardship and a climate of mistrust in state institutions, was competitive and fundamental freedoms were respected. However, the process was marred by widespread abuse of administrative resources, lack of campaign finance transparency, and unbalanced media coverage. The election administration undertook its duties in a professional and transparent manner, with voting and counting largely assessed positively.

The legal framework largely provides an adequate basis for conducting democratic elections. Following the 4 March 2016 decision of the Constitutional Court reintroducing direct presidential elections, the Election Code was amended in an expedited manner to give a legal basis for the election. However, despite longstanding concerns raised by the OSCE/ODIHR and the Council of Europe, a number of gaps and ambiguities remain. These relate, in particular, to the collection and verification of candidate support signatures, the financing and conduct of the campaign, effective electoral dispute resolution, enforcement of media provisions, and the conduct of a possible second round of presidential elections.

The election administration, led by the Central Election Commission (CEC), worked in an open manner and within the legal deadlines. Technical aspects of the election, at all levels, were generally administered in a professional manner. The CEC conducted voter education campaigns, including for students, out-of-country voters, and people with disabilities. Despite a climate of distrust in state institutions, the election administration largely enjoyed public confidence, although there were some concerns over the CEC's impartiality in considering complaints.

The centralized State Register of Voters mostly enjoyed public trust. Voters may register on supplementary voter lists on election day, provided they prove identity. Questions were raised about the continued inclusion in the voter lists of a large number of citizens living abroad but associated with their former residence as well as the inclusion of deceased persons. A nationwide electronic voter verification system available at all polling stations provided a safeguard against multiple voting.

The CEC initially registered 12 candidates, providing voters with a wide range of political alternatives. Two candidates withdrew before the election and one was de-registered for a campaign finance violation. Inconsistent signature verification processes, conflicting legal deadlines, and disproportionate sanctions for campaign violations challenged the right to stand for elections on an equal basis, contrary to OSCE commitments and Council of Europe standards.

Of the 12 candidates initially registered, 5 were women. The CEC chairperson and deputy are female. Women are well-represented in lower-level election administration bodies. Over three quarters of commissioners at polling stations observed, including chairpersons, were women. Instances of gender stereotyping and sexist language were observed in the media during the campaign period.

The campaign was competitive and fundamental freedoms were generally respected. Inconsistency between deadlines for candidate registration and the start of the campaign negatively affected the equality of campaign opportunities for contestants. There were numerous cases of abuse of administrative resources by parties holding elected office, including pressure on state employees and other voters during the collection of candidate support signatures and campaign activities. This blurred the separation between the State and political parties and is at odds with OSCE commitments and Council of Europe standards.

The CEC is responsible for campaign finance oversight, but lacks sufficient resources for this task. Recent legal amendments related to campaign finance addressed some previous recommendations by the OSCE/ODIHR and Council of Europe, providing comprehensive reporting requirements and criteria for spending limits. Nevertheless, lack of effective oversight and proportionate sanctions for violations proved to be problematic and raised concerns about the transparency of financing for signature collection and campaign activities.

Media outlets are strongly associated with major political parties and a concentration in ownership diminishes political pluralism on television. The OSCE/ODIHR EOM media monitoring results, as well as monitoring activities of the regulatory body, revealed clear political bias of major broadcasters while covering the campaign. The failure to enforce the obligation to provide fair, balanced, and impartial campaign coverage compromised a level playing field for candidates.

Voter education and campaign materials, as well as ballots, were widely available in the state and Russian languages. No OSCE/ODIHR EOM interlocutors raised concerns regarding the participation of national minorities. Language or identity issues did not feature prominently in the electoral campaign.

Complaints and appeals were generally handled in an open manner within legal deadlines. However, inconsistent interpretation of the law in cases regarding candidate de-registration diminished overall trust in the impartiality of the election administration and judiciary.

The law provides for observation by international and citizen organizations, as well as candidate representatives. More than 3,700 citizen and international observers were accredited for this election and were able to conduct their activities freely.

First round election day procedures were largely carried out in a well-ordered and calm manner. Polling was very positively assessed, with key procedures followed. The assessment of the counting was less positive primarily due to procedural irregularities. The tabulation process was prompt and transparent, but inadequate facilities for tabulating the results in some District Electoral Councils (DECs) led to small-scale tensions. In almost all polling stations and DECs observed, candidate representatives and observers were able to follow all stages of voting, counting, and tabulation without restriction. Preliminary results by polling station were posted on the CEC website, enhancing transparency.

PRELIMINARY FINDINGS

Background

Moldova is a parliamentary republic. Executive powers are exercised by the government and legislative power is vested in the parliament. The president serves as the head of the state and holds certain limited functions and authority, including on foreign policy and national defence. President Nicolae Timofti's term of office ended on 23 March 2016, but he continues to act as president until the new president is sworn into office.

The presidential election was the first direct presidential election since 1996. On 4 March 2016, the Constitutional Court ruled that the 2000 revision to the Constitution stipulating that the president is indirectly elected by parliament was unconstitutional.¹ By virtue of this decision, on 1 April the parliament called the presidential election for 30 October.

