



Office for Democratic Institutions and Human Rights

REPUBLIC OF MOLDOVA
EARLY PARLIAMENTARY ELECTIONS
28 November 2010

OSCE/ODIHR Election Observation Mission Final Report



Warsaw
26 January 2011

TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY.....	1
II.	INTRODUCTION AND ACKNOWLEDGEMENTS	3
III.	BACKGROUND AND POLITICAL ENVIRONMENT.....	4
IV.	ELECTION SYSTEM AND LEGAL FRAMEWORK.....	5
V.	ELECTION ADMINISTRATION	6
VI.	VOTER REGISTRATION AND VOTER LISTS	8
VII.	CANDIDATE REGISTRATION	10
VIII.	CAMPAIGN ENVIRONMENT	11
IX.	CAMPAIGN FINANCING	12
X.	MEDIA.....	13
	A. BACKGROUND.....	13
	B. LEGAL AND REGULATORY FRAMEWORK FOR THE MEDIA	14
	C. MEDIA MONITORING FINDINGS.....	14
	D. MEDIA COMPLAINTS AND APPEALS.....	16
XI.	PARTICIPATION OF WOMEN	17
XII.	PARTICIPATION OF NATIONAL MINORITIES.....	17
XIII.	DOMESTIC OBSERVERS.....	18
XIV.	COMPLAINTS AND APPEALS.....	18
	A. COMPLAINTS TO THE CEC AND DEC'S	18
	B. COMPLAINTS TO THE COURTS	19
XV.	VOTING, COUNTING AND TABULATION	20
	A. OPENING AND VOTING	20
	B. COUNTING.....	21
	C. TABULATION.....	22
XVI.	ANNOUNCEMENT OF RESULTS.....	22
XVII.	POST-ELECTION DAY COMPLAINTS	23
XVIII.	RECOUNT OF VOTES.....	23
XIX.	RECOMMENDATIONS.....	24
	A. PRIORITY RECOMMENDATIONS	24
	B. ADDITIONAL RECOMMENDATIONS	25
	ANNEX: FINAL RESULTS AND DISTRIBUTION OF MANDATES	27
	ABOUT THE OSCE/ODIHR	29

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I. EXECUTIVE SUMMARY

Following an invitation from the authorities of the Republic of Moldova to observe the 28 November early parliamentary elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) on 21 October 2010. The OSCE/ODIHR EOM observed the elections to assess their compliance with OSCE commitments and other international standards for democratic elections, as well as with domestic legislation. On election day, the OSCE/ODIHR EOM joined efforts with delegations from the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), and the European Parliament (EP).

These early parliamentary elections met most OSCE and Council of Europe commitments. The elections were administered in a transparent and impartial manner by the Central Election Commission (CEC), which enjoyed the trust of most contenders. A diverse field of candidates provided voters with genuine choice. The media provided a broad range of political views and election information. Civil and political rights were respected during the election campaign. Nevertheless, further efforts are needed to strengthen public confidence in the democratic process.

The elections became necessary following an extended political stalemate. The constitution stipulates that parliament must be dissolved if it cannot elect a president of the Republic after two attempts; this happened twice in 2009. In an effort to break the stalemate, a referendum was held in September 2010 on the question of whether the president should be elected directly by the people instead of by the parliament. However, the referendum failed because less than the required 33 per cent of eligible voters participated.

The legal framework provides an adequate basis for the conduct of democratic elections. The Election Code (EC) was amended twice in 2010, instituting many improvements in line with recommendations of the Venice Commission of the Council of Europe and the OSCE/ODIHR. However, further efforts are needed to remedy remaining deficiencies, including inconsistencies in legislation and implementation and enforcement of some provisions.

Moldova has a unicameral parliament of 101 members, elected from a single national constituency under a system of proportional representation. The system for allocating seats in parliament was changed four months before the elections and without public consultations, in a way which favours small parties. This led to the widespread public perception that the change was designed to benefit the parties in power. While the choice of an election system is a prerogative of a State, this practice was not in line with the Venice Commission Code of Good Practice in Electoral Matters.

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

The elections were administered by three-tiered election administration, including the CEC, 35 District Election Councils (DECs) and 2,037 Precinct Election Bureaus (PEBs). The CEC operated transparently and efficiently, meeting legal deadlines and generally taking decisions by consensus. Overall, the DECs also operated effectively and impartially, although they enjoyed less political party confidence than the CEC. The authorities substantially increased the number of polling stations abroad compared to the last parliamentary elections, which provided the opportunity for more voters to cast their ballots. However, the allocation of polling stations did not correspond to the distribution of citizens of voting age residing abroad.

Party lists and candidates were registered in an inclusive manner, with no applicant denied registration. There were 20 political parties and 19 independent candidates on the ballot, providing voters with a diverse and genuine choice.

Voter lists (VLs), including supplementary VLs, remained a weak point of the elections and led to diminished public confidence. By law, a centralized electronic voter register should be established by 2011 to be managed by the CEC. Currently, however, the compilation of lists is a highly decentralized process, with no effective way to check systematically for duplicates. Many categories of voters can be added to supplementary lists on election day. A new system increased the possibility for students to vote by allowing them to vote in the location where they study without being registered in VLs. This was particularly controversial despite the safeguards in place. A large number of citizens abroad remained on the VLs in Moldova, as required by law, which caused fears of possible manipulations on election day.

Candidates and parties were able to campaign freely. Only a few cases were reported of unequal conditions for campaigning, all at the local level. Contestants campaigned primarily through billboards and posters, the media, door-to-door visits and hundreds of small meetings and rallies. There were several isolated instances of election-related threats and intimidation, but the campaign atmosphere was peaceful overall.

Although political parties and candidates issued reports on campaign expenditures every two weeks as required by law to enhance transparency, many of the reports appeared incomplete and were exposed by the media and civil society organizations as dubious. The enforcement provisions of the law are vague and there is no effective system in place for checking the financial reports.

A lively and diverse media covered the campaign actively, providing a broad range of political views and election information. All national broadcasters were required to provide free air time to contestants and to sponsor debates among them. Public television generally respected the legal requirement to provide accurate, balanced and impartial election coverage of the contestants. Private television broadcasters with national coverage were less balanced and one, *NIT TV*, fell notably short in this regard. The Audiovisual Coordinating Council (CCA), the regulatory body for broadcasters, generally acted promptly on election-related complaints, although its sanctions were not implemented during the course of the campaign.

Election commissions handled complaints in a timely manner and issued well reasoned decisions, with a few exceptions. The courts dealt with complaints transparently, meeting

short deadlines. The Constitutional Court ruled on two major pre-election cases, dismissing complaints that some EC articles were unconstitutional.

Few women hold positions of influence in political parties and few were placed near the top of candidate lists. Just 20 women were elected, fewer than in the previous parliament. Women were well represented in the election administration, but leadership positions were generally held by men.

Minority issues were not prominent in the campaign but many parties campaigned for minority votes. Only one party – the Roma Social and Political Movement – based its campaign on attracting voters from a particular minority group. The status of the Russian language was occasionally discussed in the course of the campaign.

A range of civil society organizations was active in monitoring the elections or aspects of them, contributing to the transparency of the process as a whole. Various civil society groups monitored the VLs, the media, campaign financing and the participation of women.

Election day procedures, including voting, counting and tabulation, were assessed positively by OSCE/ODIHR EOM observers, despite some procedural errors. Substantial numbers of voters were added to the supplementary VLs. The CEC operated transparently, releasing results per district as they became available. Results by polling station were released a few days after the elections. Voter turnout was 63.35 per cent.

The CEC announced the results of the elections on 6 December. The results and the conduct of elections were challenged by four electoral contestants, including the Party of Communists of the Republic of Moldova (PCRM). Following a hearing on the complaints, the Constitutional Court ordered a nationwide recount, which took place on 15 December. The recount, however, revealed only minor discrepancies that did not change the mandate allocation. The Constitutional Court confirmed the final results of elections as submitted by the CEC on 24 December. Four parties obtained seats in parliament.

As in previous elections, voting could not take place on the territory under the *de facto* control of the Transnistrian authorities.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation by the CEC and based on a recommendation of a Needs Assessment Mission,² an OSCE/ODIHR EOM was deployed to observe the 28 November early parliamentary elections. The OSCE/ODIHR EOM, led by Peter Eicher, was in Moldova from 21 October until 19 December. Thirteen experts and 20 long-term observers were deployed in Chisinau and eight regional centres.

