



Office for Democratic Institutions and Human Rights

REPUBLIC OF MOLDOVA
EARLY PARLIAMENTARY ELECTIONS 2010

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

13 – 15 September 2010



Warsaw
28 September 2010

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	EXECUTIVE SUMMARY	1
III.	FINDINGS.....	2
	A. BACKGROUND AND POLITICAL CONTEXT	2
	B. LEGAL FRAMEWORK.....	3
	C. ELECTION SYSTEM.....	4
	D. ELECTION ADMINISTRATION	5
	E. VOTER REGISTRATION.....	6
	F. CAMPAIGN AND CAMPAIGN FINANCING.....	6
	G. MEDIA FRAMEWORK AND ENVIRONMENT	7
	H. DOMESTIC AND INTERNATIONAL OBSERVERS	8
IV.	CONCLUSIONS AND RECOMMENDATION	8
	ANNEX: LIST OF MEETINGS.....	9

**REPUBLIC OF MOLDOVA
EARLY PARLIAMENTARY ELECTIONS 2010**

OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

In anticipation of an invitation from the authorities of the Republic of Moldova to observe early parliamentary elections expected to take place in autumn of 2010, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) to Moldova from 13 to 15 September 2010.

The purpose of the OSCE/ODIHR NAM was to assess the pre-electoral environment and the preparations for the elections, and to make a recommendation regarding a possible observation activity. The Needs Assessment Mission included Ms. Tatyana Bogushevich, OSCE/ODIHR Election Adviser, Mr. Richard Lappin, OSCE/ODIHR Election Adviser, and Mr. Alexander Shlyk, OSCE/ODIHR Election Adviser.

The OSCE/ODIHR expresses its appreciation to the representatives of state authorities, the Central Election Commission, political parties, media, civil society and the resident diplomatic community in Chisinau for taking the time to meet with the NAM. The OSCE/ODIHR is also grateful to the OSCE Mission to Moldova for its support throughout the mission. The list of meetings is attached to this report.

II. EXECUTIVE SUMMARY

Early parliamentary elections are the result of a long-lasting political crisis triggered by the failures by two parliaments to elect a new head of state. Although the elections have not been officially called by the acting president, the 28 November 2010 appeared to be the most likely date.

In an attempt to overcome this crisis, the governing coalition initiated a constitutional referendum to allow for a direct election of the president by popular vote. The constitutional referendum took place on 5 September 2010 but failed as the voter turnout fell below the legal requirement to validate a referendum. Despite that, the OSCE/ODIHR NAM interlocutors appeared confident that voter turnout will be sufficient to validate the results of the elections. However, they acknowledged a growing apathy among voters.

The legal framework for the conduct of elections has undergone a number of revisions since the last parliamentary elections, many of which address previous recommendations by the OSCE/ODIHR and the Venice Commission of the Council of Europe (VC/CoE). These include the reduction of legal thresholds to receive seats, reinstatement of a possibility to form pre-electoral blocs and streamlining of the complaints and appeals process. While efforts to further improve the legislation are commendable, some actors expressed concerns that amendments are being introduced shortly before elections.

The multiparty election administration appears to enjoy enhanced trust by election stakeholders. The Central Election Commission (CEC) is regarded by many as

performing its duties in an impartial and transparent manner. A number of OSCE/ODIHR NAM interlocutors expressed concerns with the arrangements for student and for out-of-country voting, including the opening of additional polling stations abroad outside diplomatic and consular representations, due to a perceived possibility of multiple voting.

The completeness and accuracy of voters' lists has been a contentious issue in recent elections. The lack of confidence in their quality persists. The CEC continues to develop the centralized electronic voter register, which is expected to help improve the quality of voters' lists and prevent multiple voting. As the centralized register will not be fully functional for these elections, the responsibility for the compilation of voters' lists for the upcoming elections will remain with local public administrations.

OSCE/ODIHR NAM interlocutors assessed the media environment as having improved and many stakeholders find media to be free. It was noted that a broad range of media outlets, including two new private broadcasters, provide the public with a plurality of views and information. The majority of stakeholders also underscored positive changes in the work of the public broadcaster, which was criticized in the past for its biased coverage.

All interlocutors of the OSCE/ODIHR NAM strongly encouraged the deployment of election observers for the anticipated elections emphasizing that their presence would add value to the process. Based on the findings noted in this report, the OSCE/ODIHR NAM recommends that a standard Election Observation Mission (EOM) be established to observe the anticipated elections, contingent upon the receipt of an official invitation from the Moldovan authorities. The OSCE/ODIHR intends to request the OSCE participating States to second 20 long-term observers to follow the election process countrywide, and 200 short-term observers to follow election-day procedures.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

To date, the OSCE/ODIHR has observed eight elections in Moldova.¹ It concluded that the 29 July 2009 early parliamentary elections “were well administered overall and allowed for competition among political parties representing a plurality of views. 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.”