The presidential election was held against a backdrop of overall public distrust in state institutions resulting from several corruption scandals, economic stagnation, and remaining division within the society over the geopolitical direction of the country. From late 2015 until early 2016, many large demonstrations took place throughout the country opposing corruption and the government. In January 2016, after repeated failures to form a new government, parliamentary factions of the Democratic Party (PDM) and Liberal Party (PL), supported by a number of non-aligned members of parliament (MPs) formed a new government. The 101-seat parliament comprises the Party of Socialists (PSRM) with 24 seats, PDM with 20 seats, PL with 13 seats, the Liberal Democratic Party (PLDM) with 12 seats, the Party of Communists (PCRM) with 7 seats, and 25 non-aligned MPs.

Legal Framework and Electoral System

The presidential election is primarily regulated by the 1994 Constitution, the 1997 Election Code and the 2007 Law on Political Parties, all amended in 2016, and other relevant legislation.² It is further supplemented by Central Election Commission (CEC) regulations and decisions. In July 2016, following the 4 March Constitutional Court decision, the Election Code was amended in an expedited manner to provide a legal basis for presidential elections. Public debates were held only after the first reading of the draft amendments, following an appeal from civil society organizations.³ However, the level of debate was reportedly insufficient and did not fully provide for effective public consultation, contrary to OSCE commitments.⁴

The amended legal framework largely provides an adequate basis for conducting democratic elections.⁵ Amendments to the Election Code established the conditions for holding the presidential election and partially addressed some previous OSCE/ODIHR and Council of Europe recommendations, including with regard to out-of-country voting and measures to promote women's participation.⁶

However, a number of previous recommendations by the OSCE/ODIHR and Venice Commission were not addressed in the amendments, including on signature collection and verification, the financing and conduct of the electoral campaign, sanctions on election violations, and campaign restrictions. These issues proved to be problematic again during this election. In addition, the electoral calendar set by the updated legal framework did not streamline corresponding deadlines for candidate registration, the

¹ From 2000 to 2016 the president was elected by a 3/5 parliamentary majority. The Constitutional Court decision resulted from a challenge submitted by the Liberal Democratic Party in 2015 and referred to procedural violations during the parliamentary process of amending the Constitution in 2000.

² Other applicable laws include the 2008 Law on Assemblies, the 2002 Criminal Code, the 2008 Code on Administrative Offences, and the 2006 Audio-visual Code.

³ On 9 June, 23 civil society organizations issued a [statement](#) criticizing the lack of inclusiveness in the discussions of the amendments and highlighting what they considered to be various shortcomings.

⁴ Paragraph 5.8 of the 1990 OSCE Copenhagen Document provides that legislation be adopted at the end of a public procedure.

⁵ See [the 2016 OSCE/ODIHR and Venice Commission Joint Opinion on the Draft Law on Changes to the Electoral Code of the Republic of Moldova](#).

⁶ Article 41.2.1 introduced a minimum 40 per cent representation of both genders on the lists of candidates for parliamentary and local elections.

campaign period, campaign finance reporting, and dispute resolution for a potential second round. The CEC issued a number of regulations but failed to fully address the legal uncertainties.⁷

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

Election Administration

The election was managed by a three-level structure: the CEC, 35 District Electoral Councils (DECs) and 2,081 Precinct Electoral Bureaus (PEBs).⁸ The CEC designated 30 polling stations for voters residing in Transnistria and established 100 polling stations in 31 countries for out-of-country voting. Several OSCE/ODIHR EOM interlocutors voiced concern that the number of polling stations abroad was unreasonably low and did not correspond to the number of voters residing in certain countries.

The CEC is a nine-member permanent body that serves a five-year term.⁹ The CEC was newly appointed in June 2016 with six new members. Two CEC members are women, including the chairperson and the deputy. The DECs and PEBs are established on a temporary basis for each election. DECs are formed by the CEC and consist of 7, 9 or 11 members, depending on the size of the polling station, and are nominated by courts, local councils, and parliamentary parties. In turn, PEBs are formed by the DECs and consist of 5 to 11 members nominated by local councils and parliamentary parties.

Despite a climate of distrust in state institutions, OSCE/ODIHR EOM interlocutors largely affirmed their confidence in the impartiality of the CEC and its work, as well as in the work of the lower-level election administration.

Technical aspects of the election, at all levels, were managed professionally, although some decisions of the CEC lacked clarity and unduly complicated certain aspects of the process, in particular with regard to the signature collection and verification process for candidate registration. CEC sessions were live streamed and conducted in a collegial and open manner, with agendas published in advance and decisions made promptly available online. The CEC, through its Training Centre, implemented a comprehensive training programme for election officials at all levels. The OSCE/ODIHR EOM positively assessed the trainings they attended. Women represented some 48 per cent of all DEC members, including 29 per cent of their chairpersons. At the polling stations observed, 81 per cent of PEB members were women, as were 78 per cent of PEB chairpersons.

The CEC and different NGOs conducted voter education campaigns, including for specific groups of voters such as students, out-of-country voters, and people with disabilities. According to the CEC, most polling stations were set on ground floors and many access ramps were installed across the country in

⁷ The CEC specified certain aspects of collection and verification of supporting signatures, candidate registration, campaign finance, media coverage, accreditation of observers, and voter identification.

⁸ Moldova is divided into 37 electoral districts, one per administrative unit. DECs and PEBs for Bender and Tiraspol, located in the territory controlled by the Transnistrian *de facto* authorities were not established.