For election-day observation, the OSCE/ODIHR EOM joined efforts with observer delegations from the OSCE PA, PACE and EP. Mr. Tonino Picula, Head of the OSCE PA Delegation, was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator to lead the short-term OSCE observer mission. On election day, 339 international observers, including 184 seconded by OSCE participating States, from 45 OSCE States visited over

² OSCE/ODIHR Needs Assessment Mission Report in connection with 28 November 2010 early parliamentary elections; available at www.osce.org/odihr/71435.

half of the 2,037 polling stations to observe opening, voting and counting procedures. Observer teams were also assigned to monitor the work in all 35 DECes.

The OSCE/ODIHR EOM wishes to thank the Ministry of Foreign Affairs and European Integration, the CEC, other State and local authorities, political parties, mass media, civil society, and other interlocutors for their co-operation during the course of the observation. The mission also wishes to express its appreciation to the OSCE Mission to Moldova, the OSCE High Commissioner on National Minorities and to international organizations and embassies accredited in Chisinau for their co-operation and support.

III. BACKGROUND AND POLITICAL ENVIRONMENT

The 28 November elections were the third parliamentary elections in less than two years. Parliaments elected in April and July 2009 were unable to elect a president of the Republic and were dissolved.³

The PCRM won the parliamentary elections in April 2009 with a majority of 60 seats out of 101. The OSCE/ODIHR concluded that “while many of the OSCE and Council of Europe commitments were met, further improvements are required to ensure an electoral process free from undue administrative interference and to increase public confidence.”⁴ Opposition parties claimed that the elections had been marred by substantial fraud. On 7 April 2009 violence broke out during demonstrations that took place after the official announcement of the results. The PCRM and the opposition accused each other of being behind the events.

After the parliament failed to elect a president twice, early parliamentary elections took place in July 2009. The OSCE/ODIHR concluded that “while many OSCE commitments were met, the campaign environment was negatively affected by subtle pressure, intimidation, misuse of administrative resources and bias in media coverage.”⁵

Following the July 2009 elections, five political parties entered parliament. The PCRM remained the largest faction with 48 seats. The other four successful parties – the Liberal Democratic Party of Moldova (PLDM, 18 seats), the Liberal Party (PL, 15 seats), the Democratic Party of Moldova (PDM, 13 seats) and Alliance Our Moldova (AMN, 7 seats) formed a governing coalition named the Alliance for European Integration (AIE), which held a majority of 53 seats. Despite repeated failures to elect a president in November and December 2009, the parliament remained in office until September 2010 in line with the constitutional provision stipulating that the parliament can be dissolved only once within twelve months.

In an attempt to overcome the political deadlock, the parliament voted on 7 July 2010 to conduct a referendum on amending the constitution to provide for direct, popular election of a president. The referendum was held on 5 September but failed to reach the turnout of one third of registered voters required to validate it.⁶ Consequently, the parliament was

³ Under the Moldovan constitution, 61 votes in parliament are required to elect a president.

⁴ OSCE/ODIHR Final Report on 5 April 2009 parliamentary elections; available at www.osce.org/odihr/elections/moldova/item/37568.

⁵ OSCE/ODIHR Final Report on 29 July 2009 early parliamentary elections; available at www.osce.org/odihr/elections/moldova/item/39799.

⁶ The turnout reported by the CEC was 30.29 per cent.

dissolved and the date of early parliamentary elections was set for 28 November. The November elections were thus the latest stage in an extended political stalemate.

IV. ELECTION SYSTEM AND LEGAL FRAMEWORK

Moldova has a unicameral parliament comprising 101 members serving four-year terms. Members of the parliament are elected from a single nationwide constituency through proportional representation. Parties, coalitions and independent candidates are all listed on a single ballot. For the elections to be valid one third of registered voters must participate.

The legal framework for elections includes the constitution, the EC, organic laws on the courts, the Law on Political Parties, the Broadcasting Code, provisions of the Criminal and Administrative Codes, regulations and decisions of the CEC and relevant sections of other laws. Overall, the legal framework provides an adequate basis for conducting democratic elections.

The EC was most recently amended in July and September 2010. The amendments introduced some positive changes and addressed many recommendations of the OSCE/ODIHR and the Venice Commission. The draft text of some of the July amendments was reviewed by the Venice Commission and the OSCE/ODIHR in June 2010.⁷ Positive changes included lowering the threshold for political parties to enter parliament to four per cent and independent candidates to two per cent; reinstating the possibility to form pre-election coalitions; a requirement to appeal disputes through the hierarchy of the election administration before approaching a court; and allowing prisoners to vote.

After the joint legal review of the draft amendments was conducted, additional amendments were introduced and adopted by parliament without public consultation. These included a fundamental change in the mandate allocation methodology. Under the new methodology, which may be unique, “remainder seats” are allocated on an equal basis to all parties that pass the threshold to enter parliament rather than on a proportional basis, resulting in a possible distribution of a greater number of seats to small parties.⁸ The amendment was widely perceived as designed to benefit the parties in power.

While the choice of an election system is a sovereign decision of a State, the changes adopted were not in line with the Venice Commission’s Code of Good Practice in Electoral Matters, which stipulates both that basic elements of the election system should not be changed within a year of an election, and that when changing a fundamental aspect of an

⁷ Joint Opinion on the Draft Working Text Amending the Election Code of Moldova, Opinion No. 576/2010,CDL-AD (2010) 014, www.osce.org/odihr/elections/moldova/item/68713.

⁸ Under the new method outlined in Article 87 of the EC, mandates are first allocated to successful independent candidates. The votes cast in favor of these candidates are subtracted from the total number of valid votes. The remaining number of valid votes is then divided by the number of mandates remaining to obtain the electoral quotient. The number of votes cast for each party passing the threshold is then divided by the electoral quotient to obtain the number of mandates allocated to that party. If the resulting fraction is greater than 0.5, the party receives an additional mandate. Any remaining mandates are then allocated to the parties that crossed the threshold, starting with the party that received the largest number of mandates after the first distribution. One additional seat is given to each party until all mandates have been allocated.

election law, “care must be taken to avoid not only manipulation [of the election system] to the advantage of the party in power, but even the mere semblance of manipulation.”⁹

Another amendment allowed students to vote at their location of study without being registered there, by presenting an identification document and a student card/ID. This was particularly controversial despite some safeguards put in place. This amendment was criticized by opposition parties and other stakeholders as opening the possibility for double voting as well as providing students with voting opportunities that are not available to other citizens.

The EC has been amended substantively four times in the past two years and although it has been improved, so many amendments and elections held in a short a period of time has caused some confusion among many stakeholders about which EC provisions are applicable and how they should be implemented. It has also led to some internal inconsistencies within the EC, different interpretations of some provisions, and contradictions between the EC and other laws. For example:

- There are different criteria for deregistration of a political party as an electoral competitor in the EC and the Law on Political Parties relating to campaign finance;
- There is a discrepancy between Article 13(3) of the EC and the Law on the Status of High Public Servants concerning which officials should step down while campaigning;
- There are different timeframes for considering and deciding media-related complaints during elections in the EC and the Broadcasting Code;
- There is confusion over which media complaints should be considered by the CEC and which by the CCA, as well as the lack of an enforcement mechanism for the CEC when media violates the EC;
- There are different possible interpretations of the language in Article 65(1) of the EC on the proper venue for filing complaints and appeals;
- There is an inconsistency between Articles 60(2¹) and 89 of the EC over whether the Constitutional Court is the competent first instance body to consider complaints on the tabulation of results.

V. ELECTION ADMINISTRATION

The elections were administered by a three-tiered election administration comprising the CEC, 35 DEC's and 2,037 PEB's. Political parties represented in parliament are entitled to nominate members to election bodies of all levels. In addition, all election contestants are entitled to appoint a representative with consultative status to each level of the election administration.

The CEC is a permanent body with nine members and a five-year term of office. Since the CEC in its current composition was appointed in 2005, it includes representatives of the parties that were in parliament at that time – the Christian Democratic Peoples Party (PPCD), the PCRM, AMN and PDM. The CEC's term in office was due to expire on 11

⁹ Venice Commission, “Code of Good Practice in Electoral Matters”, paragraphs 2, 63-65, [www.venice.coe.int/docs/2002/CDL-AD\(2002\)023-e.pdf](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023-e.pdf).

November 2010. However, as this occurred during the electoral period, the members' mandates were automatically extended until 11 February 2011.