Five political parties entered the parliament following last elections. The Party of Communists of the Republic of Moldova (PCRM)² gained the largest number of votes in the last elections and holds 48 seats. The Liberal Democratic Party of Moldova (PLDM; 18 seats), the Liberal Party (PL; 15), the Democratic Party of Moldova (PDM; 13) and

¹ All previous OSCE/ODIHR reports on elections in the Republic of Moldova are available at www.osce.org/odihr-elections/14498.html.

² Abbreviations used in this report for the names of political parties and other institutions are based on their spelling in the state language.

Alliance Our Moldova (AMN; 7) formed a coalition government named the Alliance for European Integration (AIE).

The anticipated early parliamentary elections are the result of a long-lasting political crisis triggered by the inability of the two consecutive parliaments (elected in April and July 2009) to elect the president of the republic. None of the parliamentary parties has managed to secure the required three-fifths majority (61 votes) to elect the head of state. Following two failed attempts, the Constitution requires that the parliament be dissolved and new parliamentary elections be held. However, the Constitution limits the number of dissolutions to one per year. As a consequence, the parliament elected on 29 July 2009 following the dissolution of the previous parliament remained in place until now.

In an attempt to overcome this crisis, the governing coalition initiated a referendum on changing Article 78 of the Constitution to allow a direct election of the president by popular vote. The constitutional referendum took place on 5 September 2010 but failed as the voter turnout fell below the legal requirement to validate a referendum.³ PCRM and three other parties called on their supporters not to participate in the referendum.

The interlocutors of the OSCE/ODIHR NAM were mostly confident that the turnout will meet the legal requirement of one third of registered voters to validate the elections. However, many have alluded to an increasing apathy among the electorate caused by recurrent elections. The stakes in these elections are high as the newly-elected legislature will have to make another attempt to elect the head of state.

As during previous elections, voting is not expected to take place on the territory controlled by the Transdniestrian *de facto* authorities. However, election administration is considering making arrangements for Moldovan citizens residing in Transdniestria to vote in specially designated polling stations.

Although the elections have not been officially called by the acting president, 28 November 2010 appeared to be the most likely date of the elections.

B. LEGAL FRAMEWORK

The legal framework for the conduct of elections includes a range of laws as well as regulations and decisions by the CEC,⁴ which provide an overall adequate basis for the conduct of democratic elections. The Election Code has been amended a number of times since the July 2009 elections.

In a Joint Opinion,⁵ the OSCE/ODIHR and VC/CoE concluded that the June 2010 draft amendments would address many previous recommendations by both organizations, including *inter alia* the reduction of electoral thresholds and reinstatement of pre-electoral blocs.

³ One third of registered voters must participate in the referendum. The turnout was only 30.29 per cent according to the official results of the 5 September 2010 referendum. See www.cec.md/i-ComisiaCentrala/main.aspx?dbID=DB_Results292.

⁴ The legal framework includes the Constitution, the Election Code, organic laws on the courts, Law on Political Parties and on Public Assemblies.

⁵ See Joint Opinion on the Draft Working Text Amending the Election Code of Moldova, Opinion No. 576/2010, CDL-AD(2010)014; www.osce.org/documents/odihr/2010/06/44756_en.pdf.

In addition, the procedures for handling election-related complaints and appeals were improved. In line with previous recommendations, the possibility for a complainant to choose whether to file a complaint with an election commission or a court has been removed. Now complainants must first exhaust the administrative process by following the hierarchy of electoral bodies before a complaint can be filed with a court. Both OSCE/ODIHR and VC/CoE commended the efforts to further improve the legislation. Also, the restrictions on voting rights of prisoners were narrowed down in response to previous recommendations.

Additional amendments were adopted by parliament in June, notably on the allocation of mandates, which were not commented upon by the OSCE/ODIHR and the VC/CoE (see section C on Election System for details).

Further amendments were introduced on 17 September 2010, which pertained mostly to voting arrangements for students (see section D on Election Administration). Some of the OSCE/ODIHR NAM interlocutors, including the PCRM, expressed concerns with the recent practice of amending the legislation shortly before electoral events.⁶

C. ELECTION SYSTEM

The 101-member unicameral Parliament is elected through a proportional representation system in a single nationwide constituency. Legal thresholds for obtaining seats in the parliament have been altered a number of times in recent years and were further lowered in June, partly addressing previous recommendations.⁷ Independent candidates must now receive at least two per cent of valid votes cast nationwide to gain representation, against three previously. The threshold for political parties was also reduced from five to four per cent. The thresholds for pre-electoral blocs are established at seven per cent if formed by two and nine per cent if comprising more parties.