⁹ One CEC member is nominated by the president and the rest are nominated by the parliament in proportion to the size of the parliamentary majority and opposition.

an effort to facilitate access to polling stations for people with disabilities. However, associations of people with disabilities noted to the OSCE/ODIHR EOM that these measures were insufficient.¹⁰

Voter Registration

All citizens over 18 years of age by election day have the right to vote, except those declared incapable by a court decision.¹¹ Voter registration is passive and is facilitated via the centralized State Register of Voters (SRV), introduced in 2014 and maintained by the CEC.¹² The SRV is based on data extracted from the State Register of Population.¹³ Voter lists were made available to voters to verify their individual data at polling stations or on the CEC website from 20 days before election day.

According to the CEC, the number of eligible voters as of 29 October was 3,247,106. Out of this number 2,819,787 voters were included on voter lists, excluding some 160,000 residing abroad, some 220,000 living in Transdnistria. Several OSCE/ODIHR EOM interlocutors voiced concerns with regard to the accuracy of the voter lists, noting that a number of deceased people are still included in the lists.¹⁴ Moreover, a large number of citizens living abroad are still included in the voter lists associated with their former residence or domicile addresses. This is consistent with national legislation but results in voter lists that do not accurately reflect the number of eligible voters physically present.

Supplementary voter lists are compiled by the PEBs on election day for inclusion of those voters omitted from the regular voter lists but registered within the precinct, voters using absentee voting certificates, voters from territory controlled by the Transdnistrian *de facto* authorities, and those staying in prisons, detention centres, and medical institutions, provided they prove identity.¹⁵ More than 105,000 voters or 3.6 per cent were added to the supplementary voters lists on election day.

This was the third election in which the CEC employed the State Automated Information System “Elections” (SAISE), an online electronic system designed so that the name of each potential voter at any polling station in Moldova or abroad can be registered, prior to receiving a ballot, and checked against a database of the SRV to determine whether he or she has already voted. SAISE was available at all polling stations and provided a safeguard against multiple voting.

In October, the CEC decided to allow voters residing abroad to vote with expired passports. Some OSCE/ODIHR EOM interlocutors raised concerns that the authorities did not take earlier steps to inform the population about their options for renewing documents and whether expired documents would be considered legally valid for voting, especially as the CEC had issued similar decisions before the 2014 parliamentary and 2015 local elections.

¹⁰ Article 29 of the 2006 Convention on the Rights of Persons with Disabilities (CRPD) requires states to “guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others”.

¹¹ Paragraph 24 of the 1990 OSCE Copenhagen Document provides that “[a]ny restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law”. See also Article 29 of the CRPD and the judgment of the ECtHR in *Alajos Kiss v. Hungary*.

¹² For voting abroad, the voters register actively and are included in supplementary voter lists on election day.

¹³ The State Enterprise “*Registru*” maintains the State Population Register based on data from the Civil Status Offices, Ministry of Interior, Property Registry Office, Border Police, and the Ministry of Foreign Affairs.

¹⁴ There are no effective mechanisms for updating the voter lists if a voter dies abroad unless a corresponding death certificate is presented to the authorities. Similarly, the names of persons who died in Moldova before the introduction of the SRV remain on the voter lists unless an interested person presents a death certificate specifically for the purpose of removing them.

¹⁵ Section 1.2.iv of the 2002 Venice Commission Code of Good Practice in Electoral Matters sets that “there should be an administrative procedure - subject to judicial control - or a judicial procedure, allowing for the registration of a voter who was not registered; the registration should not take place at the polling station on election day”.

Candidate Registration

Eligible voters of at least 40 years of age that have resided in Moldova for a minimum of ten years and possess a proficiency in the state language are eligible to stand for office.¹⁶ Those serving a prison sentence, with an active criminal record, or deprived of the right to hold decision-making positions by a final court decision cannot stand for election. The requirement of ten years residence constitutes a restrictive candidacy requirement which is not in line with OSCE commitments and international obligations and standards for democratic elections.¹⁷ Some OSCE/ODIHR EOM interlocutors considered the 40 years age requirement as a politically motivated restriction, aimed in the current context at excluding certain prospective candidates.¹⁸

Candidates can participate in the election independently or as a nominee of a political party or a bloc. In order to be registered each candidate must first establish an initiative group and submit a minimum of 15,000 voter support signatures from at least 18 of 35 administrative units with at least 600 signatures from any given unit. A number of OSCE/ODIHR EOM interlocutors stated that these requirements were burdensome for independent candidates.

Despite previous OSCE/ODIHR and Venice Commission recommendations and contrary to good practice, voters can only support one candidate.¹⁹ However, in line with its regulation, the CEC considered the submitted voter's first signature as valid even when he or she signed in support of more than one candidate.²⁰ This, as well as a lack of sufficient time to verify signatures submitted close to the deadline, led to inconsistent verification of signatures.²¹ The requirement for mayors to certify support signatures proved to be problematic given their perceived political affiliation to some candidates and potential abuse of administrative resources.²²

¹⁶ The legislation does not elaborate how, if at all, a candidate's command of the state language is assessed. The CEC required candidates to write their biographies in the state language, but without further assessment.

¹⁷ Paragraph 15 of the 1996 UNHCR General Comment No. 25 to Article 25 of the International Covenant on Civil and Political Rights states that "Any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation." See also paragraph 24 of the 1990 OSCE Copenhagen Document.

¹⁸ The minimum age was raised from 35 to 40 by a law adopted in 2000, which amended the Constitution to introduce indirect presidential elections. This was the only provision that was not repealed by the 4 March Constitutional Court decision. The 2016 OSCE/ODIHR and Venice Commission Joint Opinion noted that "age requirement of 40 years to stand for the presidency, although not without precedent in other countries, could be considered high".

