



Office for Democratic Institutions and Human Rights

REPUBLIC OF MOLDOVA

LOCAL ELECTIONS

5 and 19 June 2011

OSCE/ODIHR Election Observation Mission Report



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REPUBLIC OF MOLDOVA
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Final Report of the OSCE/ODIHR Limited Election Observation Mission¹

I. EXECUTIVE SUMMARY

Following an invitation by the Central Election Commission (CEC) of the Republic of Moldova to observe the 2011 local elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a Limited Election Observation Mission (LEOM). In line with the standard methodology for LEOMs, the ODIHR did not deploy short-term observers for comprehensive election day observation. Observers visited a limited number of polling stations and followed the tabulation of results in some districts on both days of election. The mission followed electoral proceedings during the first round of voting jointly with a delegation from the Congress of Local and Regional Authorities of the Council of Europe (Congress).

The 2011 local elections largely met OSCE commitments. The election campaign was competitive and offered voters a genuine choice. However, remaining legal, administrative and regulatory issues need to be addressed in order to ensure continued progress. In particular, this electoral process underscored the need to address longstanding concerns over voter registration. In addition, at times selective reporting on campaign spending and allegations of distribution of illegal gifts to voters highlighted the need for improved campaign finance regulation and enforcement.

The elections took place against the backdrop of a continued political impasse stemming from the inability of successive parliaments to elect the head of state. Many interlocutors felt that these local elections were an important watershed regarding parties' levels of popular support in light of future elections.

The legal framework provided a sound basis for the conduct of democratic elections. However, some confusion of stakeholders was noted in particular with regard to the complaints and appeals procedures, voter registration and campaign finance regulations. Amendments to the Election Code, some of them substantive, were adopted just a few months before elections. Amending electoral legislation immediately prior to an election process is not in line with international good electoral practice.

The elections were administered by a four-tiered structure, comprising the CEC, 37 Level-2 District Electoral Councils (DECs), 896 Level-1 DECs, and 1,955 Precinct Electoral Bureaus. The election administration performed in a transparent and professional manner, overall, and was perceived as impartial by the majority of stakeholders. Electoral bodies, however, at times experienced difficulties due to the scale and complexity of organizing local elections. The CEC appeared unprepared to maintain systematic communication with lower-level commissions and other stakeholders, and did not always co-ordinate electoral preparations in a timely manner.

¹ The English version of this report is the only official document. Unofficial translations are available in State language and Russian.

The establishment of a centralized electronic voter register, which was initially due to be implemented for these local elections, was postponed. Therefore, as previously, local authorities were responsible for the compilation of voter lists, resulting in similar concerns over their accuracy as expressed in past elections. Unclear residency requirements resulted in some confusion as to whether permanent or temporary residency was decisive in establishing where a voter is entitled to vote, and led to inconsistent practices. Some political parties also alleged politically motivated manipulations with temporary residence registration.

Following an inclusive process of candidate registration, a considerable field of party and independent candidates provided voters with a genuine choice. Political parties made use of a legal possibility to introduce changes in candidate lists up to seven days before election day. Information about candidates and late candidate replacements was not always available and the choices of voters may have been impacted as a result.

Overall, the campaign was conducted in a calm atmosphere and electoral contestants noted that they had equitable campaign opportunities. Some strongly divisive rhetoric, particularly in the context of the Chisinau mayoral race, underscored the existing political polarization. Isolated criminal offences occurred during the pre-election period and were investigated by the relevant authorities. Robust electoral competition took place not only between the ruling Alliance for European Integration (AEI) and the opposition Communist Party of the Republic of Moldova (PCRM), but also among the three AEI parties.

Oversight of campaign financing is insufficiently developed, lacking precision and enforcement mechanisms. Contestants appeared not to have treated their reporting responsibilities diligently and the comprehensiveness of reporting was questioned by many stakeholders.

Media covered the campaign through a variety of formats, offering voters a wide degree of information about contestants and their campaign platforms. Local and regional broadcast media were required to organize debates and respected this legal provision. The broadcast media complied with the legal requirement to provide equitable coverage of contestants, overall. One channel, however, was sanctioned for its biased coverage.

As the OSCE/ODIHR had deployed an LEOM, it focused on the longer-term electoral process without the additional deployment of short-term observers that would have provided the basis for a quantitative assessment. Nevertheless, OSCE/ODIHR LEOM observers did visit a limited number of polling stations on election day.

Election day procedures, including voting and counting, proceeded calmly and were conducted in a generally orderly and transparent manner. Election commissions tended to follow legal provisions, although minor procedural inconsistencies were noted. With a number of polling stations not adequately arranged, overcrowding occurred and had the potential to compromise the secrecy of the vote. Electoral proceedings during the 19 June vote were affected by a last-minute CEC decision to remove curtains in polling booths.

The transparency of the tabulation process after the first round was affected by delays in publishing preliminary results and by irregular informational updates on the CEC's website. In addition, a controversy arose over the Chisinau mayoral race outcome, caused by the announcement of incomplete and misleading results by the Chisinau DEC ahead of the release

of complete results by the CEC. In a positive development during the second round, election results in a PEB breakdown were published by the CEC as soon as they became available.

The majority of post-5 June vote complaints were requests for recounts. At least 25 requests were satisfied by territorial courts. Procedures applied by election commissions during recounts varied, partly due to a late CEC instruction on the matter. Recounts reconfirmed the initial results overall. However, in few instances, they resulted in adjustments.

Stakeholders, including the CEC and courts, were often confused as to the correct procedures of the complaints and appeals process, although it had been recently streamlined in the election legislation. In several instances, this led to unnecessary delays in the review of cases and missed opportunities of legal redress. Following requests for a recount of the Chisinau council race and of a rerun of the Chisinau mayoral race, protracted legal procedures that were not always transparent resulted in the late finalization of the election results.

As in previous elections, voting did not take place on the territory under the *de facto* control of the Transdnistrian authorities. In polling stations set up for voters from Transdnistria, polling on 5 and 19 June proceeded without apparent disturbances.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation by the Central Election Commission (CEC) of the Republic of Moldova to observe the 2011 local elections and based on the recommendation of the OSCE/ODIHR Needs Assessment Mission conducted from 22 to 24 March, the OSCE/ODIHR deployed a Limited Election Observation Mission (LEOM) on 8 May. The OSCE/ODIHR LEOM was led by Gerald Mitchell and comprised 25 experts and long-term observers (LTOs) from 18 OSCE participating States. The core team was based in Chisinau and LTOs were deployed to seven regional centres.

In accordance with the OSCE/ODIHR methodology for LEOMs, the OSCE/ODIHR LEOM did not include short-term election observers and did not conduct a comprehensive and systematic observation of election-day proceedings. However, the LEOM visited a limited number of polling stations and followed the tabulation of results in some districts on both days of election. The mission followed electoral proceedings on 5 June jointly with the Congress delegation led by Britt-Marie Lövgren. The OSCE/ODIHR LEOM remained in Moldova until 10 July and followed post-election developments.

The 2011 local elections were assessed for their compliance with OSCE commitments and other international standards for democratic elections, as well as with Moldovan legislation. OSCE/ODIHR expresses its appreciation to the Ministry of Foreign Affairs and European Integration, the CEC and other state and local authorities, political parties and civil society for their co-operation during the mission. OSCE/ODIHR would also like to thank the OSCE Mission to Moldova for its support.

III. BACKGROUND

The June 2011 local elections were the fifth local elections to take place in Moldova since its 1991 independence. The political landscape has changed considerably since the last 2007

local elections in which the Communist Party of the Republic of Moldova (PCRM) won over one-third of mayoral and councilor posts.² The political situation reached a state of impasse, as reflected by the inability of two successive parliaments to elect the country's president and their subsequent dissolutions.³ Following the most recent parliamentary elections that took place in November 2010, the ruling Alliance for European Integration (AEI), comprised of the Democratic Party of Moldova (PDM), the Liberal Party (PL), and the Liberal Democratic Party (PLDM), does not have the three-fifths majority necessary to elect the president and has not yet attempted to do so. In line with legal provisions, the parliament speaker continues to act as president *ad interim*.

A consolidation of the political landscape took place on the eve of the local elections. Several political parties merged; most significantly, the Alliance Our Moldova (AMN) merged with the PLDM and the PL with the European Action Movement (MAE). Three extra-parliamentary parties, the United Moldova Party, the Republican People's Party and the *Forța Nouă* (New Force Movement) formed the "Third Force" bloc. Many interlocutors felt that these local elections were an important watershed regarding parties' levels of popular support in light of future elections.