The CEC generally enjoyed the respect and broad confidence of political parties.¹⁰ During the electoral period, it adopted some 390 decisions. Most of its decisions were taken unanimously, although some decisions on complaints showed a split vote along political lines. Overall, the CEC operated in an impartial manner and adhered to most legal requirements and deadlines. Its operations were transparent, with meetings open to the public, observers and the media, which often broadcasted its sessions. Its decisions were published on the CEC website.¹¹

On 1 November, the CEC launched a broad public information campaign ("Voteaza, Lume"), consisting of TV and radio spots as well as information posters. Some TV spots were broadcast abroad to provide information for out-of-country voters.

DECs are established by the CEC only during election periods. All were constituted by the legal deadline. Almost all DECs had nine members:¹² two named by the territorial courts, two by the rayon councils and the remaining five by the five parliamentary political parties.

PEBs are appointed by DECs and have between 7 and 11 members. PEB members are nominated by, but may not be members of, local councils and political parties. The majority of 2,037 PEBs were established by 2 November,¹³ but a number of PEBs did not start functioning by this legal deadline.

The level of public confidence in DECs and PEBs was lower than in the CEC. However, OSCE/ODIHR observers generally assessed that lower-level commissions operated effectively. Many members of commissions had prior election experience. In one instance, in Balti, conflicting opinions of DEC members stemming from their political affiliations obstructed the work of the DEC to the point that the intervention of the CEC and the appointment of new chairmanship were required.

Seventy-five polling stations were opened in 30 countries to serve voters abroad. This was the first election for which polling stations abroad were established not only at embassies and consulates,¹⁴ but also at other locations, which provided an opportunity to more voters abroad to cast their ballots. The decision was controversial, however, since the criteria for establishing polling stations abroad were not transparent and the distribution of polling stations abroad did not correspond to the distribution of citizens of voting age residing abroad. Most polling stations abroad were established in Western Europe, although the largest number of Moldovans abroad is believed to be in the Russian Federation. Some stakeholders considered this an effort by the governing parties to cater to voters likely to support them at the expense of voters in other countries who might be expected to favour the opposition. Leaders of some political parties also expressed concern about the possibility of manipulation of the out-of-country vote on election day because of a lack of

¹⁰ This was confirmed to the OSCE/ODIHR EOM by leaders of major political parties and was further evidenced by the low number of appeals filed against CEC decisions.

¹¹ The law prescribes a 24-hour deadline for the CEC to post decisions on its official website.

¹² All but four DECs had nine members. The EC provides that DECs can have between 5 and 11 members.

¹³ Some PEBs were formed after the legal deadline, some as late as 11 November.

¹⁴ However, this had been done for the September 2010 constitutional referendum.

party observers and because almost all out-of-country voters were not registered beforehand but were to be added to supplementary lists on election day.

The CEC provided training to DEC members and to PEB leadership, who in turn were responsible for training the rest of PEB members. The CEC prepared training manuals and tutorial videos in co-operation with international organizations.

Since voting could not take place on the territory under the control of the Transdniestrian *de facto* authorities, the CEC appointed only 35 of 37 DEC members. Nevertheless, the CEC designated 21 polling stations in government-controlled territory at which persons resident in Transdniestria could vote by showing identification and being added to a supplementary VL.¹⁵

VI. VOTER REGISTRATION AND VOTER LISTS

Citizens who reach the age of 18 on or before election day have the right to vote, apart from those who have been declared incapacitated or were deprived of the right by a court of law. Voter registration in Moldova is conducted under a “passive” system and is very decentralized.

Mayors are responsible for the compilation of basic VLs. The CEC issued a detailed “Regulation on the Compilation, Management, Circulation and Updating of the Voter Lists” and provided the municipalities with standardized VL templates for all three categories of VLs (basic lists, supplementary lists and lists for mobile voting) in electronic form. Despite the guidance provided by the CEC to mayors on how to update the VLs, there was no uniformity in the way the lists were compiled in different localities. In most cases, the mayors chose to use the VLs and supplementary VLs compiled for the September referendum as the starting point. However, other methods were also used, including compiling new lists from scratch or starting with excerpts from the State Register of Citizens.¹⁶ While the Regulation requires the submission of electronic copies of VLs to the CEC, electronic copies of some 300 out of 2,037 VLs were not received, according to CEC officials.

Some local authorities, DEC members and political parties expressed concerns about the high number of citizens abroad who, as required by law, remain registered in the basic VLs in Moldova. Some feared that the names of absent voters on the VLs could be used to manipulate the vote.

Because of the decentralized nature of the system, there is no effective way to check systematically for duplicates. The CEC is not required to check or verify the lists received from the mayors and does not attempt to do so. The CEC announced the day after the elections that the total number of registered voters was 2,808,196; there is no way to know the exact total number of voters before election day since so many voters appear only on supplementary lists compiled on election day.

¹⁵ Four of those polling stations were exclusively assigned to voters from Transdniestria. They did not have basic VLs, just supplementary VLs.

¹⁶ The Ministry of Information Technologies and Communication maintains and updates the State Register of Citizens. This database contains information on citizens such as births, deaths, addresses, ID numbers, personal numbers, and persons’ civil status.

PEBs were required to make voter lists accessible to the public for verification until five days before election day. OSCE/ODIHR observers verified that in a number of locations PEBs did not respect working hours and it was thus possibly difficult for voters to verify the lists. In Chisinau, voters could check their VL data on a website.¹⁷

In addition to the decentralized and inconsistent system of VL compilation, another weakness of the system is that there are many ways in which voters can be added to supplementary lists on election day, leading to allegations that supplementary VLs could be a source of manipulation and reducing confidence in the integrity of elections. The following categories of voters could be included in supplementary VLs on election day:

- Voters able to prove their domicile in the area of a polling station;
- Voters voting with an Absentee Vote Certificate (AVC), which gives a right to vote at any polling station if away from a registered domicile;
- Non-registered voters voting at their last place of registration;
- Persons under arrest or serving a prison sentence;
- Voters under hospital treatment outside their permanent residence;
- Students voting in the district of their academic institution;
- Voters from Transdnistria voting in specially designated polling stations;
- Voters abroad.

Paradoxically, most of the legal mechanisms established by the EC and the CEC to enfranchise a greater number of electors involved additions to the supplementary VLs, which are one of the most problematic elements of the electoral process. Overall, the VLs remain one of the weakest points of elections in Moldova and led to diminished political and public confidence. After election day, the CEC organized a press conference and spoke of a need to improve the lists.

As in previous elections, the CEC decided to allow for voting with expired identity documents.¹⁸ The use of many different types of documents¹⁹ – valid or expired – to identify voters was perceived as problematic.

By the 2011 local elections, a new EC provision²⁰ will enter into force in accordance with which the CEC will be the body responsible for the maintenance of a centralized electronic voter register, to be based on the data from the State Population Register, and for the printing of VLs. In preparation for the implementation of this new provision, the CEC, with support from the United Nations Development Programme, continued the pilot testing of the centralized electronic voter register. The testing, which was considered by the CEC as successful, took place in 43 of the 45 polling stations of Chisinau Centru district, using computer “on line” voter verification. As in previous elections, the pilot project was

¹⁷ The application was accessed over 83,000 times for this election process.

¹⁸ CEC decision number 3817 of 12 November 2010.

¹⁹ Identity card accompanied by the domicile card; ex-Soviet passport of 1974-type with the state identification number of natural person (IDNP); ex-Soviet passport of 1974-type without IDNP but with inscription “valid with no fixed term”; temporary identity paper of F-9 type; service certificate for active military personnel; civil service card issued by Civil Service Centre for persons performing civil service and passport or sailor’s card for out-of-country voting.

²⁰ Article 38¹.

conducted in parallel with normal voting procedures where voters were checked against and marked in both regular printed VLs and the centralized electronic register.

The planned introduction of the centralized electronic voter register, as well as the clear designation of a body responsible for the preparation and maintenance of VLs could provide a foundation for substantial improvements in VLs, provided this new system is established and maintained in an accurate, reliable and sustainable way. The development and operation of the new system, however, will place a substantial additional burden on the CEC. Moreover, legal regulations currently in place do not provide detailed and clear guidelines on how this new challenging task is to be handled by the CEC and does not prescribe whether and how local authorities are to assist in this process.

VII. CANDIDATE REGISTRATION

All citizens eligible to vote have the right to run for office, with the exception of active military personnel, prisoners serving their sentence in a penitentiary and persons whose criminal records include crimes committed intentionally.

Parties and independent candidates appear on the same ballot, in the order of their registration with the CEC.²¹ However, if more than one contender registers on the same day, the CEC draws lots to determine the order of those contenders. There were no complaints about this practice. Contestants may begin campaigning from the moment of their registration, which gives early registrants an advantage over those who register later. Independent candidates are at a still greater disadvantage, since they must take time to collect signatures before they can be registered.