As previously stated, the rules for the distribution of parliamentary mandates to political parties have been altered. The previously used d'Hondt method generally favors parties with the largest numbers of votes received. The new method may result in the top scoring party to receive fewer mandates than under the previous formula with the same number of votes received as during the last elections.⁸ Representatives of PCRM spoke critically

⁶ The VC/CoE's Code of Good Practice in Electoral Matters, section II.2.2, states that "the fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election." [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).

⁷ *Op.cit.*, Joint Opinion on the Draft Working Text Amending the Election Code of Moldova, Opinion No. 576/2010, paragraphs 15-16.

⁸ Under the new method outlined in Article 78 of the Election Code, the first mandates are allocated to successful independent candidates. The votes cast in favor of these candidates are subtracted from the total number of valid votes. The remaining total number of valid votes is then divided by the number of mandates remaining to be allocated after independent candidates received their mandates. The number obtained represents the electoral quotient. Subsequently, the number of votes cast for each contestant is divided by the electoral quotient, which gives the number of mandates to be allocated to the contestant. The remaining mandates after the first distribution are to be allocated to each contestant starting with the contestant that received the largest number of mandates after the first distribution. One additional seat is given to all top parties until all mandates have been allocated.

of the amended mandate allocation procedure as unfair and disadvantageous to their party.

D. ELECTION ADMINISTRATION

Elections are administered by a three-tiered structure comprising the Central Election Commission, 35 District Electoral Councils (DECs)⁹ and some 2,035 Precinct Electoral Bureaus (PEBs). Political parties have the right to nominate members to commissions of all levels proportionally to their parliamentary representation. Most interlocutors of the OSCE/ODIHR NAM appeared satisfied with the work of the election administration.

The CEC in its current composition was appointed in 2005 for a five-year term and reflects the composition of the 2005 parliament. The June amendments extended the mandate of the current CEC until the end of the electoral period as its mandate was due to expire in November 2010. Many have acknowledged that the CEC operates in an impartial and transparent manner.

The CEC emphasized that in preparation for the elections it plans to continue training election officials and to enhance voter education efforts. The CEC co-operates with a number of international actors on producing manuals for DECs and PEBs, training of election observers and voter information.

A controversy arose during the September constitutional referendum following the opening of twice as many polling stations abroad as before. As a result, the Ministry of Foreign Affairs and the CEC are currently conducting a joint review of the recent experience. As the number of votes cast during the referendum by Moldovan citizens abroad increased only marginally compared to the 2009 elections,¹⁰ fewer polling stations might be established abroad for these elections.

Arrangements for voting abroad were an area of concern for a number of interlocutors, in particular the PCRM, which objected *inter alia* to the opening of additional polling stations abroad outside the controlled environment of diplomatic missions. Others pointed to the need of making the pre-registration of citizens abroad a requirement in order to address a widespread concern with possible multiple voting. This stems from a legal possibility for citizens to hold more than one valid passport and to vote with expired identification documents.

Student voting has been a contentious issue in previous elections. In line with September 2010 amendments, students studying away from their registered residence now have the right to vote in any polling station of a district where their academic institution is located upon presentation of a student card accompanied by a valid identification document without prior registration.¹¹ A number of interlocutors spoke critically about the

⁹ With 37 territorial-administrative units, Moldova is subdivided into 37 electoral districts. However, two DECs in Bender and Tiraspol, located in Transdnistria, are not being established.

¹⁰ According to the CEC, some 16,805 Moldovan citizens residing abroad took part in 29 July 2009 early parliamentary elections. During the 5 September 2010 referendum, the number of voters abroad was 19,705.

¹¹ Students will also be asked to sign a disclaimer in acknowledgement of understanding that multiple voting or an attempt represent violations and are punishable by law.

simplified arrangement for students. It was suggested that with student cards being easy to obtain, the new procedures were conducive to fraud.

E. VOTER REGISTRATION

The accuracy of voters' lists has been a long-standing issue of concern, including during the 2009 parliamentary elections. Election stakeholders and domestic observers alleged that incomplete voters' data, errors, and records of deceased persons, combined with the use of supplementary lists, left room for election fraud.