IV. ELECTION SYSTEM

The local elections were conducted to elect 898 mayors of municipalities, towns, communes and villages, as well as 11,744 members of regional, municipal, town, communal and village councils for four-year terms. The number of councilors elected in each administrative territorial unit ranged from 9 in the smallest units to 43 in cities of over 200,000 inhabitants, and 51 in Chisinau municipality.

Council members are elected under a proportional system without a threshold. The seats are allocated according to the d'Hondt method. Mayors are elected under a two-round majoritarian system. If no candidate wins an absolute majority of valid votes cast, a runoff between the two candidates with the highest number of votes takes place two weeks after the first round. The candidate receiving the highest number of votes in the second round wins. At least 25 per cent of registered voters must participate for elections to be valid. There is no turnout requirement for the second round.

V. LEGAL FRAMEWORK

The Constitution and the Election Code are the principal laws regulating the conduct of local elections. The legal framework is supplemented by other laws,⁴ as well as CEC decisions and regulations.

² For detailed results of the 2007 local elections, see www.alegeri.md/en/2007/. Also see the OSCE/ODIHR Final Report, available at www.osce.org/odihr/elections/moldova/66865.

³ Article 78 of the Constitution stipulates that if the parliament is not able to elect the president in two rounds of voting, parliament has to be dissolved and new elections to be called.

⁴ The legal framework also includes the Law on Local Public Administration, Law on the Territorial Administrative Division, Law on Decentralization, Law on Political Parties, Law on Assembly, organic laws on the courts, relevant provisions of the Criminal Code and Code on Minor Offences.

The Election Code has undergone numerous amendments since its adoption in 1997; most recently, it was amended in March and April 2011. While most amendments were technical in nature, some were substantive. Positive changes included granting voters the right to request changes to voter lists (VLs) up until one day before election day instead of five days, as previously stipulated; the removal of the restriction on the right to vote for all prisoners without exception, and the stipulation that decisions of electoral bodies can be appealed directly to court on election day. Other significant changes included: the repeal of provisions granting candidates in local elections free airtime; postponement of the launch of the centralized electronic voter register, and the reduction of remuneration for election commission members.

The OSCE/ODIHR LEOM noted varying degrees of awareness of the recent amendments among electoral stakeholders. Good electoral practice stipulates that amendments should not be effected so shortly before an election.⁵

Overall, the legal framework provides a sound basis for the conduct of democratic elections. However, a number of gaps, inconsistencies and ambiguities exist, particularly with regard to the complaints and appeals procedures, voter registration, campaign finance, counting and tabulation. This occasionally led to conflicting interpretations and some confusion among stakeholders.

VI. ELECTION ADMINISTRATION

Local elections were administered by a four-tiered election administration, comprising the CEC, 37 Level-2 District Electoral Councils (DECs),⁶ 896 Level-1 DECs, and 1,955 Precinct Electoral Bureaus (PEBs).⁷ Political parties represented in parliament nominated members to commissions at all levels. The majority of parties did not question the procedures for establishing electoral bodies. However, the PCRM expressed concerns that the current CEC composition does not ensure a balanced representation of the parliamentary majority and the opposition, in managerial positions particularly. The election administration performed in a transparent and professional manner, overall, and was perceived as impartial by the majority of stakeholders.

The current CEC was appointed in February 2011, in line with the 2010 amendments to the Election Code. Of the nine CEC members, one member was appointed by the president and the remaining eight by the parliamentary parties, in proportion to their representation.⁸ The CEC meetings, which were held twice a week during most of the campaign, became more frequent closer to election day and between the two rounds of elections. They were generally conducted in a collegial manner, and were open to the public and media.⁹

⁵ See the Code of Good Practice in Electoral Matters, adopted by the Venice Commission of the Council of Europe at its 52nd session (Venice, 18-19 October 2002), CDL-AD(2002)023rev.

⁶ Out of this number, two Level-2 DECs in Bender and Tiraspol were formally established, but were not functioning. Thus, the actual number of Level-2 DECs that operated during these elections was 35.

⁷ 495 PEBs were also carrying out the function of a Level-1 DEC.

⁸ Of the members appointed by parliamentary parties, five were from the governing AEI and three from the PCRM.

⁹ The CEC sessions in full were broadcasted live on the CEC website and footage of all sessions was available on the website's archive.

The CEC adopted a number of decisions aimed at improving the administration and integrity of these elections. At certain times when clarifications of legal provisions were necessary, however, the CEC chose to conduct information campaigns and to provide informal advice to election stakeholders, rather than to take formal decisions.¹⁰ The complexity of preparations for the conduct of local elections, such as a high number of parallel races and different procedures for council and mayor elections, revealed some shortcomings in the structure and functioning of the CEC apparatus. The Commission did not always maintain systematic and efficient communication with lower-level electoral bodies and other stakeholders, and did not always co-ordinate electoral preparations in a timely manner.¹¹ The CEC chairperson pointed out that the CEC operates with limited resources and expressed concern over the continuous need to seek extra funds from the government to cover its activities. This is due to the absence of a dedicated budget line for the CEC in the state budget.

In the run-up to the elections, the CEC tried to increase the capacity of the State Automated Information System, 'Elections', to allow for electronic candidate registration, automatic generation of ballots and consolidation of election results. System administrators were recruited to operate in all 35 Level-2 DEC. This effort, however, was only partially successful and according to the CEC was due to the insufficient qualifications of some system administrators. As a consequence, the CEC experienced difficulties in the process of aggregating candidate information and printing ballots. This resulted in some delays in the distribution of ballots to DECs and PEBs. OSCE/ODIHR observers noted cases where the number of ballots received by DECs and PEBs deviated from the number requested by PEBs, and cases where ballots were printed with mistakes.¹²

All DECs were established within legal deadlines. OSCE/ODIHR observers reported that both levels of DECs were well-organized and conducted most election preparations according to requirements. DECs operated in an independent manner, without cases of intimidation or interference with their work. There were multiple changes in the composition of some DECs, mostly due to the withdrawal of members who were also running as candidates or were their relatives.¹³

PEBs were generally established within legal deadlines. PEBs visited by OSCE/ODIHR observers were well-organized. However, there was a degree of confusion and inconsistent implementation of certain electoral procedures due to frequent compositional changes, the complexity of local election procedures, and at times the lack of adequate support from higher-level election commissions.¹⁴ Some PEBs informed OSCE/ODIHR observers that the reduced remuneration did not provide adequate compensation commensurate with the tasks performed by PEBs.

¹⁰ For example, with regard to the lack of precision on residency requirements, some aspects of voting and counting procedures, and the transfer of election materials.

¹¹ This was in particular evident with regard to the aggregation of nationwide data on registered electoral contestants and preparation, printing and delivery of ballot papers.

¹² For instance, in PEB 3 (Taraclia), the name of one candidate was missing in the Russian version of 2,114 ballot papers.

¹³ The legislation stipulates that candidates and their close relatives may not serve as members of election commissions.

¹⁴ These included uncertainties related to amending candidate lists, deadlines for updating of VLs, as well as procedures related to mobile voting, counting and tabulation.

In the run-up to the first round, the CEC undertook voter education and awareness-raising efforts by broadcasting five voter education and information spots. They included issues such as the importance of participating in elections, familiarization with VLS, and what documents would be valid for voting. Some DECAs carried out additional voter education activities in the regions. Before the second round, the CEC produced ten additional spots, which were aired by most broadcasters.

The CEC continued to work collegially and impartially ahead of mayoral run-offs. In a decision adopted four days before the second round, the CEC instructed PEBs to remove curtains from voting booths. This instruction followed repeated allegations of various vote-buying schemes that had been brought to the CEC's attention. The decision was initially upheld by the Chisinau Appeal Court, but was annulled on appeal by the Supreme Court on the evening before election day (see Complaints section below).

As during previous elections, voting during both rounds did not take place on the territory controlled by the Transnistrian *de facto* authorities.¹⁵

VII. VOTER REGISTRATION

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. In addition, despite a longstanding OSCE/ODIHR recommendation, active-duty military personnel remains disenfranchised during local elections. This restriction is not in line with paragraph 7.3 of the 1990 OSCE Copenhagen Document, which provides for universal and equal suffrage to adult citizens.

As noted above, following the 2011 amendments to the Election Code, all prisoners have been granted the right to vote, which is a welcome change. However, relevant institutions and election administration bodies apparently did not receive clear guidelines on how to implement this new amendment. Inconsistent approaches were noted, possibly disadvantaging certain imprisoned voters.