¹⁹ Paragraph 77 of the 2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation recommends that "in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing a supporting list for only one party".

²⁰ Section I.1.3. of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that "Checking of signatures must be governed by clear rules...The checking process must in principle cover all signatures; however, once it has been established beyond doubt that the requisite number of signatures has been collected, the remaining signatures need not be checked".

²¹ According to the CEC, they did not cross-check the duplicates of signatures for all nominees, and did not check for duplicate signatures for Mr. Lupu as he was the first to submit his lists. The CEC accepted signature lists of Mr. Lupu on Saturday, 3 September, in contravention of its own 23 August decision excluding weekends from the schedule for acceptance the nomination documents. Some OSCE/ODIHR EOM interlocutors considered this CEC action as favouring the candidate.

²² The decision of a mayor not to certify the signatures can be appealed to court. In one case, the Balti Court of Appeal held that the denial to certify signatures in favour of Mr. Mihaes by the mayor of Balti was unfounded. Another prospective candidate, Ms. Pavlicenco, appealed the CEC decision not to register her candidacy, claiming wide obstruction from the local authorities during signature collection. Representatives of Mr. Lupu and Mr. Ghiletchi also reported to the OSCE/ODIHR EOM that they faced administrative obstacles during certification of their signatures. OSCE/ODIHR EOM interlocutors, including most of the candidates, raised allegations of voters (including public servants) being forced to sign for Mr. Lupu.

Out of 24 initiative groups registered by the CEC, 10 represented political parties and 14 independent candidates. Eight initiative groups did not submit the required signatures and registration of four other candidates was denied following verification of signatures submitted. Signature lists of eight candidates were submitted on the last day of nomination. In line with the law, the CEC verified the support signatures by 6 October, after the official start of the campaign, contrary to good electoral practice.²³ The CEC initially registered 12 candidates, including five women.²⁴ Later, two candidates withdrew.²⁵

The Election Code stipulates that candidates can be de-registered for any use of undeclared or foreign funds, funds exceeding the permissible spending limit, or involvement of foreign citizens in the campaign. As previously assessed by the OSCE/ODIHR, the ban on involving foreign citizens in campaigning is a disproportionate restriction challenging freedom of expression. One candidate was de-registered for violation of campaign finance requirements, which was widely reported as a case of vote-buying.²⁶ Two other cases considered by the CEC were related to alleged involvement of foreign citizens in campaigning. One was dismissed as unfounded and in the other case the CEC issued a warning to the candidate.²⁷ The law does not provide for any intermediate sanctions for these violations, which is at odds with the principle of proportionality, in that de-registration of a contestant should only be a sanction of last resort after serious or repeated breaches of the law.²⁸ Following withdrawals and de-registrations, nine candidates stood in the election.²⁹

Inconsistent legal deadlines, selective implementation of rules during signature collection and verification, and disproportionate sanctions for campaign violations, challenged the right to stand for elections on an equal basis, contrary to paragraph 7.6 of the 1990 OSCE Copenhagen Document and Council of Europe standards.³⁰

Electoral Campaign

The Election Code provides for fair and equal opportunities for contestants during the campaign. Following the 2016 legal amendments, which aimed to address a previous OSCE/ODIHR recommendation to ensure equal campaign opportunities, the official campaign period starts not earlier than 30 days and ends 24 hours before election day.³¹ According to the law, the registration of candidates is possible after the start of the official campaign period, meanwhile campaigning is allowed only after individual registration. This left four candidates with less time than the other eight to conduct their campaign activities, which negatively affected the equality of campaign opportunities and was at

²³ Section I.1.3.v. of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that “validation of signatures must be completed by the start of the election campaign”.

²⁴ Dumitru Ciubasenco, Igor Dodon, Valeriu Ghiletschi, Mihai Ghimpu, Ana Gutu, Maia Laguta, Iurie Leanca, Marian Lupu, Andrei Nastase, Inna Popenco, Silvia Radu, and Maia Sandu.

²⁵ Mr. Lupu and Mr. Nastase.

²⁶ Ms. Popenco was de-registered for failing to declare the cost of membership cards to “social stores” in the total amount of MLD 25,044 (EUR 1 is approximately MDL 22 (Moldovan Lei). Although the Criminal Code provides for criminal liability for vote-buying during the parliamentary and local elections as well as referenda, it does not criminalize vote-buying during the presidential election.

²⁷ The complaint against Mr. Nastase was dismissed. The complaint against Ms. Sandu resulted in a warning.

²⁸ Paragraph 24 of the 1990 OSCE Copenhagen Document provides that restrictions on rights and freedoms must be “strictly proportionate to the aim of the law”. See also paragraphs 224-228 of the 2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation.

²⁹ PEBs were instructed to mark the name of the candidate who withdrew after printing the ballots as “withdrawn”.

³⁰ Paragraph 7.6 calls on OSCE participating States to ensure that contestants are able “[...] to compete with each other on a basis of equal treatment before the law and by the authorities”.