Since 2008, the CEC is working on a centralized electronic voter register, which could potentially help eliminate multiple entries and identify errors. It is envisaged that the register will also help prevent multiple voting whereby each voter will be marked as having voted in the central database accessible directly from all polling stations. While the Election Code requires the system to be fully operational by 2011, representatives of the CEC expressed doubts that the register will be fully functional by this deadline. During the recent referendum, the CEC implemented a pilot project of testing the online voter register in some 50 polling stations in Chisinau,¹² which revealed some technical challenges caused by software problems.

While the centralized voter register remains under development, voters' lists will continue to be prepared by the local public administration based on population registration data held locally. Voters' lists are displayed at polling stations for public scrutiny 20 days before elections. During this period, voters have a possibility to verify their data and to request corrections. Reportedly, very few voters make use of this opportunity.

Supplementary voters' lists continue to be in use to register on election day a range of categories of voters, including those who present proof that they reside within an area of the precinct, voters using absentee voter certificates, voters in hospitals, prisons, special institutions and those using a mobile ballot box. In addition, supplementary voters' lists are compiled by polling stations abroad to register voters who did not choose to undergo a voluntary procedure of preliminary registration.

F. CAMPAIGN AND CAMPAIGN FINANCING

The election campaign is expected to be competitive with distinct political alternatives offered to voters. Due to the perceived high stakes, many expressed concerns that the campaign could become tense. The misuse of administrative resources in support of election contestants, as observed by previous OSCE/ODIHR EOMs, was highlighted as a remaining concern. In that regard, the lack of confidence in public officials, in particular at the local level, to act impartially was noted by several stakeholders. However, public confidence in law-enforcement agencies to act impartially during the campaign was widely assessed by OSCE/ODIHR NAM interlocutors to have improved.

The main political parties expressed intention to stand separately in the anticipated elections rather than to form blocs. Some parties indicated that they would implement internal quotas to enhance the inclusion of women in their candidate lists. It was widely

¹² Similar smaller-scale pilot projects were carried out in previous elections.

commented that women remain underrepresented in politics and that few incentives exist to encourage more balanced gender representation. Similarly, despite several parties declaring an inclusive approach towards national minorities, no party has adopted a formal mechanism to ensure that national minority representatives are included in candidate lists.

The Election Code obliges political parties competing in elections to submit by-weekly reports to the CEC detailing all campaign-related expenditures. For these elections, the CEC intends to adopt a new approach in calculating the campaign spending limit. Contestants will be allowed to spend about 0,50 EUR per registered voter, approximately 1.3 million EUR per contestant. Whilst it was not identified as a particular concern by interlocutors, it was broadly acknowledged that the CEC lacked the resources to adequately monitor compliance with, and the authority to enforce, campaign finance regulations.

G. MEDIA FRAMEWORK AND ENVIRONMENT

The Election Code, the Broadcasting Code, as well as the concept of media coverage, which is developed for each election by the Audiovisual Co-ordinating Council (CCA)¹³ and approved by the CEC, constitute the legal framework for media coverage of the campaign. The Broadcasting Code obliges all broadcasters to provide equitable conditions for electoral contestants and to ensure fair and impartial media coverage. The Election Code stipulates the amounts of free airtime and print space for each contestant during the campaign. The public broadcaster *Teleradio Moldova* (TRM) shared concerns that the existing legal requirements for the allocation of airtime restrict the broadcaster's creativity in programming and may lead to losing viewers.

Improvements in the media environment were noted by the majority of domestic and international actors. Many interlocutors spoke about increased media freedom and stressed that a broad range of media outlets, including two new private broadcasters *Jurnal TV* and *Publika TV*, provide the public with a plurality of views and information.

Whereas previous OSCE/ODIHR EOMs observed a lack of balance in the news coverage by the public broadcaster, a range of interlocutors, with the exception of PCRM, underscored positive changes in its work following the appointment of the new management. The broadcaster was assessed by the Electronic Press Association for Moldova, which monitored the media during the recent referendum, as having “for the first time since 2003, covered the campaign [...] in respect of legal norms and professional standards.”¹⁴ In contrast, most of the interlocutors expressed criticism towards privately-owned *NIT* channel for its editorial policy which they regarded as persistently biased.

Representatives from across the political spectrum also remained doubtful about the effectiveness and the neutrality of the CCA. Following June 2010 amendments to the Election Code, the responsibility for the review of complaints related to the broadcasting media was shifted from the CEC to the CCA.

¹³ The CCA is the regulatory body for broadcasting media.

¹⁴ See the Electronic Press Association for Moldova monitoring report, 5 August – 5 September 2010, at www.apel.md/public/upload/md_Raport_APEL_monitorizare_Referendum_2010.pdf.