Although initially planned for implementation prior to these local elections, the establishment of a centralized electronic voter register was postponed until 2015 by the April 2011 amendments to the Election Code.¹⁶ Some OSCE/ODIHR LEOM interlocutors opined that while the introduction of the register for these elections was technically possible, essential pieces of the regulatory framework and guidelines for its effective functioning were not yet in place. Therefore, as previously, VLS were prepared by local authorities on the basis of lists compiled for the last elections, resulting in similar concerns being voiced by interlocutors as in the past with regard to voter registration.¹⁷ In particular, confusion persisted as to the competences of different bodies involved in the compilation of lists at central and local levels.

¹⁵ Prior to the elections, polling stations for voters from the disputed village of Corjova were established in Cocieri and for voters from Chitcani, Cremenciuc and Gisca, in Copanca and Farladeni.

¹⁶ On 5 June election day, the CEC carried out a pilot project to test the centralized electronic voter register and online transfer of election results from PEBs to the higher levels of election administration in one district in Chisinau.

¹⁷ See OSCE/ODIHR Final Report on 10 November 2010 early parliamentary elections, p. 8; available at www.osce.org/odihr/75118.

Unclear residency provisions in the Election Code led to varying interpretations by election stakeholders and resulted in a degree of confusion as to whether permanent or temporary residency was decisive in establishing where a voter is entitled to vote. The CEC did not issue an official decision to clarify this issue, but conducted a voter education campaign in the latter stages of the process before the first round. In this, they clarified that temporary residence was the prevailing criteria. In some cases, this led to inconsistent practices by local authorities and election administration bodies.¹⁸

With some delays noted by OSCE/ODIHR observers,¹⁹ VLs were available for public scrutiny as required by law. According to interlocutors in election commissions, very few voters checked their records. An online verification of voters' records was not available during these elections, reportedly due to lack of funding. At the start of the election campaign, the CEC announced that 2,646,279 citizens would be eligible to vote. On the 5 June election day, the CEC announced an updated figure of 2,653,921.

Certain categories of voters were entitled to be added to supplementary VLs on election day. These included voters who were not registered in the basic VLs, but presented a valid ID confirming residence within the respective precinct, voters with absentee voter certificates,²⁰ and imprisoned voters. Analysis of the CEC data revealed that in some 16 per cent of polling stations, the number of voters included in supplementary lists on 5 June was over 5 per cent of voters that participated in elections.²¹

Between the two rounds, concerns related to voter registration persisted. A continuing lack of clarity regarding permanent versus temporary residence underscored the need for legal changes. Some political parties also alleged politically-motivated manipulation with temporary residence registration. Apparently, in an attempt to address such allegations, the CEC chairperson sent a letter to the Secretary General of the Government on 13 June with a request to suspend the issuance of temporary registration until after the second round. The letter was incorrectly translated into Russian, and its substance was misrepresented in the government's subsequent request to local authorities. As a result, local authorities were requested to suspend the issuance of permanent residence, rather than temporary residence.

According to the CEC, in 512 localities where mayoral run-off contests took place, 1,810,367 citizens were eligible to vote. The number of voters added to supplementary lists on the 19 June election day was significantly lower overall than on 5 June.

VIII. CANDIDATE REGISTRATION

The right to be elected to local councils is granted to eligible voters of at least 18 years of age, while the age limit of 25 years is set for mayoral posts. Political parties and electoral blocs

¹⁸ For example, in Soldanesti voters with permanent residence in a precinct, but allegedly residing abroad were deleted from VLs; DEC 2 (Balti) instructed PEBs to include voters with no residence into the supplementary lists at precincts, where they were residing at the time of last elections; DEC 25 (Orhei) instructed voters that they could vote only in the locality of permanent residence.

¹⁹ For example PEBs in the Level-2 Districts 2 (Balti), 16 (Edinet), 17 (Falesti), 18 (Floresti), 27 (Riscani).

²⁰ In local elections, only PEB members are entitled to vote with an absentee voter certificate.

²¹ The highest numbers of voters were added to the supplementary lists in DEC 10 (Causeni) and DEC 36 (Gagauzia).

have the right to nominate candidates, as do citizens through self-nomination and following the submission of support signatures.²²

A total of 4,312 mayoral candidates and some 60,000 candidates for regional, municipal, town and village councils were registered in a process that was inclusive, overall. These candidates stood on behalf of 21 political parties, 1 electoral bloc, as well as running independently. The mayoral race in Chisinau was contested by 13 candidates, 3 of whom were women.²³ A total of 1,024 candidates competed in mayoral run-offs; of these, 208 were women. A vast field of candidates provided voters a genuine choice. Despite some complaints,²⁴ contestants did not express any major concerns regarding the registration process.

Political parties made use of the legal possibility to introduce changes to candidate lists up to seven days prior to election day. As information about candidates was not always available in PEBs on election day, last-minute adjustments by parties to their lists may have meant that voters were not always aware of late candidate replacements, which may have impacted their choice.²⁵

IX. ELECTION CAMPAIGN

The electoral campaign got off to a slow start, but gained momentum and reached its peak in the last days before the first round. Between the two rounds, the level of campaigning significantly decreased, with a few bigger events taking place in the capital.

The AEI parties and the PCRM ran the most visible campaigns and organized a number of large-scale events. Extra-parliamentary parties primarily targeted their support bases. Independent candidates were also seen campaigning in some localities, especially where incumbents running as independents stood for re-election. In general, electoral contestants noted that they had equitable campaign opportunities. Some, however, complained about the insufficient number of authorized places for posting campaign materials. A few independent candidates raised concerns that they did not have equitable access to the media.

Electoral contestants mostly focused on local issues and personalities in their campaign. Door-to-door canvassing, small gatherings, use of posters and leaflets, as well as meetings in workplaces were the primary means of voter outreach. Some electoral contestants resorted to modern campaigning techniques, such as direct mailing, e-mailing, phone banks, and internet advertising. The youth was also targeted through social portals and flash-mobs, organized by different parties in Chisinau.

Overall, the campaign was conducted in a calm atmosphere; however, some strongly divisive rhetoric that underscored the polarization of political forces was, at times, used. In the first

²² Independent candidates for local councils have to be supported by two per cent of voters in the respective district, divided by the number of available councilor positions, but not less than 50 persons. The mayoral independent candidates have to be supported by five per cent of voters in the respective district, but not less than 150 and not more than 10,000 voters.

²³ Fifteen candidates were initially registered and two subsequently withdrew.

²⁴ See “Complaints and Appeals” section.

²⁵ A case of an elected Chisinau councillor, whose past criminal conviction became public knowledge only after the election, received considerable public attention and pointed to the lack of information about candidates’ backgrounds.

round, political contestants in some regions concluded unofficial ‘agreements of mutual respect’ in the campaign.²⁶ In the second round, the AEI parties issued a joint statement to support each other in races against non-AEI candidates. Similar statements of mutual support were made by the AEI parties in some regions. Local campaign coalitions were also noted in some localities during the second round of elections.²⁷ Notwithstanding the expressions of mutual support, robust electoral competition was also observed between the AEI members. These parties campaigned intensively for their support base and at times accused each other of resorting to illegal campaigning practices.²⁸

Isolated criminal offences occurred during the pre-election period and were investigated by the relevant authorities. Most notably, the car of a PL candidate in Straseni was set on fire and the campaign manager of a prominent independent candidate died in a car explosion in Chisinau on 7 June. A few other cases of assaults were also investigated for their relation to the election process.²⁹ In addition, some reports of intimidation were brought to OSCE/ODIHR’s attention.³⁰ The campaign for second-round, mayoral runoffs was generally free of serious incidents.

Instances of campaigning aimed at misrepresenting candidates occurred. Mock-ups of two popular newspapers aimed at discrediting the PLDM in Chisinau and cases of negative campaigning at the local level were noted.³¹ The Chisinau mayoral race was the most intense and gained country-wide attention. This included significant negative campaigning against the incumbent mayor, such as posters, leaflets and a website with defamatory content. During the runoff for the Chisinau mayoralty, the PCR candidate and the incumbent accused each other of having misused public funds while in office in the past. The cases were submitted to the General Prosecutor’s Office for investigation.

Widespread reports of parties, including the PDM and the PLDM, distributing illegal electoral gifts to voters emerged in the campaign in the run-up to the 5 June vote and received considerable media attention. The CEC subsequently asked the Ministry of Interior (MoI) to investigate a number of such cases. Also, a case of free transportation of Moldovan voters from a foreign territory on the 19 June election day received broad publicity and was seen by political parties as a contentious issue. In a letter sent in response to a request for an opinion on the matter, the CEC only quoted the provisions of the law, which prohibit electoral contestants from offering voters money or gifts and distributing goods free-of-charge. No

²⁶ Such unofficial agreements were concluded in Balti, Edinet, Orhei and Riscani.