³¹ The CEC invited all candidates to sign a Code of Conduct for the election and abide by the campaign regulations. The Code was signed only by two candidates Mr. Leanca and Mr. Lupu.

odds with paragraph 7.6 of the 1990 OSCE Copenhagen Document and the Council of Europe standards.³²

During the campaign, fundamental freedoms of expression, association, and assembly, were generally respected. The campaign was competitive with messages mainly focused on social, economical, and geopolitical issues. Instances of gender stereotyping and sexist language against one of the candidates were observed in the media. Most candidates campaigned through door-to-door canvassing, small-scale meetings and rallies, leaflets, billboards and posters, media, as well as intensively through social media.³³ While television is the main source of political information, according to the OSCE/ODIHR EOM monitoring results only six candidates used paid television advertisements.³⁴

The Election Code provides a general prohibition of abuse of administrative resources without further details.³⁵ The Law on the Status of High Public Servants prohibits officials from campaigning while performing official functions.³⁶ The OSCE/ODIHR EOM directly observed cases of abuse of administrative resources, including pressure on state employees and other voters during the candidate signature collection period and campaign activities.³⁷ Many OSCE/ODIHR EOM interlocutors, including candidates and civil society also reported on such abuses.³⁸ This blurred the separation between the State and political parties and is at odds with paragraph 5.4 of the 1990 OSCE Copenhagen Document, which provides for “a clear separation between State and political parties”.

Six days before election day, a first-instance court in Chisinau granted the Prosecutor’s request for a 30-day arrest order to be issued against the leader of a political party that had nominated one of the candidates in connection with alleged crimes committed in 2011.³⁹ The timing of the announcement as well as the detention of other individuals close to elected local officials from the same party shortly before the election raised questions about whether it might have been politically motivated.

At least two candidates and some OSCE/ODIHR EOM interlocutors made allegations during the campaign that there might be widespread fraud or abuses, including vote-buying and “carousel voting”. One political party campaigned for a boycott of the election on the basis that they did not recognize the legality of the 4 March Constitutional Court decision mandating the election. One candidate and her

³² See also, Section I.2.3.a of the 2002 Venice Commission Code of Good Practice in Electoral Matters, which recommends that “Equality of opportunity must be guaranteed for parties and candidates alike”.

³³ The OSCE/ODIHR EOM observed 21 rallies and meetings with voters.

³⁴ According to the OSCE/ODIHR EOM media monitoring, Mr. Lupu used 33 per cent of the overall paid airtime within the monitored period, Mr. Ciubasenco and Mr. Dodon used 17 and 18 per cent respectively, Mr. Ghimpu, Mr. Leanca, and Ms. Radu used less than 10 per cent each. The other five candidates, including Ms. Sandu, did not use paid airtime.

³⁵ The law does not prescribe sanctions for abuse of campaign provisions during signature collection.

³⁶ The prohibition to campaign refers *inter alia* to ministers. On 17 October, *Publika* TV broadcast the Minister of Agriculture Mr. Grama who during his visit to Cahul urged workers of a factory to vote for Mr. Lupu.

³⁷ The OSCE/ODIHR EOM observed in the Edinet district cases of direct involvement of mayor offices in distributing campaign materials of Mr. Lupu (in Blesteni, Donduseni, Edinet, Terebna, Trinku) as well as campaign activities in favour of Mr. Lupu (in Zabricani) and Mr. Dodon (in Alexeevka) during public events, organized by local authorities. None of the candidates were present there.

³⁸ The OSCE/ODIHR EOM received reports about several cases in Balti and Glodeni where teachers were told to attend meetings about education issues which turned out to be campaign meeting of Mr. Lupu. In other cases, the OSCE/ODIHR EOM received reports on alleged pressure by local mayor on employees of Gagauz Gaz and Post Offices in Comrat to visit PDM rallies. The OSCE/ODIHR EOM received reports about cases of using cars and other administrative resources during collection of signatures and campaign activities by PDM-affiliated mayors in villages around Balti, Causeni, Falesti, Glodeni, Riscani, and Talmazu. In Cainari, the representatives of the PPEM informed the OSCE/ODIHR EOM that the local mayor helped them to organize their campaign meeting.

³⁹ Mr. Usati, the mayor of Balti and leader of “Our Party”, which nominated Mr. Ciubasenco, and whose party was de-registered as a contestant shortly before the 2014 parliamentary elections for campaign finance violations.

party called for a boycott after she was de-registered, claiming that her de-registration was evidence of a manipulated electoral process.

Campaign Finance

Substantial legal amendments regulating party and campaign finance were introduced in 2015 addressing some previous recommendations by the OSCE/ODIHR, Venice Commission and the Council of Europe's Group of States against Corruption. This included more comprehensive reporting requirements and stipulating criteria for spending limits. The 2016 amendments to the Election Code regulated financing of initiative groups' activities during signature collection. However, a number of previous OSCE/ODIHR and Venice Commission recommendations remain unaddressed, including on enhancement of campaign finance oversight.

Activities of initiative groups and campaigns are financed from the contestants' own funds and donations.⁴⁰ There are no direct public subsidies for campaigning *per se*, but contestants may receive interest-free loans from the state that may be written-off if a candidate received a certain number of votes.⁴¹ The CEC established the maximum amount of MDL 30,000 for a loan received by candidates. The Ministry of Finance failed to adopt the required rules on receiving and paying back of loans.

Despite a previous OSCE/ODIHR and Venice Commission recommendation, donations from out-of-country sources of income remain prohibited.⁴² An individual may donate up to MDL 1,010,000 whereas a legal entity may donate MDL 2,020,000. On 13 September, only 17 days before the start of the campaign, the CEC established spending limits for initiative groups and candidates, respectively at MDL 576,250 and MDL 65,797,538.