H. DOMESTIC AND INTERNATIONAL OBSERVERS

A number of domestic civil society organizations are planning to implement election-related projects. Association Promo-Lex is anticipated to carry out the largest observation effort with the deployment of both long and short-term election observers. The Institute for Human Rights in Moldova will focus on monitoring issues related to voter registration and the quality of voter lists. The International Journalism Centre will continue analyzing the work of the media and its coverage of the campaign.

The presence of international observers from the OSCE/ODIHR was welcomed by all the interlocutors. Many emphasized the importance of deploying both long-term observers to follow the preparations for elections at the local level and short-term observers to monitor election day proceedings.

IV. CONCLUSIONS AND RECOMMENDATION

In light of the enduring political crisis, the interlocutors of the OSCE/ODIHR NAM anticipate a competitive, but tense election campaign. A range of amendments were introduced to the legal framework, many of which address previous recommendations. The OSCE/ODIHR NAM noted improvements in the media environment, as well as enhanced trust in the election administration. However, there is a persisting lack of confidence in the accuracy and quality of voter registers and continuing concerns about arrangements for voting abroad and for students. All interlocutors of the OSCE/ODIHR NAM strongly encouraged the deployment of election observers for the anticipated elections emphasizing that their presence would add value to the process.

Based on the above findings, the OSCE/ODIHR NAM recommends that a standard Election Observation Mission be established to observe the anticipated elections, contingent upon the receipt of an official invitation from the Moldovan authorities. The OSCE/ODIHR election observation mission would assess, among other aspects of the election process, the implementation of the amended election legislation. The OSCE/ODIHR intends to request the OSCE participating States to second 20 long-term observers to follow the election process countrywide, and 200 short-term observers to follow election day procedures, including voting, counting of votes and tabulation of results.

ANNEX: LIST OF MEETINGS

State Institutions

Andrei Galbur, Director, General Directorate for Multilateral Co-operation, Ministry of Foreign Affairs
Vladimir Cuc, OSCE Desk, Ministry of Foreign Affairs
Iurie Cheptanaru, Deputy Minister, Ministry of Internal Affairs
Nikolai Makovei, Head of the Department of Public Safety of the Chief Police Directorate of the Ministry of Internal Affairs
Iurie Ciocan, Secretary, Central Election Commission
Ion Plesca, Member of Parliament, Chairman of the Legal Committee for Appointments and Immunity, Parliament
Dorin Recean, Deputy Minister, Ministry of Information Technologies and Communications

Political Parties

Igor Corman, Member of Parliament, Chairman of Committee for Foreign Policy and European Integration, Democratic Party
Mihai Godea, Member of Parliament, Chairman of Parliamentary Faction, Liberal Democratic Party
Grigori Petrenko, Member of Executive Committee, Party of Communists
Serafim Urechean, Chairman, Our Moldova Alliance
Valeriu Muntean, Member of Parliament, Liberal Party

Mass Media and Media Organizations

Gheorghe Gorincioi, Chairman, Audiovisual Co-ordinating Council
Constantin Marin, President, Teleradio Moldova
Angela Sirbu, Director for Television, Teleradio Moldova
Alexandru Dorogan, Director for Radio, Teleradio Moldova

NGOs and Foundations

Nadine Gogu, Executive Director, Independent Journalism Center
Alexandru Purcileanu, Assistant, Institute for Human Rights in Moldova
Ecaterina Mardarovici, Executive Director, Political Club of Women
Sorin Mereacre, President, East Europe Foundation
Igor Botsan, Executive Director, ADEPT
Veaceslav Balan, Project Manager, United Nations Development Project
Andrew Young, Resident Director, National Democratic Institute
Andrei Rusanovschi, Programme Manager, National Democratic Institute
Steven Gray, Country Director, International Foundation for Electoral Systems
Pavel Cabacenco, Deputy Country Director, International Foundation for Electoral Systems
Simeon Terzioglo, National Programme Co-ordinator, International Organization for Migration
Steven Rader, Resident Program Director, International Republican Institute

Diplomatic representations

Keith Shannon, Ambassador, British Embassy
Narcis Seician, Secretary, Embassy of Romania

Vladimir Sal, Chargé d’Affaires, Embassy of the Czech Republic
Gregory Winstead, Chief of Political and Economic Section, United States Embassy
Hakan Ozdemir, Deputy Head of Mission, Embassy of Turkey
Birute Abraitiene, Special Representative of the Secretary General of the Council of Europe
Owen Masters, Expert, Council of Europe
Dirk Lorenz, Political Officer, Delegation of the European Union