²⁷ In Edinet, the PL and Social-Political Movement “Ravnopravie” supported the PDM candidate who ran against the PCR candidate. In Cimislia, the AEI parties extended their support to an independent candidate running against the PCR candidate.

²⁸ In the second round of elections the PL accused the PLDM of vote buying in Selesti village (Orhei). The PDM accused the PLDM candidate for mayor of Hincesti of bussing voters and vote buying.

²⁹ Among other things, the OSCE/ODIHR LEOM was informed of an assault against a PDM candidate for the local council in Sangera (Chisinau Municipality), allegedly by a PLDM member; a PL member of the DEC in Cimislia having been allegedly assaulted by a PCR sympathizer; and a case of a PDM member in Ialoveni having been allegedly assaulted by three PCR members.

³⁰ An independent Chisinau mayor candidate stated that he was subjected to intimidation by state authorities and that his supporters were being discouraged to co-operate with him. In Straseni, a PDM candidate’s house was vandalized and an axe was left on a table. Another PDM candidate for mayor’s office in Stauceni (Chisinau Municipality) reported receiving life threatening messages.

³¹ The PCR reported that letters with a counterfeited General Prosecutor’s stamp and letterhead were sent to citizens in Vyshkyuc (Orhei). The letters alleged the PCR mayoral candidate’s involvement in illegal sales of land. In Ialoveni, a defamatory pamphlet appeared about the incumbent mayor running for re-election. Defamatory leaflets against mayoral candidates were distributed in Nimoreni village (Ialoveni) and the Codru suburb of Chisinau.

formal decision was taken. The OSCE/ODIHR LEOM interlocutors also complained about the misuse of administrative resources at the local level, especially by incumbents running for re-election, although the scale was difficult to determine.

X. CAMPAIGN FUNDING

Campaign financing is predominantly regulated by the Election Code and the CEC regulation on the financing of electoral campaigns and political parties. Contestants are obliged to open a special bank account for all campaign expenses, to which their own funds and all donations are to be transferred. In practice, however, many contestants did not open accounts and this was tolerated by the election administration, if duly notified, on the grounds that campaigning could take place without any income or expenditures incurred.

The ceiling for campaign spending was approved by the CEC at 22.2 million Moldovan *lei* (approximately 1.3 million Euro) for each political party and electoral bloc. For independent candidates, the campaign limit was calculated based on the number of voters in their electoral districts, with spending not to exceed 0.50 Euro per voter.³²

The Election Code requires electoral contestants to submit bi-weekly financial reports detailing incomes and expenditures to the competent election administration bodies. Before the first round of elections, political parties and independent candidates generally complied with the legal requirements for the submission of their campaign finance reports, although the CEC and DEC's issued a few warnings.³³ The volume of reporting decreased during the runoffs; of 15 political parties that nominated mayoral candidates, 10 stated that no incomes or expenditures were incurred before the second round. Also, none of the 61 independent candidates submitted any reports before the second round.

In general, contestants appeared not to have treated their reporting responsibilities with due diligence and the comprehensiveness of reporting was questioned by many stakeholders. The civil society organizations monitoring campaign finance noted that data about donors provided by parties in their reports was often incomplete and at times implausible when reports suggested that considerable donations were made by donors with no or very low incomes (unemployed and pensioners). With regard to reporting campaign expenses, the organizations monitoring campaign finance noted that contestants seemed selective in their financial statements, reporting mainly the costs of publicity (air time and electoral materials) and rarely declaring the remuneration paid to campaign staff or PR consultants.

Furthermore, despite the legal requirement for electoral advertising materials to contain imprint information, the majority of printed electoral materials, especially at the local level,

³² The amount of 0.50 Euro is set in the Election Code. Amounts in Moldovan *lei* are calculated for each election based on the exchange rate in force on the day of the adoption of detailed regulations by the CEC on the financing of an election campaign.

³³ Seven political contestants were officially warned by the CEC for missing the deadline for the submission of their reports: "Patriots of Moldova", People's Democratic Party of Moldova, and the "Third Force" electoral bloc were warned on 10 May; "Our home-Moldova" Party, Social Democratic Party (PSD), Social-Political Movement "Ravnopravie" and the Law and Justice Party were warned on 20 May. The "Patriots of Moldova" and the People's Democratic Party of Moldova were warned for the second time on 24 May. Warnings were also issued by DEC's in Balti and Chisinau to independent candidates.

did not contain such mandatory information.³⁴ Apart from printed materials, electoral contestants distributed different petty gifts, not all of them carrying parties' or candidate's logo. Such practices triggered a discussion regarding what level of material value should qualify as an 'electoral gift' and whether such hand-outs amounted to vote buying.

Campaign finance oversight mechanisms are insufficiently developed, lacking precision and enforcement. None of the relevant bodies actively undertook measures to address breaches of campaign financing regulations.

XI. MEDIA

A. BACKGROUND

Moldova has a wide range of media outlets and a diverse media environment. The main source of public information is television. Three TV stations broadcast nationwide and several have regional and local coverage. Many of them partially re-broadcast Romanian and Russian channels, offering only a limited amount of locally-produced programming. Two new TV stations, *Publika* and *Jurnal TV*, were launched in 2010, enhancing the volume of locally produced programming and the diversity of the media market. Print media outlets, despite their large number, have limited readership and have suffered from the emerging role of online news portals. Certain media outlets are still perceived as being affiliated with political parties. However, the variety of views available to the public generally gave citizens the possibility of making an informed choice.

B. LEGAL FRAMEWORK FOR THE MEDIA

The conduct of the media during the electoral campaign was regulated by the Election Code, the Broadcasting Code, and the CEC Media Regulation, which oblige media to cover the campaign in an accurate, balanced and impartial manner. The Audiovisual Co-ordinating Council (CCA) is the competent body to oversee the conduct of broadcasters during election campaigns, to review complaints and to impose sanctions in cases of violations. In line with legal requirements, 82 television and radio stations informed the CCA that they would cover the electoral campaign and outlined their editorial policy.

During the election campaign, local and regional broadcasters were obliged, whereas national ones were entitled, to organize public debates. The format, frequency and internal regulation of debates were left to the broadcasters' discretion. Local and regional broadcasters covering the elections fulfilled their obligation to organize public debates. In addition to the debates, contestants could purchase up to two minutes of paid airtime, per day in one media outlet.³⁵ Television channels monitored by the OSCE/ODIHR LEOM respected the legal requirements for paid advertisement. In addition, most broadcasters offered free airtime to electoral bodies for the broadcasting of voter education information.

³⁴ Data required includes name of the electoral contestant, date of publication, circulation information and the name of the printing house that published the advertisement.

³⁵ The CEC Media Regulation did not set a price limit for paid electoral advertising, leaving it to the broadcasters' discretion. The only general provision in this regard stipulated that the fee should not exceed that for commercial advertising.

Print media conduct was overseen by the Moldovan Press Council, a self-regulatory body. Territorial courts had the jurisdiction to review complaints and to impose sanctions on print media outlets in cases of violation.

C. OSCE/ODIHR LEOM MEDIA MONITORING



The OSCE/ODIHR LEOM conducted its media monitoring from 12 May to the end of the second round.³⁶ Media coverage of the entire campaign was lively, in particular in the run-up to the first round. Monitored electronic media, and especially the public broadcaster, provided balanced coverage of election contestants, overall. One national private channel, *NIT*, however, covered the campaign in a biased manner. National and local broadcast media offered a variety of views to the public and covered the elections through different formats: newscasts, current affairs programs, electoral debates and paid advertisements. Reporting by the print media tended to be aligned along different political affiliations.

1. MEDIA COVERAGE OF THE FIRST ROUND

The public broadcaster *Moldova 1* covered the election campaign extensively and organized several debates, inviting political parties and mayoral candidates from Chisinau, Comrat and Balti. The coverage of the campaign presented by *Moldova 1* was balanced; it granted access not only to the four parliamentary parties, but also to other contestants and generally presented them in a neutral tone.

The private national channel, *Prime TV*, did not organize electoral debates before the first round, but broadcast one debate in the run-up to the second round. *Prime TV* devoted extensive coverage of the election campaign to PDM (33 per cent), mostly in a positive and neutral tone, and gave considerable coverage to the government (18 per cent) and the acting president (9 per cent).

