

## **Follow-up on the implementation of the electoral reform in Moldova in the context of the upcoming Parliamentary elections**

The statement of Promo-LEX Association at the HDIM 2018

On February 24, 2019 the Republic of Moldova will hold regular Parliamentary elections. Unfortunately, the activity of the current legislature and political parties is marked by many social and political events with negative connotations, and is critically perceived by citizens. In such circumstances, in July 2017 a Parliamentary majority, created mostly by the factions of the Democrat Party and Party of Socialists, changed the electoral system for the election of MPs. As a result, under the adopted mixed electoral system the Parliament will be composed of 50 MPs, elected on parties' lists in a countrywide constituency, and 51 MPs, elected in single-member constituencies.

Although Promo-LEX acknowledge the right of the Moldovan Parliament to amend the electoral system, such a dramatic amendment should have been strongly correlated with the national standards established in the Constitution of the Republic of Moldova as well as the international commitments and recommendations of the Venice Commission and OSCE/ODIHR.

Unfortunately, the mixed electoral system was passed in a hurry, with limited discussions that merely simulated the public consultations (mainly due to the lack of feedback and analysis of the proposals made by different CSOs and experts in the area) and without a consensus within the society. Although the Moldovan authorities claim that all the recommendations formulated by the Venice Commission and OSCE/ODIHR were taken into consideration, Promo-LEX has proven that, in reality, only 12 out of 32 recommendations were fully or partially implemented<sup>1</sup>. Moreover, the main recommendation formulated by the Venice Commission and OSCE/ODIHR - not to change the electoral system - was ignored.

Consequently, the adopted mixed-member electoral system abounds with issues that risk not only to compromise its implementation during next Parliamentary elections, but also may put in danger the free and fair character of the scrutiny. Therefore, in the context of preparation for the next Parliamentary elections, Promo-LEX is particularly worried about the following aspects:

1. The National Commission for the Establishment of Permanent Single-Member Constituencies has failed to observe the demographic criterion<sup>2</sup> while creating the majoritarian constituencies. As a result, from 15 to 30 established constituencies do not respect the max. 10% variation in the number of voters between constituencies, as it is stipulated by the law.
2. About 7% of the voters (203,368 voters, information updated on April 1, 2018) have neither domicile nor residence and according to the article 93 (4) of the Electoral Code they shall not participate in the parliamentary elections in single-member constituencies.
3. On the other hand, about 80000 students enrolled during 2016-2017 in universities and vocational schools from the capital would be able to cast their vote in any polling station, thus potentially playing a fateful role in the majoritarian constituencies created in Chisinau<sup>3</sup>.

<sup>1</sup> <http://bit.ly/2CuFZOA>

<sup>2</sup> <http://bit.ly/2wPLMrX>

<sup>3</sup> <http://bit.ly/2MW05Gj>

4. Promo-LEX believes that Moldovan citizens who permanently or temporarily reside abroad should be allowed to financially support a political party, initiative group or electoral contestant from the income obtained abroad, just as the citizens settled in the Republic of Moldova. This recommendation is especially relevant in the context of the implementation of the mixed electoral system that allows citizens living abroad to elect their direct representatives in the Parliament.
5. Promo-LEX is concerned by the fact that a person included in the parties' list of nationwide candidates is also allowed to run in a single-member district, on behalf of the same party or as an independent candidate. This would offer the possibility of indirect and masked funding<sup>4</sup> of the election campaign of some of the parties, but also the opportunity of doubly funding the election campaign of such a candidate by spending a share of financial resources from the party's electoral fund and from the electoral fund of the independent candidate.
6. Promo-LEX is very much concerned by the existing potential for the abuse of administrative resources during the upcoming election campaign. Given the insufficiently regulated character of this problem in the legislation<sup>5</sup>, but also the fact that about 60% of the mayors and district councilors belong to the ruling party, there is a high risk that they could be tempted to 'help' their party colleagues by using the administrative resources at their disposal.
7. Another specific shortcoming is related to the capacity of the National Integrity Authority to issue integrity certificates for those who register as candidates for MPs<sup>6</sup>, and the unclear regulated character and effects of these certificates.
8. Finally, Promo-LEX consider that the recent decision<sup>7</sup> of the Court of Justice to annul the results of the early local elections from May 18, 2018 for the mayor of Chisinau has created a dangerous precedent of suspension of the freedom of expression and suppression of the will of the people, thus fueling the concerns about the potentially negative impact of the judiciary system on the upcoming Parliamentary elections. Unfortunately, the decision of the Court of Justice was arbitrary because none of the electoral candidates, EMBs or citizens asked for the invalidation of the results. Also, the decision was disproportionate because instead of imposing a 75 Euro fine on the respective candidate for the alleged contravention, the Court choose to invalidate both the results of the first and second round of elections, thus punishing all the voters who participated in the elections – a sanction that is not provided by the law.

As it can be seen from the information presented above, the changing of the electoral system has generated a lot of risks for the February 24, 2019 Parliamentary elections. Still, Promo-LEX believes that many of the issues raised earlier can be tackled before the start of the next election campaign, should the Parliament display a proper openness and political will.

In conclusion, given the high risk of infringement of the international standard on elections, Promo-LEX calls upon the Moldovan authorities to identify solutions for the above mentioned deficiencies and to ensure a corresponding legal framework and social-political environment for the conduct of free, fair and democratic Parliamentary elections.

Promo-LEX also addresses to the representatives of the participating states and other international stakeholders the recommendation to monitor the efforts of the Moldovan authorities towards ensuring the free, fair and democratic character of the upcoming Parliamentary elections as well as the implementation of the recommendations of the Venice Commission and OSCE/ODIHR issued in connection with the recently amended electoral system.

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<sup>4</sup> <http://bit.ly/2NZ2wnR>

<sup>5</sup> <http://bit.ly/2wPLMrX>

<sup>6</sup> <http://bit.ly/2M7ZnjZ>

<sup>7</sup> The decision of the Court was adopted based on the allegation that one of the candidates has conducted illegal agitation by calling citizens to participate in the second round of elections.