The registration process was inclusive; the CEC did not turn down any request for registration. Twenty political parties and 20 independent candidates were initially registered, but one independent candidate subsequently withdrew, leaving 39 contenders on the ballot. The parties and candidates represented a plurality of views, offering voters a genuine and diverse choice.

Parties are permitted to make changes in their lists until one week before election day. Some parties did make late changes, all of which were accepted by the CEC. Such late changes to party lists have the potential to confuse voters or leave them uninformed about who is on the lists, especially since lists of candidates are not available at polling stations on election day. In one instance, the late change to a party list enabled a candidate to receive extensive publicity for his business and charitable activities during the campaign period before he became a candidate, thus circumventing the legal stipulations regarding balanced coverage of candidates in the media.

The number of contestants was significantly larger than in April and July 2009, when there were 17 and 8 contestants respectively. The increase can be attributed in part to the lowered

²¹ Electoral contestants (parties, electoral blocs and independent candidates) wishing to run in an election must submit their applications to the CEC one month before election day. Parties must present a list of candidates containing not more than 103 and not less than 51 names, while independent candidates are required to submit not less than 2,000 or not more than 2,500 signatures in support of their candidacy. The CEC decided on registration requests within seven days from the submission of documentation as required by law.

thresholds, but also to the diversified political landscape. No coalitions of political parties applied for registration.

In accordance with the EC, certain categories of officials running for parliament are required to temporarily suspend their duties for the period of the election campaign.²² Over 50 officials did so. This provision of the EC is aimed at preventing candidates from making use of administrative resources to further their campaigns.

VIII. CAMPAIGN ENVIRONMENT

The campaign around the country was generally peaceful. It was initially low key but increased in intensity as election day approached. Most campaigning was via the media, although parties also held hundreds of meetings and small rallies, distributed leaflets and campaigned door-to-door. Large rallies – drawing several hundred or more people – were generally held in the regions only when leaders of major parties visited. Campaign events often featured concerts or entertainment. Another aspect of the campaign was the use of the Internet, including social networking sites. Candidates were able to campaign freely, without interference from authorities. Civil and political rights were respected during the campaign, including the freedoms of expression, association, peaceful assembly and movement.

Party billboards and posters were prominent across the country, including many electronic billboards in Chisinau. The EC stipulates that posters are restricted to designated places, but OSCE/ODIHR observers noted that allocation of those places was not sufficient for all contestants to display their electoral materials. The rules on where posters could be placed were widely ignored. Many posters were torn down, defaced or plastered over, leading to a multitude of complaints.

Key parties portrayed their main competitors as being influenced by the foreign policy of other countries (“pro-Russian”, “pro-Romanian” or “pro-European”). The four partners in the governing AEI coalition, who were standing individually in these elections, increased competition among themselves towards the end of the campaign, sometimes disputing who deserved credit for the AEI’s achievements in government. The Prime Minister’s visibility during the campaign triggered criticism from other members of the AEI.²³ Apart from the parliamentary parties, several smaller parties were also fairly active,²⁴ while independent candidates were generally of low visibility. Some candidates occasionally used inflammatory language.

²² In line with Article 13 of the EC, this applies to deputy prime ministers, ministers and deputy ministers, *ex officio* members of the government, heads of central public authority organs, chairpersons of rayons and their deputy chairpersons, mayors and vice-mayors, as well as praetors (administrators of municipal districts appointed by a mayor) and vice praetors. The Law on the Status of High Public Servants also prohibits public officials from manifesting support and campaigning for any political parties or organization while executing official functions. The law is, however, inexplicit as to which categories of officials it applies to. In addition, it does seem to allow for the participation of public officials in campaign events, provided that they clearly state that any opinion expressed does not represent their official position.

²³ While officials who were candidates had to step down, this does not apply to the Prime Minister.

²⁴ For example, United Moldova, the European Action Movement and the Humanist Party of Moldova. The Humanist Party stood for strong links between the State and Orthodox Church, which is a novelty in Moldova; the Church asserted that it has no role in politics.

Local administrations and institutions did not always respect the legal requirement to treat all contestants equally. The OSCE/ODIHR EOM verified that in some instances local administrations gave preference to electoral contestants they favored when providing access to public premises. Although there were some accusations that incumbents used administrative resources to further their campaigns, these tended to centre around relatively minor issues, in particular the use of official cars during campaign events or the placement of posters.

Several isolated instances of election-related threats and intimidation were confirmed. The claim by a PCRM candidate that he was abducted and mistreated received widespread publicity; the circumstances of the case remained unclear. Other incidents occurred during door-to-door campaigning and distribution of electoral materials.²⁵ In two cases, people were fined in line with Article 69 of the Contravention Code²⁶ for undermining the honor and dignity of another individual.

Students were prominently targeted during the electoral campaign. Political parties organized numerous concerts, discotheques and other events for the young electorate, during which electoral materials were distributed. In response to complaints by some electoral contestants of being denied equal access to students for electoral events, the Ministry of Education on 5 November issued a decree limiting rallies in educational institutions and in dormitories to after study hours and prohibiting the involvement of minors. After several allegations that children were distributing campaign material, the Ombudsperson for Children's Rights on 11 November requested the CEC to warn election contenders that the Law on the Rights of the Child bans the engagement of children in political activities.

Saturday, 27 November was declared a study day in many universities. The PCRM alleged that this was done to ensure students would remain at the universities to vote for the governing coalition instead of taking the weekend off. University administrators asserted that the extra day was added to compensate for the "Chisinau Day" holiday in October.

IX. CAMPAIGN FINANCING

According to a CEC regulation, a political party or an electoral bloc may spend up to 0.50 EUR per voter included in the VLs; independent candidates may spend up to 0.05 EUR per voter. The EC obliges political parties and candidates competing in elections to submit reports to the CEC every two weeks detailing all campaign-related income and expenditures.²⁷ Political parties and candidates did submit the reports as required, thus increasing the transparency of campaign financing. However, the EC and regulations are vague concerning what types of expenditures must be reported and who is responsible for

²⁵ For instance, on 6 November, a PLDM activist was threatened with a knife while campaigning door-to-door, allegedly by a PCRM activist. The latter punctured the tires of the PLDM activist's car, and was punished with a fine. Also on 6 November, two PLDM activists who were distributing leaflets in Singerei were intimidated by the former Head of Floresti Region. On 10 November, the culprit was interviewed by the police and fined on the basis of Article 69 of the Penal Code. See other examples in the OSCE/ODIHR EOM Interim Report 2 available at www.osce.org/odihr/elections/73641.

²⁶ Article 69 stipulates fines for public offences committed by verbal or physical means that undermine the honor and dignity of an individual, also if committed through the media.

²⁷ EC Article 38(8) and CEC Regulation on the Financing of Electoral Campaigns and Political Parties adopted on 5 August 2010.

determining the accuracy of financial disclosure reports. For instance, political contestants reported costs of advertising but often did not report on costs of human resources, offices or other items needed for campaigning.

According to the financial reports submitted to the CEC, a total of only about 800 donors funded all the electoral contestants, suggesting that a very small circle of donors contributes to the financing of politics in Moldova. Companies and legal entities significantly outnumbered the individual donors. Several prominent Moldovan businessmen joined leading political parties or ran as independent candidates, revealing visible differences in the resources available to contestants and the impact this has on the intensity of their campaigns. Many political contestants complained about the lack of financial resources, especially since this was the fourth campaign in two years. No political contestant launched a fundraising campaign to attract individual donors.

In a welcome development, media and civil society organizations served as watchdogs of campaign financing. Investigative journalists highlighted some cases of dubious donations. This prompted the CEC, which does not have the legal competence to verify the financial reports, to send the reports to the State Tax Agency and the Centre for Combating Economic Crimes and Corruption to investigate their accuracy.²⁸ Although both agencies reported that they did not find any violations, neither looked beyond the materials they received from the parties. Overall, the lack of thorough scrutiny of the reports underscored that there is no effective system in place and no official body clearly responsible for verifying the accuracy of campaign finance reports and enforcement of campaign financing rules. The role of the CEC in this regard appears to be limited only to collecting financial reports, aggregating the data received, and releasing it for public information

X. MEDIA

A. BACKGROUND

Moldova has a range of media outlets, providing a variety of political views to the public. In addition to the public broadcaster *Teledio Moldova* that remains the main source of political information in many parts of the country, there are four private TV channels and five private radio stations with national coverage, as well as a large number of newspapers across the country. The launch in 2010 of two news-oriented television channels, *TV Publika* and *Jurnal TV*, further enhanced diversity. A number of media outlets, however, are still perceived to be affiliated with political parties.