Another national private broadcaster, *NIT*, decided not to organize debates. The coverage of the campaign by *NIT* was clearly biased in favor of one political party. It devoted 67 per cent of its coverage to the PCRM, mostly with a positive or neutral tone, while the governing AEI parties received far less coverage. From among those parties, the PL received most coverage (5 per cent), but this was mainly negative and denigrated the incumbent mayor of Chisinau.

PRO TV is the most popular channel in the Chisinau area and its coverage was mainly focused on the mayoral race in the capital. It organized a number of electoral debates inviting all Chisinau mayoral candidates. The overall coverage of the campaign was balanced with mostly neutral reporting. However, the four parliamentary parties enjoyed greater coverage than other contestants.³⁷

Jurnal TV, a private regional channel, allotted most of its coverage to the PCRM and the PL, with both receiving 13 per cent. The overall tone of *Jurnal TV*'s coverage was neutral,

³⁶ The OSCE/ODIHR LEOM media monitoring focused on prime time (18.00 – 24.00) campaign coverage in editorial programs (newscasts, talk shows, electoral debates and current affairs programs) and paid electoral advertising. Six television channels (*Moldova 1*, *Prime TV*, *NIT*, *PRO TV*, *Publika TV* and *Jurnal TV*) and five newspapers (*Jurnal de Chisinau*, *Timpul*, *Moldova Suverana*, *Adevarul* and *Moldavskie Vedomosti*) were monitored.

³⁷ *PRO TV* gave 11 per cent of coverage to the PL, 10 per cent to the PCRM, and 8 per cent to both PDM and PLDM.

although slightly more negative for the PCRM and slightly more positive for the PL. The channel portrayed the election campaign as polarized between these two political parties.

The news channel, *Publika TV*, covered the campaign extensively. It devoted more than half of its coverage (52 per cent) to the four parliamentary parties and 18 per cent to the government. The tone of reporting was mostly neutral.

Electoral contestants extensively used the opportunity to purchase paid electoral advertising in local and national media. Among television channels monitored, *PRO TV* broadcast the highest number of contestants' electoral advertisements, while private national *Prime TV* broadcast electoral advertising for only one political party, the PDM.

The coverage of the campaign in newspapers monitored was not impartial. *Adevarul*, a newspaper launched in December 2010, was the most balanced in its coverage of electoral contestants, but it allotted most of the space to government activities (38 per cent). *Jurnal de Chisinau* followed the same editorial line as *Jurnal TV*; ³⁸ it allotted slightly more space to the PCRM (19 per cent), with coverage mostly neutral and negative tone, and to the PL (16 per cent) with a neutral tone. In demonstration of support for the PL Chisinau mayoral candidate, *Timpul* newspaper devoted 41 per cent of space to the PL. *Moldova Suverana* supported the PCRM, allotting it 36 per cent of mostly positive coverage and dedicating 40 per cent of largely negative coverage to the PL. *Moldavskie Vedomosti* covered a wide range of contestants, mostly in either positive or negative tone.

The campaign silence period for the 5 June election was respected by the media, with the exception of *Jurnal TV*. It broadcast two talk shows commenting on the voting process on election day.

2. MEDIA COVERAGE OF THE SECOND ROUND

In the run-up to the second round, reporting by television channels monitored by the OSCE/ODIHR LEOM focused on the outcomes of the 5 June vote. Substantial coverage was also given to a statement by one foreign state regarding the conduct of local elections and Moldova's official response to this statement. The media also actively covered and commented on the circumstances surrounding the death of the campaign manager of an independent candidate in a car explosion in Chisinau.

The coverage devoted to contestants' campaigns increased only in the final days before the run-offs. Broadcasters monitored devoted most of their coverage (60 per cent) to the Chisinau mayoral race. The coverage of other races was limited. In primetime news and current affairs programs, all monitored channels, except *NIT*, gave greater coverage to the PL Chisinau mayoral candidate (supported by the AEI), ranging from 53 to 64 per cent, mostly neutral in tone. The PCRM candidate received less coverage, ranging from 36 to 47 per cent, also mostly neutral in tone. The coverage of the campaign by *NIT* confirmed the trend observed in the election campaign for the first round. The channel allotted 84 per cent of airtime to the PCRM candidate, mostly neutral in tone, and 17 per cent of largely negative coverage to the opposing candidate.

³⁸ *Jurnal de Chisinau* and *Jurnal TV* belong to the same media group - *Jurnal Trust Media*.

Most of the monitored channels hosted electoral debates. However, in several instances, broadcasters reported that candidates did not attend. This resulted in some debates being cancelled or held with only one candidate. Both mayoral candidates in Chisinau largely used paid electoral advertising. PDM was the only party to purchase airtime on the monitored channels to promote its six mayoral candidates. Voter education spots produced by the CEC for the second round were aired by most monitored broadcasters.

The campaign silence period before the second round was respected by most media, although *NIT* and *Jurnal TV* breached the law. On election day and the day before, *NIT* broadcast a report critical of the AEI, while *Jurnal TV* broadcast a talk show asking invited guests whom they had voted for before the close of polls.

D. MEDIA-RELATED COMPLAINTS AND SANCTIONS

During both rounds of the electoral campaign, a very limited number of complaints were registered by the CCA. Two complaints were lodged regarding the campaign before the 5 June vote. The first complaint was filed by a mayoral candidate in Comrat against *Eny Ai TV*, a private local TV station in the Autonomous Territorial Unit of Gagauzia, alleging unbalanced electoral coverage. The CCA satisfied the complaint and issued the channel a public warning. The second complaint was lodged by an independent candidate for the Chisinau municipal council who complained that he was not able to receive free airtime on several channels. The complaint was rejected on the grounds that following recent amendments to the Election Code, candidates in local elections are no longer granted free airtime during local elections.

Based on the results of its internal media monitoring, the CCA issued several sanctions to *NIT* for its unbalanced coverage of the campaign and repeated violations of legal provisions.³⁹ During the election campaign, the CCA also reminded *Jurnal TV* and *Publika TV* of their obligation to cover the campaign in an equitable manner and to grant wider access, not only to the parliamentary political parties.⁴⁰ On 15 June, the CCA issued a public warning to *Jurnal TV* for the 4 June breach of the silence period.

Following the second round, the CCA imposed additional sanctions on two broadcasters in connection with the run-off campaigns. The Council adopted a decision to suspend *NIT*'s broadcasting license for five days for repeated violations of the law. Following the decision, *NIT* addressed the CCA with a request to cancel the two highest sanctions levied against the channel. The request was reviewed and rejected by the CCA during a 7 July public session. The other channel that CCA sanctioned was *Jurnal TV*, which was fined 1,800 Moldovan *lei* (approximately 110 Euro) for a second breach of the silence period on the 19 June election day. Although the CCA closely monitored broadcasters' behavior and sanctioned violations, the effectiveness of the redress was limited as administrative sanctions did not enter into force during the campaign. In addition, the maximum fines envisaged by law were regarded by some interlocutors as insufficiently high to discourage violations.

³⁹ The CCA established that *NIT* violated Articles 7 and 10 of the Broadcasting Code and point 17 of General Provisions of the CEC Media Regulation. The CCA first issued a public warning (18 May 2011), then imposed the maximum fine applicable, 5,400 *lei* (27 May 2011), and finally prohibited the TV channel from broadcasting commercial advertisements for five days (3 June 2011).

⁴⁰ This was done through a public announcement during the CCA public session held on 27 May 2011.

Interlocutors at the Moldovan Press Council did not report any breaches of media regulations or complaints related to print media during the campaign.

XII. COMPLAINTS AND APPEALS

A. GENERAL FRAMEWORK

The legislation grants voters and contestants the right to submit complaints against electoral bodies, other contestants, and the media. The 2010 and 2011 amendments to the Election Code introduced a new system for the adjudication of election-related complaints, stipulating that decisions of electoral bodies must first be appealed to a higher electoral body before a complainant can go to court. At the same time, several exceptions allowed for appeals to be made directly to courts, including against decisions of electoral bodies filed on election day, appeals against decisions of electoral bodies concerning actions/inaction of election contestants, and appeals regarding VLs.

In addition to the provisions of the law, the CEC issued a regulation further delineating the complaints process.⁴¹ Nevertheless, the mechanisms for the review of complaints appeared unclear to contestants and, at times, electoral bodies and courts. Confusion over jurisdiction seemed to have been partly due to the vague language of certain provisions, which were interpreted in different ways by electoral stakeholders. In addition, contestants appeared unfamiliar with the amended procedures for the submission of complaints and filed complaints simultaneously with several electoral bodies, courts and/or law enforcement bodies. At times, this impacted upon the effectiveness of legal redress and often led to delays.