All expenses during signature collection and the campaign have to be made via dedicated bank accounts opened separately for initiative groups and candidates. Nine initiative groups declared no expenses incurred, thus raising concerns about financial transparency of signature collection activities, however the law does not detail sanctions for violation of financing rules for initiative groups. The CEC is responsible for campaign finance oversight. It receives and publishes bi-weekly financial reports from contestants on its website, and is required to verify their accuracy and compliance with the law. According to the CEC it operates with limited human resources to effectively monitor campaign finance and generally conducts inquiries only in response to complaints.

Financial reports were submitted to the CEC by all contestants on 14 and 28 October. As required by law, the CEC published information on total income and expenditures of candidates on its website, providing transparency.⁴³ The CEC issued a warning to two candidates for misreporting. One of the candidates was de-registered for using undeclared funds (See *Candidate Registration*).

Media

The Constitution guarantees freedom of expression. The media legislation provides a sound basis for journalists' work if implemented in good faith. Laws pertaining to defamation, the access to information and pluralism in broadcasting are largely in line with international standards and best

⁴⁰ Funding from foreign, public, anonymous sources and from non-profit and charitable organizations is prohibited.

⁴¹ According to Article 37.3 of the Election Code loans are written-off fully or partially, proportionally to the votes received, provided that the contestant received above three per cent of votes cast.

⁴² On 16 September, candidate Ms. Sandu challenged the constitutionality of this prohibition to Buiucani district Court in Chisinau. The court referred the case to the Constitutional Court which, on 26 September, declared the complaint inadmissible on procedural grounds.

⁴³ According to the reports, Mr. Lupu spent some MLD 24 million for campaign purposes, Mr. Dodon some MLD 6.4 million, and Ms. Sandu some MLD 543,000. All other candidates collectively spent some MLD 25 million.

practices. The OSCE/ODIHR EOM media interlocutors reported benefits from decriminalized defamation and the right to access to information.⁴⁴

The media landscape is characterised by a high number of media outlets operating in a limited advertising market where most depend on subsidies and advertising revenues from political and business affiliates. Major television stations are owned by political and business interests and are strongly associated with political parties. A concentration in ownership further diminishes political pluralism on television, which remains the main source of information.⁴⁵ Journalists are exposed to pressure from media owners and coverage on commercial television is politically biased. The few outlets considered to be independent are struggling to survive. That leaves journalists with limited alternatives to practice quality investigative journalism. There is no interference in Internet freedom, and online news sources increasingly contribute to more pluralism and investigative journalism in the media sphere.

The Audio-visual Code obliges public and commercial broadcasters to have balanced, impartial, and objective political coverage between and during election campaigns in order to provide for political pluralism. The regulatory body for broadcasters is the Audio-visual Co-ordination Council (CCA) which acts *ex officio*, following its own media monitoring and upon complaints. However, the CCA conducted quantitative and qualitative monitoring of the campaign coverage only during prime time newscasts and does not conduct regular monitoring of political coverage between election campaigns. The CCA informed the OSCE/ODIHR EOM that a lack of means was the reason for limited monitoring.

On 6 September, the CEC in consultation with the CCA approved “Rules for the Practical Application of a Fair, Balanced, and Impartial Coverage” for broadcasting. These Rules obliged public and commercial nationwide broadcasters to organize debates with candidates or their representatives at their own editorial discretion.⁴⁶ The Rules further granted each contestant a total amount of five minutes of free airtime on commercial TV and ten minutes on commercial radio with nationwide coverage. The public broadcaster *Teleradio Moldova* had to provide daily one minute of free airtime to contestants. Only the public broadcaster followed the obligation to provide free airtime. The Rules do not define what constitutes fair, balanced, and impartial coverage, leaving it at the discretion of the CCA.

On 17 October, 18 days into the campaign, the CCA published its first monitoring report and issued public warnings to six TV stations for breaching the impartiality requirement.⁴⁷ On 28 October, the last day of the campaign, the CCA imposed fines on seven TV stations in the maximum possible amount of MLD 5,400 for repeated breaches of the impartiality requirement. Instead of immediate correction of the violations, broadcasters are given the possibility to express their point of view, appeal, and request suspension of the CCA’s decision in court. The Election Code does not explicitly provide for shortened terms for adjudicating the cases, leaving 30 days to consider an appeal. Although the Supreme Court on 26 September defined the time for an appeal of CCA decisions as five days, the CCA and civil society interlocutors were not aware of such provision. While the CCA disclosed biased coverage of

⁴⁴ Investigative journalists reported to the OSCE/ODIHR EOM that public officials had at times requested to stop reporting on them, used their right to correction, and filed civil defamation suits. While some perceived this as harassment, media lawyers stated that no significant damages were awarded to plaintiffs in the last three years.

⁴⁵ Four out of five TV stations with nationwide coverage *Canal 2*, *Canal 3*, *Prime TV*, and *Publika TV* are registered under the General Media Group, owned by Mr. Plahotniuc, who is the First Deputy Chair of the PDM, the “Executive Coordinator” of the governing coalition, and one of the most prominent business owners in Moldova.

⁴⁶ *Prime* and *Publika TV* did not organize debates, while *Journal TV*, *Pro TV*, and *TV 7* did so.