There was a broad perception of increased media freedom and improvements in the media environment since the last elections. The adoption of the Law on Freedom of Expression in April 2010 was welcomed by the OSCE Representative on Freedom of the Media as a significant step toward the realization of the right to freedom of expression in Moldova, although there is room for further improvement.²⁹

²⁸ Under EC Article 38(9), the CEC can request the State Auditor or the State Tax Agency to verify the sources of income, and accuracy of the reports and expenditures.

²⁹ See the OSCE Representative on Freedom of the Media's Regular Report to the Permanent Council, 29 July 2010, at www.osce.org/fom/documents/70956.

B. LEGAL AND REGULATORY FRAMEWORK FOR THE MEDIA

The conduct of media during the election campaign was regulated primarily by the EC and the Broadcasting Code, as well as the CEC Regulation on the Coverage of the Election Campaign. In a positive development, a number of changes in the media-related legal framework addressed recommendations presented by the OSCE/ODIHR after April and July 2009 elections. The current regulations were generally welcomed as more liberal and permissive, allowing for more diverse and lively coverage.

During the campaign period, all broadcasters were required to cover elections in an accurate, balanced and impartial manner in their newscasts.³⁰ Each registered contestant was entitled to one minute per day of free air time on public television and radio, as well as a total of five and ten minutes respectively during the campaign on each private and public television and radio channel broadcasting countrywide. All contestants were also entitled to participate in debates, which all national broadcasters were obliged to organize free of charge. This has helped ensure that all contestants received considerable public exposure. In addition to free time, contestants could purchase paid airtime; however, not more than two minutes a day per broadcaster.

Teleradio Moldova complied with the legal requirement to provide free air time and debates and even increased the amount of free airtime for each contestant to 20 and 45 minutes on television and radio, respectively. Its debates grouped four contestants at a time.³¹ Each contestant was invited to participate in two debates; in the first round contestants were grouped based on their date of registration, while in the second round they were grouped based on their results in the July 2009 elections.³² The four parliamentary parties thus faced off in the final debate. *Teleradio Moldova's* approach thus showed a creative effort to meet legal requirements while still offering a meaningful format. It was regrettable, however, that only one leader of a parliamentary party decided to participate personally in the debates, which somewhat diminished their value.

All private national broadcasters also adhered to the requirements to air debates and to provide free airtime, although some of them were not pleased with this obligation. With 39 contestants in these elections, private channels considered these unusual and costly requirements for private channels. A number of smaller channels, including some local ones, also organized debates.

C. MEDIA MONITORING FINDINGS



The OSCE/ODIHR EOM's media monitoring was conducted from 25 October to 28 November and focused on nine television channels, two radio stations and four newspapers.³³

³⁰ Broadcasting Code, Article 7 – Political and Social Balance and Pluralism.

³¹ Political parties and independent candidates were grouped separately. This format was challenged by four independent candidates but rejected by the CCA on 19 November because the format of debates was at the discretion of the broadcaster.

³² In addition, public broadcaster aired debates among young representatives of political parties contesting the elections. .

³³ The media outlets were: *Moldova 1* (public broadcaster), *Prime TV*, *NIT TV*, *2Plus*, *Euro TV* (nationwide TV channels), *Jurnal TV*, *Pro TV Chisinau*, *Publika TV* and *TV 7* (TV channels with limited coverage), *Radio Moldova* (public broadcaster), *Vocea Basarabiei* (radio station); *Jurnal de Chisinau*, *Moldova Suverana*, *Timpul*, *Komsomolskaya Pravda* (newspapers). Media monitoring

The media was lively and active in covering the campaign, using a variety of formats in both national and local media. The media as a whole provided sufficient, varied information to enable voters to make an informed choice.

Many interlocutors assessed that the appointment of new management at the public broadcaster, *Teleradio Moldova*, contributed to its enhanced impartiality and to its aspiration to cover the campaign in a balanced, neutral and informative manner in its various television and radio programs. Nevertheless, the coverage of election-related events appeared overly cautious, sometimes seeming to avoid reports on controversies in an effort to ensure impartiality.

Public television *Moldova 1*, part of *Teleradio Moldova*, devoted most of its political and election-related news coverage – 14 per cent of mostly neutral information – to the PCRM. At the same time, the PCRM also received the biggest portion of negative coverage, as it was often criticized by other contestants. While PLDM and PL each received some 10 per cent of coverage, both presented mostly in a neutral way, the other contestants were covered less. *Moldova 1* devoted some 22 per cent of its news to activities of the government, particularly of the Prime Minister, in a neutral and positive way. The extensive coverage of the Prime Minister, who stood as a candidate, contributed to the advantages of incumbency. Public *Radio Moldova* adopted a similar approach to coverage of the government, represented primarily by the Prime Minister. The radio station devoted some 13 per cent of its news coverage to PCRM, some 7 per cent to PL and some 6 per cent to PLDM.

Two private national broadcasters *Prime TV* (the channel with the highest viewership rating) and *2plus* gave preferential treatment to PDM in their newscasts, allocating the party some 20 and 27 per cent of overtly positive news coverage. Both channels are closely affiliated with a prominent businessman who was included on the PDM candidate list just a few days before election day. The channels broadcast numerous news reports promoting this businessman and the activities of his charitable organization, both before and after he became a candidate, as well as during the 27 November silence period. In addition, during election week *Prime TV* aired a daily talk-show program which showed exclusively PDM candidates.

NIT TV, another private channel with nationwide coverage, showed a clear bias in favour of the PCRM in its news reporting, devoting 50 per cent of its news coverage to the party in a predominantly positive or neutral tone. In addition, for a significant part of the campaign *NIT* aired in its daily news program promotional reports titled “Moldova chooses victory” (the election slogan of PCRM), in which various segments of the society declared their support for the PCRM platform. In contrast, the portrayal of the parties of the AEI (mostly PLDM) and the government was overwhelmingly negative, with reports often being distorted or commented on negatively by journalists, without providing alternative points of view.

Among private television stations that do not broadcast nationwide, all stations monitored by the OSCE/ODIHR EOM gave most coverage to the PCRM but also portrayed that party

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

most negatively in their news broadcasts, largely as a result of airing criticisms of PCRM by other parties. In general, *Pro TV* offered its viewers balanced coverage of the campaign in quite dynamic news coverage. *Publika TV* was neutral in its portrayal of the contestants. While *Jurnal TV* presented generally impartial news coverage, it showed bias in its talk-shows, which featured almost exclusively representatives of a small party For Nation and Country.

The impact of the print media remains limited due to low circulation. Newspapers offered their readers diverse but often partisan views. *Moldova Suverana* clearly promoted PCRM, whereas *Timpul* and *Journal de Chisinau* were critical of it. *Komsomolskaya Pravda*, the newspaper with the highest circulation, did not devote much of its content to election-related information. A number of newspapers published promotional material without indicating that it was paid political advertising, contrary to the legal requirements aimed at preventing hidden advertising.

D. MEDIA COMPLAINTS AND APPEALS

The complaints process was significantly streamlined. The CEC adjudicated disputes about the media if they involved one party or candidate complaining about another. However, complaints by candidates or parties against broadcasters were referred to the CCA, the regulatory body for broadcast media. The courts were responsible for examining any complaints concerning print media and Internet.

The composition of the CCA was repeatedly challenged during the campaign by one of its members, who questioned the legality of the mandate of two members whose four-year terms expired at the beginning of November. However, the Law on Status of High Public Servants, adopted on 16 July 2010, provides for an automatic extension of the mandates of CCA members until the appointment of replacements.

A large number of media related complaints (40) were received and considered by the CCA. Most of the cases challenged the lack of political balance and pluralism in the news programming of *NIT* channel.

In response to numerous formal complaints against *NIT* channel, as well as based on the findings of its own media monitoring, the CCA sanctioned the broadcaster three times³⁴ during the campaign. The sanctions were based on repeated violations of the legal requirement to ensure balance and pluralism in its news programs. *NIT* asserted that as the only broadcaster favouring the opposition it was being unfairly singled out by the authorities and punished during the campaign in an attempt to force it to change its editorial policy or to close it down. The incremental approach adopted by the CCA in sanctioning *NIT* was in line with the law and was meant to allow the channel to institute the required balance without serious penalty. However, none of the sanctions were implemented during the election period. The absence of compulsory timeframes for the implementation of sanctions detracted from their value as a remedy.

³⁴ The CCA imposed the following sanctions: a withdrawal of the right to broadcast commercials for three days (on 29 October), maximal fine of 5,400 Lei (approximately 328 Euro; on 10 November), and a withdrawal of the right to broadcast commercials for five days (on 19 November).