B. ADJUDICATION OF COMPLAINTS BY THE ELECTION ADMINISTRATION

Electoral contestants predominantly chose to bring complaints and appeals before DEC and the CEC. Very few complaints were filed with PEBs and courts during the pre-election period. The OSCE/ODIHR LEOM interlocutors opined that this practice resulted from a lack of knowledge of the amended complaints and appeals provisions and the perception that court procedures are cumbersome and complicated.

During the entire campaign, the CEC received 108 complaints and appeals. These related mainly to candidate registration, illegal campaigning, obstructions to campaigning, and violations of counting and tabulation procedures. The CEC reviewed complaints in an open and transparent manner. Decisions of the CEC were generally well reasoned and in line with legislation. The CEC only took formal decisions in 29 of the cases. Of these, 13 were rejected, 6 were satisfied, 8 were partly satisfied and 2 were forwarded to other competent bodies. Overall, the CEC considered and adjudicated the majority of complaints within legal deadlines, with the exception of some 12 occasions where established timeframes were exceeded.

The majority of complaints received did not comply with procedural rules or were outside of the CEC's competence. In compliance with CEC regulations, such challenges were returned to complainants with accompanying letters either informing of the necessary procedures or

⁴¹ CEC Regulation on Consideration and Adjudication of Complaints by Electoral Bodies During the Electoral Campaign, adopted by the CEC Resolution 3353 of 20 July 2010.

about the referral of the complaint to the competent body. However, in some cases, the CEC did not review complaints filed in accordance with procedural rules, and in other instances, instead of taking a formal decision, the CEC responded to substantive complainants by letter rather than by decision. In other cases, the CEC arbitrarily decided to review in open sessions complaints with obvious procedural errors. Of note were two complaints from the PCRM alleging violations of counting and tabulation procedures in Cahul. These were filed with the CEC instead of a Cahul territorial court that would have been the correct instance. The CEC reviewed these complaints in an open session, where it decided to refer them to the Cahul territorial court and the MoI.

The CEC unsystematically applied the provision in Article 65 of the Election Code stipulating that “a complaint may be lodged to the court only after prior addressing the electoral body hierarchically superior to the body whose decision is challenged”. In the beginning of the electoral period, the CEC reviewed appeals that already went through a hierarchically higher instance within the election administration over the original decision-maker. It has thus initially applied such reading of the law as requiring the exhaustion of all levels of the election administration before addressing courts. At later stages of the electoral process, the CEC referred all appeals that were already considered by one level of the election administration to courts.

On a positive note, the CEC overturned decisions of DEC's refusing candidate registration on a number of occasions where it found the reasons for refusals to be minor. It, thus, enhanced the inclusiveness of the candidate registration process.

Complaints filed at the regional level were predominantly related to candidate registration, obstructions to campaigning, illegal campaigning, use of administrative resources, and the procedures for drawing lots to determine the order of contestants on the ballot. The lack of a uniform understanding of complaints procedures was particularly visible outside the capital. The OSCE/ODIHR LEOM observed several cases where DEC's adjudicated complaints outside their competence. In one such case, the CEC subsequently cancelled a decision of a Level-1 DEC (Parcani), which had reviewed a complaint against its own decision and obliged the higher-level DEC to consider it. In Briceni, the confusion over where to file a complaint led to a missed opportunity for due redress.⁴²

C. ADJUDICATION OF COMPLAINTS BY COURTS

Court hearings at all levels were open to the public and media.⁴³ With some exceptions, judgments appeared well reasoned and based on legal provisions in place. During the course of the OSCE/ODIHR LEOM, the Chisinau Court of Appeal received some 90 election-related appeals. The Supreme Court received 45 appeals, out of which 34 were filed by two voters

⁴² A contestant appealed the decision of a Level-1 DEC to the Level-2 DEC and further to the CEC. The decision of the latter was subsequently appealed to the Chisinau Court of Appeal, which returned the appeal to the complainant stating that the competent body to review this appeal would be a Briceni territorial court. After the complainant appealed accordingly, the Briceni court refused to review the appeal in substance due to a missed legal deadline for the submission of such appeals. On a challenge, the Balti Court of Appeal upheld this decision having concluded that the complainant's lack of knowledge about the jurisdiction of different bodies could not justify deviations from the established legal deadlines.

⁴³ There is a three-tiered court system in Moldova comprising of territorial courts, five Courts of Appeal and the Supreme Court of Justice.

and 11 by electoral competitors, and the CEC. The Supreme Court satisfied seven appeals by final decision and returned eight appeals to the Chisinau Court of Appeal for re-consideration.

Although judges received training on election legislation and judicial practice,⁴⁴ the OSCE/ODIHR LEOM noted varying interpretations and application of legal provisions by courts throughout the country. In particular, the Chisinau Court of Appeal adopted different approaches in similar cases. In some instances, the Court did not review appeals in substance, claiming that they were not within its jurisdiction. In other, similar cases, it accepted and considered appeals on merits. Also, decisions on seemingly similar cases varied from court to court. It was not, however, possible to determine whether this was due to a lack of professionalism or capacity, ambiguities and gaps in the legislation, or political interests.

In one case, the Supreme Court overruled the decisions of the CEC and the Chisinau Court of Appeal not to grant an interest-free loan for campaign purposes on the grounds that the Law on State Budget did not provide for such loans. Through its ruling, the Supreme Court obliged the CEC to grant the loan in compliance with the Election Code.⁴⁵ However, the OSCE/ODIHR LEOM was notified that this decision was not implemented.

In another significant development, a day before the 5 June vote, the Supreme Court annulled the CEC and the Chisinau Court of Appeal decisions to remove curtains from voting booths, having concluded that the absence of curtains affects the secrecy of the vote. The Court of Appeal in Bender adopted the same position with regard to the PCRM's appeal against a territorial court's decision validating the results of a mayoral run-off in Causeni and established that the secrecy of voting had been infringed. On 1 July, the court invalidated the results and ordered repeat elections in Causeni. However, the Court of Appeal in Balti took a different position on this issue, concluding that secrecy was not breached (see below).

D. POST-ELECTION DAY COMPLAINTS IN BOTH ROUNDS

The majority of complaints after the 5 June vote concerned requests for recounts, most of which were based on allegations of irregularities related to the invalidation of ballots, obstruction of observation during counting, illegal campaigning, as well as to PEB members being related to contestants. The OSCE/ODIHR LEOM was informed by territorial courts that some 25 requests for ballot recounts in a number of PEBs were satisfied. In recounts followed by the OSCE/ODIHR LEOM, the procedures applied varied. This was partly due to a late CEC instruction on recounts, which was passed on 17 June, after a number of recounts have already taken place. Following the recounts, the initial results were confirmed, overall. In few instances, however, recounts resulted in adjustments.⁴⁶

The legal challenges related to the results of the Chisinau municipal council and mayoral races were particularly intricate and lengthy. Following the 5 June vote, the PL requested a recount of the Chisinau council race, alleging electoral fraud and falsifications. On 15 June, the territorial court rejected the complaint for lack of evidence. However, upon appeal and

⁴⁴ Seminars were organized on 15-22 April by the National Institute of Justice in co-operation with the CEC and the Supreme Court of Justice in Chisinau, Balti, Bender, Cahul and Comrat.

⁴⁵ Article 37 of the Election Code provides for interest-free loans from the state budget to electoral contestants.

⁴⁶ In Calarasi, the recount resulted in re-allocation of mandates in a local council. In Scineni (Sorocea region), a PLDM candidate was found to be elected in the first round. In Edinet, as a result of the recount one mandate within the city council was shifted from the PCRM to the PLDM.

based on the same evidence, on 17 June, the Chisinau Court of Appeal overruled this decision and ordered a recount. After the second round, the PCRМ filed a request to the Chisinau Court of Appeal to examine the case in a revision procedure;⁴⁷ this request was rejected. This decision was subsequently appealed to the Supreme Court requesting to admit the appeal and to uphold the territorial court's decision of 15 June 2011.

Additionally, the PCRМ requested to suspend the recount of votes for the Chisinau municipal council until the Supreme Court considered this appeal on merit. On 23 June, the Supreme Court partly satisfied the appeal and ordered the suspension of the Chisinau municipal council recount. Nevertheless, the recount eventually took place on 30 June following the 29 June Supreme Court decision rejecting the PCRМ's appeal. Despite a pending complaint by the PCRМ candidate for Chisinau municipal council in a territorial court requesting the replacement of all PEB members that were to conduct the recount, ballots cast for Chisinau councilors were recounted by the PEBs in their original composition. The recount revealed minor differences in numbers and did not affect the initial mandate distribution.