⁴⁷ The Audio-visual Code obliges the CCA to warn the broadcaster, granting a “rehabilitation period” before further sanctions could be imposed. However, the law does not set a deadline between the warning and the application of sanctions. A warning comes into force only after the broadcaster has formally been informed.

contestants by several monitored commercial broadcasters, no fines were enforced until the end of the campaign.

The OSCE/ODIHR EOM conducted quantitative and qualitative prime time monitoring of seven TV stations, three Internet-based media outlets, and two newspapers.⁴⁸ The monitoring results disclosed that the first channel of the public broadcaster *Moldova 1* provided largely balanced coverage to Mr. Dodon (22 per cent of total news coverage), Mr. Lupu (15 per cent), and Ms. Sandu (32 per cent). Each of the other candidates received less than eight per cent of coverage. However, four of the six monitored commercial TV stations displayed explicitly biased coverage of contestants. *Prime* and *Publika TV* favoured Mr. Lupu by devoting 49 and 53 per cent of the news coverage respectively, while devoting 19 and 14 per cent respectively to Mr. Dodon. Ms. Sandu received 20 and 21 per cent of news coverage respectively, largely negative in tone. *Journal TV* devoted 58 per cent of its news coverage to Ms. Sandu, while giving only 12 and 15 per cent to Mr. Dodon and Mr. Lupu respectively. *NTV Moldova* devoted 48 per cent of its news coverage to Mr. Dodon, while giving only 8 per cent to Mr. Lupu and 35 per cent to Ms. Sandu; however, 76 per cent of the coverage of Ms. Sandu was negative in tone. *Pro TV* and *TV 7* with limited regional reach devoted 20 and 7 per cent respectively to Mr. Dodon, 11 and 14 per cent to Mr. Lupu, and 37 and 41 per cent to Ms. Sandu.

During the campaign, voters were able to receive information on political alternatives by using different sources, including different TV stations with limited regional coverage and online news portals. Leading commercial TV stations, however, failed to comply with the requirement to provide impartial coverage of contestants. Furthermore, the CCA failed to enforce the obligation of fair, balanced, and impartial campaign coverage, which compromised a level playing field for candidates.

Complaints and Appeals

The complaints and appeals process is regulated by the Election Code and CEC decisions, as well as the Civil Procedural Code and Law on Administrative Court. The law lacks clarity on challenging results of the first round of elections in case there is a second round. Voters and contestants may complain about actions, inactions, and decisions of election management bodies, other contestants, and the media.⁴⁹ While election day complaints and those related to the right to vote may be filed directly to the courts, other complaints must be first considered by a higher-level election management body. The CEC decisions can be challenged at the Chisinau Court of Appeals, whose decisions are appealed at final instance to the Supreme Court.

Complaints and appeals were overall handled by the CEC and courts in an open and transparent manner and within legal deadlines. Nevertheless, various OSCE/ODIHR EOM interlocutors expressed a lack of trust in the election administration and judiciary to impartially handle complaints. The CEC received 34 complaints, mostly related to violation of campaign and campaign finance regulations. The CEC dismissed the majority of complaints as unsubstantiated or referred the complaints to the police or courts.⁵⁰ Inconsistent interpretation of the law while considering complaints and appeals on the de-registration of two candidates was perceived as politically motivated and raises concern over a lack of effective remedy, contrary to paragraph 5.10 of the 1990 OSCE Copenhagen Document and Council of Europe standards.

⁴⁸ The TV stations include: *Moldova 1* (public) and the commercial *Jurnal TV*, *NTV Moldova*, *Prime TV*, *Pro TV*, *Publika TV*, and *TV7*. The Internet based media outlets monitored were <https://point.md/ru/>, <http://unimedia.info/>, and <http://www.zdg.md/>. The monitored newspapers were *Komsomolskaya Pravda* and *Timpul*.

⁴⁹ According to the CEC contestants are not eligible to file official complaints until their registration.

⁵⁰ According to the Election Code, a complaint should be referred to the relevant authority if the electoral body determines a lack of competence to examine it. In five cases, mostly related to campaign violations, the CEC referred the complaints to the police without a decision on substance.

The Chisinau Court of Appeals received some 30 appeals against the CEC decisions, including on two refusals to register candidates, lack of transparency in candidate registration and failure to provide public information. The majority of complaints were dismissed as unfounded.⁵¹ Most of the court's decisions were upheld by the Supreme Court on appeal.

Participation of National Minorities

According to the 2004 census, Moldovans and Romanians constitute 78 per cent of the population, Ukrainians 8.4 per cent, Russians 5.9 per cent, Gagauzians 4.4 per cent, Bulgarians 1.9 per cent, and the others at less than 1 per cent.⁵² Voter education materials as well as campaign materials of the majority of candidates were available in the state language as well as in the Russian language. Although permitted, other minority languages were virtually absent from voter education and campaign activities. Some 24 per cent of all ballots were printed in Russian and distributed to the PEBs according to their requests. None of OSCE/ODIHR EOM interlocutors raised concerns regarding the participation of national minorities. Language or identity issues did not feature prominently in the electoral campaign.

Citizen and International Observers

The Election Code provides for observation by citizen and international organizations, as well as representatives of candidates. Accredited observers are entitled to follow all stages of the election and no concerns were noted about their ability to operate freely. The CEC accredited more than 3,700 citizen and international observers. One of the most active civil society organizations, Promo-LEX, conducted long-term observation and published regular preliminary reports.