XI. PARTICIPATION OF WOMEN

Among the electoral contestants, there were two small parties chaired by women, the National Liberal Party and the Conservative Party, and five female independent candidates. While 27.8 per cent of candidates were women, they often were placed well down on candidate lists. As a result, only 20 women won seats in parliament,³⁵ a decrease compared to the 25 women in the outgoing parliament. In general, women hold few positions of influence in political party structures and female politicians assert that it is difficult to compete in the male-dominated political landscape.

During the electoral campaign only two parties (AMN and PDM) explicitly mentioned the issue of gender equality in their electoral platforms, although social topics related to the role of women were included in the platforms of a number of parties. Two parties mentioned trafficking in persons and domestic violence in their platforms. OSCE/ODIHR EOM observers reported that approximately equal numbers of women and men attended campaign events. Female candidates were rarely seen actively campaigning, chairing electoral meetings or leading rallies, but many female party activists were engaged in door-to-door campaigning.

In the election administration, one of the nine CEC members, the vice chairperson, is a woman. Women were well represented in DEC members, although less so in leadership positions; 11 of 35 DEC chairpersons were women. In the PEBs visited on election day by OSCE/ODIHR observers, 76 per cent of PEB members were women.

XII. PARTICIPATION OF NATIONAL MINORITIES

According to the 2004 census, which did not include Transdnistria, national minorities constitute over 24 per cent of Moldova's population. Sizeable national minorities include Ukrainians (8.4 per cent), Russians (5.9 per cent), Gagauz³⁶ (4.4 per cent), Bulgarians (1.9 per cent) and Roma. National minorities often communicate in Russian.

Generally, Moldova has a sound legal framework on the protection of national minority rights. While the existing legislation enables persons belonging to national minorities to participate in the electoral process on an equal basis, it does not provide special mechanisms to assist or facilitate minority representation. Party campaign materials, ballot papers and information were provided both in the State language and in Russian, accommodating minority interests. The electoral system of a single nationwide constituency poses a challenge for the representation of regionally-based minorities.

Political parties rarely made national minority issues a prominent subject of their campaigns. Many parties spoke about the importance of inter-ethnic dialogue. Some brought up the status of the Russian language and the importance of other minority languages. Some minority leaders raised the issue of minority representation in governmental bodies.

The Roma Social and Political Movement, a party registered in March 2010, was the only election contestant claiming to represent one specific national minority. Leaders of the

³⁵ PCRM - 12 elected women, PLDM - 4, PL and PDM - 2 MPs each.

³⁶ A Turkic language-speaking minority, but predominantly Christian Orthodox.

Movement argued that many Roma citizens are not registered in the VLs, and that the actual number of Roma in Moldova is much higher than documented in the 2004 census. The national minority electorate in general was targeted by the Social Political Movement “Ravnopravie” (the Russian word for equality).

No official data on the ethnicity of candidates or the ethnic composition of electoral bodies was available. Leaders of several minority organizations raised concern regarding the insufficient number of minority representatives on the candidate lists of all major parties except the PCRM.

XIII. DOMESTIC OBSERVERS

The EC provides for the observation of the election process by international and domestic civic organizations, representatives of foreign governments and agents of electoral contestants. Observers accredited by the CEC have the right to monitor the election process throughout the country, while observers accredited by DECs have the right to monitor in the respective districts.

Two domestic observer groups monitored the entire electoral period and election day, Promo-LEX and Civic Control-Elections 2010. Several other domestic organizations monitored specific aspects of the elections, including campaign financing, the media, the role of women and VL compilation. Out-of-country voting was monitored by the East European Foundation in 25 of the 75 polling stations abroad. Overall, the active and vibrant civil society contributed greatly to the transparency of the election process.

XIV. COMPLAINTS AND APPEALS

Any voter or electoral contestant may complain about actions, inactions and decisions of election commissions, election contestants and media. Unlike in previous elections, complainants were required to exhaust appeals through the hierarchy of electoral bodies before going to court. The electoral bodies are obliged to substantiate issued decisions to prove their legality.

A. COMPLAINTS TO THE CEC AND DECS

The CEC and the DECs processed complaints in a timely manner following the procedures laid out in the EC and CEC regulations. With a few exceptions, CEC and DEC decisions reviewed by the OSCE/ODIHR EOM were well reasoned and appeared to be in line with the legislation.

The CEC received 80 complaints in total and issued 42 decisions on 44 complaints.³⁷ In 20 cases, the CEC ruled in favour of the complainant, in 7 cases the complaints were partly upheld and 15 complaints were rejected as being groundless, unproven or tardy. Sixteen complaints were returned as being submitted by unauthorized persons, 12 complaints were forwarded to the competent body for consideration and 2 were withdrawn by the complainant. In a positive development, the CEC responded to only five complaints by

³⁷ In some cases, several complaints were filed on the same topic and one decision was issued.

letter instead of by a formal decision.³⁸ In each of these cases a letter was an appropriate form of response, for instance to refer a complainant to a competent body.

Fourteen of the complaints submitted to the CEC related to campaign materials not being in conformity with Article 64¹(6) of the EC, which requires all such materials to include the name of the electoral competitor, date of publication, circulation and name of the printing house. The CEC ascertained a violation in 13 cases and issued 6 warnings to electoral contestants. It also forwarded the materials concerned to the Ministry of Interior (MoI) for investigation of possible violations of the Administrative Code provisions relating to election offenses.³⁹

The vast majority of complaints to DEC's concerned placing of election posters in unauthorized places. In most cases, DEC's issued warnings to the parties concerned and referred the cases to the MoI for investigation. On these cases, the MoI drew up 40 protocols involving 47 persons, including 11 electoral contestants as well as five minors.⁴⁰ This, however, covered just a tiny fraction of the cases of posters having been placed in unauthorized locations observed by the OSCE/ODIHR EOM. One reason why so much election material was posted in unauthorized places was that local authorities did not always allocate sufficient public space for campaign materials, as called for in the EC.⁴¹

The only sanctions available to the CEC or DEC's in case of violations of the EC by electoral contestants are to issue warnings or to request the court to deregister them as electoral contestants.⁴² The CEC and DEC's resorted only to warnings, which were largely ignored. The ineffectiveness of warnings highlights the need for a graduated sanctioning regime that includes intermediate sanctions beyond issuing a warning and deregistration in order to enhance the respect of electoral contestants for the EC provisions.

The CEC examined three complaints from political parties concerning violation of the campaign silence period by the media on election day and the day preceding it. The CEC ascertained a violation of the EC in one case and informed the CCA; it rejected the two other cases for lack of evidence.

B. COMPLAINTS TO THE COURTS

The courts dealt with election-related complaints in a transparent manner. The media and the public were free to attend all hearings and decisions were publicly announced at the end of each hearing. The short timeframes for consideration of electoral complaints were respected. The Chisinau Court of Appeal (CoA) issued 20 decisions and the Supreme Court (SC) issued 15.⁴³ The OSCE/ODIHR EOM reviewed most decisions and found them to be well reasoned in the context of existing legal requirements and procedures.

³⁸ This had been a problem in previous elections since only a decision, not a letter, can be appealed to a court. However, none of the complainants appealed the CEC's failure to issue a decision.

³⁹ It is an administrative offence under Article 50 of the Administrative Code to publish or distribute material, which is in violation of Article 64¹(6) of the EC.

⁴⁰ A total of 10,400 Lei (approximately 632 Euro) in fines were issued; several contestants were sanctioned more than once.

⁴¹ For example, in Balti, Moldova's second largest city, the courts ordered the deputy mayor to provide more space after only one billboard in the entire city was allocated to serve all 39 contestants.

⁴² Article 69(2) of the EC.

⁴³ Of these, 16 complaints to the CoA and 8 to the SC were filed by the same citizen, all of which were rejected.

The PCRM challenged the CEC decision setting up electoral precincts outside of embassies and consulates abroad. The CoA rejected the complaint, finding that the technical requirements for setting up these precincts under Article 29¹ of the EC had been met. This ruling was upheld by the SC on appeal.

The Constitutional Court issued two significant decisions on election-related matters during the pre-electoral period. In the first case, the government requested the court to declare unconstitutional Article 13(3) of the EC, which provides that certain officials who are candidates for parliament must suspend their official duties during the electoral period. The government argued that the suspensions limited its ability to perform its functions during the electoral period. The Court found the challenged Article constitutional. However, the Court forwarded a note to parliament pointing out the inconsistency between Article 13(3) of the EC and the Law on the Status of High Public Servants with regard to which public servants should suspend their duties while running for office. The Court also opined that Article 13(3) does not meet its goal of ensuring that public authorities are impartial during elections and does not prevent the misuse of administrative resources. The Court highlighted the need for parliament to include in the EC predictable and concise provisions to achieve this goal.