The results of the Chisinau mayoral run-off were also challenged by the PCRМ and the PCRМ's Chisinau mayoral candidate in the territorial court. The party argued infringements on secrecy caused by the removal of curtains and other alleged violations of voting procedures. The court rejected the complaint, reasoning that the absence of curtains at the entrances of voting booths could not violate the secrecy of the vote and validated the results of the Chisinau mayoral run-off. The court also opined that since the Election Code does not contain specific details with regard to voting booths, it is up to the CEC to decide on the set-up. The PCRМ appealed this decision. On the Supreme Court's decision, the appeal was considered by the Balti Court of Appeal due to the expressed lack of confidence by the PCRМ in the impartiality of the Chisinau Court of Appeal.⁴⁸ On 8 July, the Balti Court of Appeal upheld the decision of the territorial court on validation of the results of the Chisinau mayoral run-off.

Many requests for recounts of votes related to the first round were still pending in courts at the time of mayoral run-offs, thus delaying the validation of results in some regions. The law does not specify whether the results of mayoral races in the first round should be validated before the second round takes place. Interpretations of courts in this regard varied. Some courts informed the OSCE/ODIHR LEOM that in cases of a second round the need to validate the results of the first round lapses. In Chisinau, the Centru territorial court validated the results of both rounds by a single decision after the second round took place.

The OSCE/ODIHR LEOM is aware of ten requests for repeat voting that were satisfied by courts. In one case, the court ordered repeat voting in a polling station in Loganesti village in Hincesti region, where a local council candidate who withdrew from the race was not removed from the ballot; repeat voting was combined with the 19 June vote. In another case,

⁴⁷ The Civil Procedure Code (Articles 446-453) allows for the revision of final court decisions if grounded. The decision on consideration of a case in a revision procedure is taken by the same court, whose decision is challenged.

⁴⁸ This would have been the competent court to consider the case. The PCRМ expressed suspicion over the fact that all appeals related to the PCRМ were considered by the same board of judges of the Chisinau Court of Appeal. In addition, on June 27, the PCRМ mayoral candidate filed a complaint with the General Prosecutor demanding the initiation of a criminal case against the chairperson of the Chisinau Court of Appeal and several judges of the Board of Civil and Administrative Court of Appeal for abuse of office and overstepping authority.

the Ungheni territorial court ordered repeat voting in Condratesti village as a wrong candidate was included in the ballot and received votes. Repeat voting took place on 26 June.

In Telenesti (Nerureni commune), on 24 June, the territorial court annulled the results of the 5 June vote for the mayor and local council of Nerureni on the basis of the complaint by PLDM. The court established that violations reported by the complainant influenced the results of voting and, hence, the distribution of mandates. The decision has been appealed to the Balti Court of Appeal.

XIII. PARTICIPATION OF WOMEN

Political parties did not specifically address issues related to the participation of women in their campaign programs and activities. Still, women demonstrated interest in the electoral process by actively participating in campaign events and were well-represented in lower-level electoral bodies.⁴⁹

In line with the United Nation's (UN) Millennium Development Goal 3 to "promote gender equality and empower women," Moldova committed itself to promote women in leading positions by increasing the female representation to 40 per cent in local councils, 25 per cent in *rayon* councils, and 25 per cent of mayors by 2015.⁵⁰ To meet this goal, the parliament implemented a project jointly with the UN office in Moldova to support female candidates running in these elections by training them on campaigning techniques and voter communication. PCRM candidates chose not to attend these trainings. Female candidates from the PLDM reported having also received special training from their party.

Most political parties met a self-imposed 30 per cent quota of women candidates for local councils, but the number of women candidates for regional councilors and mayors was lower.⁵¹ Of the parliamentary parties, the highest number of women candidates ran on the PDM's lists, while the PL's candidate lists contained the least number of women.⁵² The PCRM nominated the highest number of female mayoral candidates and had the highest number of female mayors elected.⁵³ Countrywide, 18.5 per cent of elected mayors were women, which fell short of the aforementioned aim of 25 per cent of female mayors to be achieved by 2015.

Electoral bodies did not provide disaggregated data on the number of elected female councilors. Nevertheless, as women were frequently placed in lower positions on candidate lists, it could be expected that the number of elected female councilors was lower than the number of

⁴⁹ There is only one female member of the CEC, while women constituted 76 per cent of staff at the level of DEC's and 13 women served as Level-2 DEC chairpersons.

⁵⁰ See "Gender Equality" goal objectives at http://undp.md/presscentre/2010/MDG%20Report%20II/3_Gender_E_9_septembrie_2010.pdf.

⁵¹ Electoral bodies did not provide disaggregated data on the number of female candidates participating in these elections. The information is based on the OSCE/ODIHR LEOM data received from 19 regions.

⁵² PDM put forward 48 per cent of female candidates for local and 30 per cent for regional councils, respectively. PL nominated 29 per cent of female candidates for local and 20 per cent for regional councils, respectively.

⁵³ Twenty six per cent of PCRM's mayoral candidates were women and out of all PCRM elected mayors 23 per cent were women. The lowest number of female mayoral candidates was put forward by the PDM – 19 per cent, while PL had the lowest number of elected female mayors – 15.5 per cent of all PL's elected mayors.

women candidates. Party leaders noted the existence of societal clichés and economic factors as challenges often encountered by women candidates.⁵⁴ A parliamentary initiative to amend the Election Code to provide for a 30 per cent quota for women candidates on party lists is at the stage of public consultations. Regrettably, the draft amendments as they stand lack the provisions that would not only promote quantitative representation of women on candidate lists, but would also ensure that women are placed in winnable positions.

XIV. PARTICIPATION OF NATIONAL MINORITIES

All political parties contesting the elections claimed to have included representatives of different ethnic groups in their candidate lists, thus reflecting the diverse composition of Moldova's society. The election administration, however, does not provide disaggregated data on candidates' ethnicity to allow for minority-related analysis. None of the political parties appeared to have specifically targeted any national minority. Members of minority groups, except for some Roma representatives, did not voice concerns regarding their access to the electoral process. The Roma community reportedly remained the most disadvantaged and marginalized.⁵⁵ The community's limited knowledge of the electoral process and the fact that not all Roma eligible to vote have ID cards, hampered their participation in elections.

Neither the Election Code nor CEC regulations provided clear requirements regarding the language in which candidate registration documents had to be submitted. There were also no clear rules on how many ballots should be printed in different languages. This led to varying practices by DEC in preparing the ballot papers, and at times to disagreements between DEC and contestants.

XV. DOMESTIC AND INTERNATIONAL OBSERVERS

The Election Code provides for the observation of the election process by international and domestic civil society organizations, representatives of foreign governments and of electoral contestants. In demonstration of an inclusive approach, the CEC registered some 1,010 domestic observers from 14 organizations, 146 international observers, as well as experts from 23 international institutions.

Electoral contestants registered their representatives to follow the electoral process at all levels of the election administration. *Promo Lex* was the largest domestic observer group to carry out observation nationwide. Other civil society organizations focused on specific aspects of the process, including on the conduct of the media and campaign finance.

For the second round, the CEC accredited an additional 186 national observers from three organizations and one international observer. There was some confusion among DEC as to

⁵⁴ According to a study conducted by the Soros Foundation-Moldova between March to September 2010, every third respondent perceived women as less capable than men, stated that women should not hold leadership functions and that there is no place for women in politics. See: *Perceptions of the Population of the Republic of Moldova on the Discrimination: Sociological Study*; January 2011, p. 7; www.soros.md/files/publications/documents/Studiu_sociologic_EN.pdf.

⁵⁵ Roma activists in Balti informed the OSCE/ODIHR LEOM observers that they were not given an opportunity to run on PLDM candidate lists, although they were initially promised so. At the same time, they did not see any other political party that they could align themselves with.

whether accreditations granted to representatives of contestants' before the first round remained valid for the second round. DEC decisions in this regard varied and the CEC did not issue an official clarification.

On 7 June, Level-2 DEC 1 (Chisinau) submitted a complaint to the CEC alleging a breach of the CEC regulation on observers' conduct by the "Young Moldova" NGO and requested to annul accreditations of all of its nine observers. At the same time, the NGO submitted a request to the CEC for the accreditation of an additional 70 observers for the second round. On the day preceding the run-offs, the CEC considered both requests, but did not take any decision.⁵⁶ Upon "Young Moldova's" appeal, the Chisinau Court of Appeal obliged the CEC to consider the accreditation request. The CEC reviewed the request only on 21 June, two days after the run-offs. The CEC cancelled the accreditations of the nine "Young Moldova's" observers and rejected the request for accreditation of additional observers.