Election Day

Election day procedures were largely carried out in a well-ordered and calm manner. In almost all observations at polling stations and DECAs, candidate and citizen observers were present and were able to follow all stages of voting, counting, and tabulation without restriction. No voting was organized on the territory controlled by the Transdniestrian *de facto* authorities.

The opening of polling stations was positively assessed in 95 per cent of observations, with key procedures followed. Some cases of minor procedural irregularities were reported by international observers, such as the non-inclusion of the ballot box seal numbers and the absence of all PEB members' signatures in the opening control form. Voting was assessed positively in 99 per cent of observations, with poll workers demonstrating good understanding of procedures. The SAISE functioned effectively in almost all polling stations observed, although there were 12 cases where the internet connection or software problems were encountered. Independent access for persons with disabilities to the voting premises was not ensured in 65 per cent of observations while in 27 per cent of polling stations observed the layout was not suitable for such voters. In 4 per cent of polling stations observed, ballot boxes were not properly sealed and in 2 per cent the layout of the stations did not guarantee the secrecy of the vote. In 8 per cent of polling stations observed, some voters were refused to vote as they were not included in the voter list and in 10 per cent were refused for not having valid ID. This indicates a continued need to strengthen voter registration procedures. Cases of overcrowding were reported from 4 per cent of polling stations observed.

⁵¹ In one case, the Court ruled in favour of a voter stating that CEC had failed to provide public information.

⁵² [The 2004 census](#) did not include Transdniestria. The results of the 2014 census have not yet been published.

The assessment of the counting was less positive and 8 per cent of observed counts were assessed negatively, primarily due to procedural irregularities. This included PEB members not counting the unused ballots and the signatures in the voter lists in some 7 per cent of observations. PEBs encountered difficulties in reconciling the voting results in 21 per cent of observations and there were cases of changes in voter list entries and result protocols in 6 per cent of counts observed. Results protocols were pre-signed by PEB members in 22 per cent of observations. In 3 per cent of polling stations observed unauthorized persons participated in the count. Positively, candidate representatives and observers received a copy of the results protocol; however, the protocols were only posted for public scrutiny in over a half of counts observed. In addition, the PEBs directly reported preliminary results to the CEC electronically, which provided an important layer of transparency.

The tabulation process was prompt and transparent. However, it was negatively assessed in 6 of the 35 DEC observed, largely due to inadequate facilities for receiving the election materials and tabulating the results. In one of four DEC observed, the procedures were not well-organized. As a result, tensions and unrest were reported in 7 cases, which, at times, impacted overall transparency of the process.

The CEC regularly released information on voter turnout, with a breakdown by age and gender, as well as on out-of-country participation. The preliminary turnout was reported at 49 per cent, passing the threshold for the election to be considered valid. The CEC started posting the preliminary results as reported by PEBs at around midnight, contributing to the transparency of the process.

MISSION INFORMATION & ACKNOWLEDGEMENTS

Chisinau, 31 October 2016 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of Council of Europe (PACE), and the European Parliament (EP). The assessment was made to determine whether the election complied with OSCE commitments and other international obligations and standards for democratic elections and with national legislation.

Arta Dade was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and Leader of the OSCE short-term observer mission. Geir Joergen Bekkevold headed the OSCE PA delegation. Elisabeth Schneider-Schneiter headed the PACE delegation. Igor Soltes headed the EP delegation. Douglas Wake is the Head of the OSCE/ODIHR EOM, deployed from 3 October.

Each of the institutions involved in this International Election Observation Mission (IEOM) has endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the election will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process. The OSCE PA will present its report at its Standing Committee meeting in Vienna in February 2017. The PACE will present its report at its Standing Committee on 25 November. The EP will present its report at the meeting of its Committee on Foreign Affairs in November.

The OSCE/ODIHR EOM includes 11 experts in the capital and 20 long-term observers deployed throughout the country. On election day, 273 observers from 41 countries were deployed, including 204 long-term and short-term observers deployed by the OSCE/ODIHR, as well as a 34-member delegation from the OSCE PA, a 24-member delegation from the PACE, and a 11-member delegation from the EP.

Opening was observed in 109 polling stations and voting was observed in 1,119 polling stations across the country. Counting was observed in 97 polling stations, and the tabulation in all 35 DECes.

The observers wish to thank the authorities for their invitation to observe the elections, and the Central Election Commission and the Ministry of Foreign Affairs and European Integration for the assistance. They also express their appreciation to other state institutions, political parties, civil society organizations, and the international community representatives for their co-operation.

For further information, please contact:

- Douglas Wake, Head of the OSCE/ODIHR EOM, in Chisinau (+373 69 721 682);
- Thomas Rymer, OSCE/ODIHR Spokesperson (+373 60 405 540 or +48 609 522 266), or Alexey Gromov, OSCE/ODIHR Election Adviser, in Warsaw (+48 663 910 311);
- Nat Parry, OSCE PA, +45 6010 8177 or Loic Poulain, OSCE PA, +45 6010 8963;
- Chemavon Chahbazian, PACE, +373 68 716 310;
- Tim Boden, EP, +373 62 004 315 or +324 70 884 158.

OSCE/ODIHR EOM Address:

Str. 31 August 1989, nr.127, Chisinau, MD-2012

Tel: +373 22 208 109; Fax: +373 22 208 112 Email: office@odihr.md

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