In the second case, the Court rejected an application by the PCRM asking that the new mandate allocation methodology be declared unconstitutional. The PCRM argued that the methodology was adopted specifically to deny it a majority of seats even if it wins the majority of votes, thus violating the principle that seats should be distributed according to the number of votes accrued. The Court dismissed the complaint, noting that it had established in previous cases that the choice of mandate allocation methodology was exclusively within the purview of the parliament.

There appeared to be some confusion among territorial court judges concerning the most recent changes in the complaints procedure whereby complainants may no longer file an appeal with the courts unless their complaint has first been turned down by the CEC. The confusion resulted from unclear language in Article 65(1) of the EC, which could be interpreted to mean that a complaint could be filed with a court after one appeal to an electoral body, which led to inconsistent interpretations of the provisions by several different stakeholders.

XV. VOTING, COUNTING AND TABULATION

A. OPENING AND VOTING

Voting took place in a calm and peaceful atmosphere. Despite perceived voter fatigue, the final turnout was 63.35 per cent.

The international observers assessed the opening procedures overwhelmingly positively, with only a few irregularities noted, including some cases of polling stations opening late, ballot boxes not being properly sealed, as well as occasional presence of unauthorized persons.

The process of voting was assessed positively in 98 per cent of polling stations visited, with procedures generally followed as prescribed by law. Overcrowding or lack of order was reported in ten per cent of polling stations observed, including due to poor lay-out. Contrary to new legal provisions, some PEBs allowed for mobile voting upon telephone request. Many observers noted that equipment in use at polling stations was not uniform (since each mayor is responsible for supplying ballot boxes, voting booths and other material) and that some polling stations were unheated.

Some problems were reported regarding the secrecy of the vote in 3.5 per cent of polling stations observed. These were at times caused by voters not folding their marked ballots, in a few instances due to semitransparent curtains and in other cases due to the size of the ballot paper, which was almost a meter long.

Ballot boxes quickly filled up and in three per cent of observations, the number of ballot boxes was not sufficient, again because of the size of the ballot. This led to creative solutions, such as using cardboard boxes, emptying full ballot boxes into sacks which were sealed and then re-sealing the ballot box for further use, or use of a donation box of a church.

Party or candidate representatives, as well as observers from civil society organizations, were present in almost all polling stations. Promo-LEX had the biggest number of domestic observers, who were present in 87 per cent of the polling stations visited.

Approximately 165,000 voters were added to supplementary VLS on election day, representing almost ten per cent of citizens who voted. This included 62,572 voters abroad, 17,672 persons voting with AVCs, 12,035 students voting using their student cards, and 7,704 voters from Transdnistria who voted in specially designated polling stations.

Four polling stations abroad ran out of ballots on election day.⁴⁴ To solve the problem, the CEC allowed the remaining voters in these polling stations to write their choice on a PEB pre-stamped blank A4-type sheet of paper. Some 960 voters followed this procedure. These “emergency ballot papers” were cast in separate ballot boxes and were counted separately.

B. COUNTING

Counting was assessed by international observers as good or very good in 100 of the 110 counts observed. In the counts assessed as deficient, this was due to procedural errors and lack of transparency. In some of these cases, PEBs did not count signatures on the VLS or did not cancel the unused ballots before the count began. Problems were also reported with reconciling the figures in the result protocols in 17 cases.

In eight polling stations observed for counting, observers were not able to see the ballots and in eight counts an inconsistent approach to determining ballot validity was reported. In four cases, PEBs found more ballots in ballot boxes than the number of voters who received ballots, although there was no evidence of ballot box stuffing. The correct procedure of counting first the ballot papers in the mobile ballot box was not followed in one fourth of visited polling stations. In more than half of polling stations, ballot papers were not put in separate stacks.

⁴⁴ Paris, Moscow, Padova and Rome.

PEBs had difficulties in completing the result protocols in almost 20 per cent of polling stations visited. In 19 counts observed, PEBs did not post result protocols as required. In ten cases, the transfer of PEB protocols to DEC was not carried out by at least two PEB members as prescribed by law. There was no police escort in eight cases.

C. TABULATION

The conduct of tabulation was assessed as good or very good. Minor problems were reported, including inexperienced DEC staff, fatigue of computer operators and some instances of delayed tabulation.⁴⁵ PEBs were not always asked to correct the revealed inconsistencies in protocols.⁴⁶ In a few cases, there was a lack of transparency when results were being entered into the computer and DEC protocols were not provided to all contestant representatives in 28 of the 35 DECs. On the other hand, a large presence of domestic observers (mainly Promo-LEX) and representatives of electoral contestants (in 82 per cent of DECs) enhanced the transparency.

XVI. ANNOUNCEMENT OF RESULTS

Preliminary results were transmitted electronically from the DECs to the CEC throughout election night. The electronic system worked correctly and by 23:00 the first preliminary results by district were announced by the CEC. By the day after election day, preliminary results by district were available based on results from over 95 per cent of polling stations. All DEC and PEB protocols were scanned by the CEC and posted on its website beginning on 29 November.

The CEC announced final preliminary results on 6 December based on electronic copies of result protocols from all DECs. DECs were also required to submit hard copies of their tabulations to the CEC within 48 hours of the closing of the polls. All DECs except one met this deadline; results from DEC 1 Chisinau were delayed because the hard copy protocols of five PEBs abroad arrived late due to bad weather conditions and cancelled flights.

Once the CEC receives all hard copies of DEC protocols it has five days to prepare the results protocol for the entire country. This protocol must be submitted to the Constitutional Court along with the lists of elected members of parliament within 48 hours. The Court has ten days to confirm the results and validate the mandates of those elected.

Based on the results announced by the CEC, the PCRM received 42 seats (39.3 per cent), PLDM 32 seats (29.4 per cent), PDM 15 seats (12.7 per cent) and PL 12 seats (10 per cent). With the new mandate allocation system, the PCRM received two seats less than it would have obtained under the previous system of mandate allocation, while the PDM and the PL each received one more seat than they would have under the previous system.

Despite the large number of political contestants, 91.4 per cent of the electorate voted for the four biggest parties, which were the only contestants to pass the threshold. Of the remaining 35 contestants, only two received more than one per cent of the vote.

⁴⁵ The DEC in Ungheni stopped the count at 5:15 a.m. and decided to resume at 13:00 on 29 November. There is no provision in the EC establishing a non-stop tabulation process.

⁴⁶ As reported in 29 observer forms referring to results tabulation at DECs in Chisinau, Balti, Cimislia, Donduseni, Glodeni, Hincesti, Nisporeni, Rezina, Riscani and Ungheni.

XVII. POST-ELECTION DAY COMPLAINTS

On 1 December 2010, the PCRM filed a complaint with the CEC alleging numerous violations of the EC during the voting and counting, including:

- violations in procedures for including students and persons voting with AVCs in the supplementary lists;
- multiple cases of double voting;
- hundreds of cases of refusal to honor requests for mobile voting;
- the use of plain paper for ballots by some out-of-country voters; and
- discrepancies between figures in some protocols published by the CEC on its website and figures in protocols obtained from PEBs.

The PCRM requested that the results be verified, including by reviewing all entries in the supplementary lists, checking all invalid ballots and recounting of votes, all in presence of party observers.

The CEC considered these complaints at the same hearing during which it announced the final election results. It rejected the majority of the requests of the PCRM on the basis that it did not provide sufficient evidence to substantiate the claims. It did, however, accept the point on out-of-country voting and invalidated the votes cast on plain paper. The complaint was forwarded to the Constitutional Court for consideration. On 6 December the PCRM and three independents candidates also filed similar complaints with the Court. On 10 December, after considering the complaints, the Constitutional Court ordered a countrywide recount, together with a verification of basic and supplementary VLs.⁴⁷

XVIII. RECOUNT OF VOTES

PEB and DEC members were enlisted for the conduct of recounts and additional 105 election workers were employed for the recount of out-of-country votes. The PEBs recounted the ballots on 15 December and the new results were submitted to the respective DEC. On 16 and 17 December, the new protocols were scrutinized jointly by DECs and the CEC. On 18 December, the CEC announced the results from the recount,⁴⁸ which differed only marginally from the original count.⁴⁹ The changes were not significant enough to affect the original allocation of mandates. Pursuant to the completed recount, the CEC forwarded the corrected nationwide protocol to the Constitutional Court,⁵⁰ which validated the results on 24 December.

Representatives of electoral contestants were allowed to observe the recount and the verification process but were not allowed to copy personal information from the VLs. The PCRM informed the OSCE/ODIHR EOM that its party observers wanted to copy passport

⁴⁷ Constitutional Court Decision No. 5 of 10 December 2010.

⁴⁸ CEC Decision No. 3982 of 18 December 2010.

⁴⁹ The biggest discrepancy was discovered in PEB Rublenita in Soroca District, where after the recount PCRM received 395 votes more, while PDM, PLDM and PL lost respectively 160, 129 and 34 votes. Given the seriousness of the error, the case was to be further investigated by the Soroca DEC and the CEC.

⁵⁰ CEC Decision No. 3981 of 18 December 2010.

numbers of voters on supplementary VLs in order to cross-check them against the basic VLs, to ascertain if there were cases of multiple voting. In the PCRM's view, the CEC breached the decision of the Constitutional Court by not allowing party observers to copy this information to check the lists. The CEC, however, took the position that the verification of the lists was accomplished by recounting the number of voters from main and supplementary VLs and putting these numbers into the protocols. The CEC contended that allowing parties to copy voters' passport numbers would have breached the confidentiality of voter information. The PCRM filed a complaint with CoA on this issue, but the Court rejected the complaint on 15 December.

XIX. RECOMMENDATIONS

The OSCE/ODIHR offers the following recommendations for consideration by the authorities in Moldova. These recommendations should be read in conjunction with recommendations contained in the OSCE/ODIHR Final Reports on the parliamentary and early parliamentary elections of 2009. The OSCE/ODIHR stands ready to assist the authorities of the Republic of Moldova to further improve the electoral process.

A. PRIORITY RECOMMENDATIONS

1. Reforms are needed to avoid extended political stalemates requiring frequent and repeated national elections. The reforms would be best achieved through an open process of consultation and consensus-building that encourages broad-based support among political parties and results in a system that is widely supported by election stakeholders.
2. Substantial efforts are needed to improve the VLs. The planned introduction of the CEC-maintained centralized electronic voter register could help to improve the quality of voter lists if it can be established in an inclusive, accurate, reliable and sustainable way.
3. The effectiveness of campaign financing regulations could be improved by designating a body that will be responsible and will have legal powers and resources to oversee the implementation of campaign finance provisions, to verify financial reports and to impose sanctions in cases of violations. Regulations could also be made more specific with regard to categories of campaign-related expenditures that must be reported.
4. If CCA decisions related to elections are to be meaningful, measures will need to be adopted to ensure the decisions are implemented in a timely manner, within the campaign period, as is the case for CEC and court decisions on elections.
5. Decisions on where to establish polling stations abroad should be taken transparently and based on clear and consistent criteria, including especially the number of citizens of voting age resident in a country or location.

B. ADDITIONAL RECOMMENDATIONS

LEGAL FRAMEWORK⁵¹

6. After the local elections in 2011, the authorities should consider a comprehensive review of the legal framework for elections aimed at eliminating internal contradictions within the EC and inconsistencies between the EC and other laws.
7. The only sanctions that can be imposed on electoral contestants by the CEC or DEC in case of violations of the EC are warnings or requesting the court to deregister them as electoral contestants. Since warnings are often ignored and deregistration is too draconian a sanction for most offenses, enforcement of the law would be improved through the creation of a graduated sanctioning regime that includes intermediate sanctions.
8. The EC provisions requiring local authorities to provide public space for election posters could be strengthened to specify the minimum sufficient amount of space to be made available to each electoral contestant.

ELECTION ADMINISTRATION

9. Efforts should be maintained to ensure that all citizens are in possession of valid identification documents. The practice of allowing voters to vote with expired IDs should be reconsidered to avoid any possible abuse and to limit the use of supplementary voter lists.
10. Consideration could be given to providing standardized equipment and supplies for polling stations, including translucent ballot boxes, numbered plastic seals and secure envelopes.

VOTER REGISTRATION

11. The CEC is likely to need substantial new resources and personnel in order to implement and maintain the new State Register of Voters as required by the EC. This will require action by governmental authorities or the parliament.
12. Further regulations will be necessary to stipulate clearly how the CEC is meant to implement the new State Register of Voters and to delineate clearly duties and responsibilities of authorities involved in data collecting and updating. Until the planned centralized voter register is operational, steps should be taken to ensure that VLs are compiled in a uniform manner.

ELECTION CAMPAIGN

13. The veracity of financial reports submitted by parties and candidates during these elections should be established by the competent agencies, and their resulting audit

⁵¹ Previous Joint OSCE/ODIHR and Venice Commission Opinions on the Election Code of Moldova available at www.osce.org/odihr/elections/moldova/68713 (published on 7 June 2010) and at www.osce.org/odihr/elections/moldova/34683 (published on 23 October 2008) contain further recommendations on necessary improvements to the legal framework.

reports made public. If inaccuracies are found then the appropriate legal action should be taken.

14. Political parties could consider ways to further increase gender balance in their leadership ranks and on their electoral lists, including by making efforts to place women higher on candidate lists. Parties could also promote opportunities for female candidates to address the public at rallies and be featured in party campaign materials on an equal basis with men.
15. Currently, candidates and parties can begin their election campaign as soon as they are registered with the CEC, which can disadvantage parties that register later or independent candidates who need time to gather signatures before they can be registered. Consideration could be given to instituting a uniform start date for the election campaign.

MEDIA

16. The Broadcasting Code could be amended to provide more specificity on the role and powers of the CCA during election campaign periods.
17. In order to prevent overlapping jurisdictions, the CCA could be given the sole responsibility to oversee the compliance of broadcasters with media-related provisions of the EC, including any violations of the silence period.
18. The media legislation related to elections could be reviewed and further streamlined to avoid any unnecessary overlap or inconsistencies among existing laws such as the EC, the Broadcasting Code and the CEC Media Regulations.
19. Public media should develop an editorial line that facilitates critical and investigative reporting, including coverage of activities of state authorities.

COMPLAINTS AND APPEALS

20. Article 65(1) of the EC could be revised in order to avoid future misinterpretations regarding the need to exhaust non-judicial remedies before addressing the courts. Ahead of next elections, relevant courts could benefit from training on this and other recent changes to the legislation.

ANNEX: FINAL RESULTS AND DISTRIBUTION OF MANDATES

Distribution of Mandates

Communist Party of the Republic of Moldova	42
Liberal Democratic Party of Moldova	32
Democratic Party of Moldova	12
Liberal Party	10

Popular vote

National Liberal Party (PNL)	10,938
Democratic Party of Moldova (PDM)	218,620
Liberal Party (PL)	171,336
“United-Moldova” Party (PMU-EM)	8,238
People’s Christian Democratic Party (PPCD)	9,038
European Action Movement (MAE)	21,049
“Patriots of Moldova” Political Party (PPPM)	1,580
“For nation and Country” Political Party (PPNT)	4,819
Republican Party of Moldova (PRM)	1,763
“Our Moldova Alliance” Political Party (AMN)	35,289
Humanistic Party of Moldova (PUM)	15,494
Communist Party of Moldova (PCRM)	677,069
Liberal Democratic Party of Moldova (PLDM)	506,253
Pleşca Valeriu, independent candidate	2,036
Conservator Party (PC)	2,089
Stati Gabriel, independent candidate	8,199
People’s Republican Party (PPR)	1,997
“RAVNOPRAVIE” social-political movement	1,781
Social Democratic Party (PSD)	10,156
Stepaniuc Victor, independent candidate	1,011
Social-political movement of Roma people of Moldova (MSPRRM)	2,394
Nazarenco Evgheni, independent candidate	456
Russu Gheorghe, independent candidate	180
Labor Party (PM)	873

Laguta Maia, independent candidate	1,799
Ecological Party “Green Alliance” of Moldova (PEAVM)	1,385
Țîmbalist Tatiana, independent candidate	724
Cereteu Romeo, independent candidate	260
Bîrladeanu Afanasie, independent candidate	512
Bolotnicov Oleg, independent candidate	199
Cazac Oleg, independent candidate	202
Țaulean Vitalie, independent candidate	342
Burghilă-Leonte Elena, independent candidate	372
Cușnir Valentina, independent candidate	351
Demian Alexandru, independent candidate	171
Iachim Sergiu, independent candidate	172
Axenova Natalia, independent candidate	689
Lupașcu Vasile, independent candidate	397
Banari Sergiu, independent candidate	760

ABOUT THE OSCE/ODIHR

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

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

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

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

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

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

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

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

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