XVI. ELECTION DAY

As the OSCE/ODIHR had deployed a Limited Election Observation Mission, it focused on the longer-term electoral process without the additional deployment of short-term observers that would have provided the basis for a quantitative assessment. Nevertheless, OSCE/ODIHR LEOM observers visited a limited number of polling stations on election day.

A. FIRST ROUND, 5 JUNE 2011

1. Polling and Counting Procedures

Election day procedures, including voting and counting, proceeded calmly and were conducted in a generally orderly and transparent manner. Election commissions tended to follow procedures in the polling stations visited by OSCE/ODIHR observers, although certain minor procedural problems were noted.

A number of polling stations were not adequately arranged, with premises that were too small and with insufficient numbers of polling booths.⁵⁷ This, at times, resulted in overcrowding, with the potential to compromise the secrecy of the vote. In some places, a high number of voters were added to supplementary VLS and the practices for doing so were inconsistent. This pointed to continuing problems with voter registration. Instances of a conflict of interest related to candidates serving as PEB members were noted. Domestic non-partisan and party observers were present at all polling stations visited. In polling stations set up for voters from Transdnistria, election day proceeded without any apparent disturbances.

The vote count at polling stations observed by the OSCE/ODIHR observers was assessed positively, overall. PEBs generally followed counting procedures step by step in the presence of observers and party representatives. Some PEBs experienced difficulties in reconciling election results and completing the protocols.⁵⁸ Turnout figures were regularly announced by the CEC during the day and published on its website. The overall turnout announced was 54.39 per cent.

⁵⁶ The CEC members' votes split four to four; eight CEC members were present at the session.

⁵⁷ For example PEBs 2, 4, 56, 12, 46 (Orhei), PEBs 119, 145, 153, 206, 259, 260, 289 (Chisinau).

⁵⁸ For example, PEB 43 (Soroca), PEB 10 (Balti).

2. Tabulation and Announcement of Results

During the tabulation process, results from protocols were entered into the “Elections” electronic system at Level-2 DEC. Some system operators had difficulties in entering this data as lines in result protocols were not identical to fields in the system’s interface. OSCE/ODIHR observers reported a limited presence of domestic observers and party representatives at DECs.

Following the 5 June vote, a controversy arose over the results of the Chisinau mayoral race. This controversy was caused by a discrepancy between the information conveyed by some media in the early hours of 6 June and the preliminary results announced by the CEC later that day. Some media initially reported that one candidate had won in the first round. These reports were based on unofficial data provided by the Chisinau DEC chairperson for the Chisinau city results, excluding Chisinau suburbs. Complete preliminary results announced by the CEC showed that no candidate had succeeded in winning in the first round.

Although the CEC announced the 5 June vote results and confirmed the need for the second round by the legal deadline of 10 June, tabulation transparency was affected by delays in publishing the preliminary results and by irregular updates of information on the CEC website. Disaggregated data on valid votes cast for each contestant by PEB were made available on the CEC website by the evening of 7 June. Complete and disaggregated results by PEB were only made available on 14 June. Later, the CEC also uploaded scanned originals of PEB and DEC result protocols.

B. SECOND ROUND, 19 JUNE 2011

The Election Code does not contain detailed regulations on the conduct of the second round. This resulted in some inconsistencies of approach by electoral bodies. Election commissions had varied understandings of requirements for campaign finance reporting during the second round and on how the information was to be provided to voters about the time and place of voting. There was also uncertainty as to which version of VLS was to be used on the 19 June election day and whether applications for mobile voting submitted before the first round were valid for the run-offs.

Election day was calm and PEBs generally complied with prescribed voting procedures in polling stations visited.⁵⁹ PEBs had not been officially informed about the Supreme Court decision adopted in the evening before election day not to remove curtains from polling booths. This led to inconsistent practices and, as a result, the secrecy of the vote was at times compromised. Also, voters often did not fold their marked ballots, also impacting upon secrecy. OSCE/ODIHR LEOM observers noted several cases of voters complaining about the absence of curtains.

Counting and tabulation procedures followed by OSCE/ODIHR observers were conducted efficiently, overall, with no major problems or issues with transparency. In a welcome effort, the CEC frequently updated election results broken down by PEB on its website throughout election night and held regular press briefings. Complete preliminary results for the Chisinau mayoral race were available in the early hours of the day after the elections. The countrywide

⁵⁹ 1,248 PEBs remained operational for the run-off contests.

turnout announced was 53.74 per cent. According to the CEC, complete final results were published by the respective election commissions within two weeks of the elections. The CEC has also been updating the overall final results inclusive of the results of repeat voting and recounts as they were becoming available.

XVII. RECOMMENDATIONS

The following recommendations are offered for consideration by the authorities, political parties and civil society of the Republic of Moldova, in further support of their efforts to conduct elections fully in line with OSCE commitments and other standards for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be implemented. OSCE/ODIHR stands ready to assist the authorities of the Republic of Moldova to further improve the electoral process and in following up on the recommendations contained in this and previous reports.

A. PRIORITY RECOMMENDATIONS

1. The Election Code should be reviewed to eliminate existing vague provisions, gaps and inconsistencies as identified in this and previous OSCE/ODIHR reports and legal reviews. The jurisdiction of different bodies during election campaigns should be clarified. Other election-related laws and regulations should be brought in line with each other.
2. Legislators should consider prioritizing the finalization of the regulatory framework for the establishment and maintenance of the centralized electronic voter register jointly with the CEC and the civil registration authority. Duties and responsibilities of bodies involved in data collecting and updating should be clearly delineated. The CEC is likely to need substantial resources and personnel in order to implement and manage the future register properly. This will require action by governmental authorities and/or the parliament.
3. As one of the key indicators of transparency of an electoral process, preliminary and final results of elections should be published by the CEC as quickly as possible, and include all necessary data, as prescribed by the law. The data published should contain both aggregated results and results broken down by polling station in order to increase transparency. The CEC could also make greater use of its website as a means of public information, including for the publication of detailed results.
4. Campaign finance regulations could be reviewed to provide more detail and precision on electoral contestants' reporting obligations. Oversight and enforcement mechanisms should be strengthened.
5. Measures could be developed by the election administration to give voters a greater opportunity to familiarize themselves with the names of candidates in party lists and to keep the electorate informed of changes that parties introduce to their candidate lists. This could practically be achieved by aggregating candidate registration data centrally and making information available on the CEC website.

6. Legal provisions tackling vote buying could be improved by including clearer definitions of what it constitutes, both materially and in practice.

B. ADDITIONAL RECOMMENDATIONS

Legal framework

7. In line with previous recommendations, active-duty military personnel should be granted the right to vote in local elections.
8. The ambiguity related to the residency requirements during local elections should be addressed in law.
9. The Election Code could be amended to provide more detail on the preparation and conduct of the second round of elections.

Election administration

10. The CEC, as a permanent body bearing the responsibility for the overall conduct of elections, should anticipate and address potential problems prior to the electoral period, or as early as possible in the electoral process. Adoption of last minute decisions related to important election day procedures should be avoided.
11. In line with the intentions of the legislation to ensure balanced political representation in the CEC, consideration could be given to supplementing the existing procedures for the formation of the Commission with measures that would ensure the balance of political forces in the CEC's top three positions (chairperson, deputy and secretary).
12. In order to guarantee uniform application of the law and of CEC decisions, communication between the CEC, DEC's and PEB's should be streamlined to ensure timely transmission of information to lower-level electoral bodies and the possibility to address questions to the higher level, as they arise.
13. The CEC could consider further training of its personnel in order to enhance managerial, communication and functional capacities of the apparatus. Members of lower-level commissions should continue to receive regular comprehensive training, with a particular focus on counting procedures, compilation of result protocols and reconciliation of election results.
14. The work of the election administration could benefit from further enhancing the functionalities of the "Elections" Automated Integrated System. The system could be designed to facilitate centralized candidate registration, printing of ballots and aggregation of election results. The system's integrity, compatibility with other software and spreadsheets used in the conduct of elections, as well as its interface could be further improved. Technical documentation and comprehensive guidelines could be developed for the system's users.
15. Ahead of next elections, the CEC could consider issuing an instruction on the set-up of polling stations, determining the minimum size requirements for voting premises, as

well as the format and quantities of election materials, depending on the number of registered voters.

16. The CEC could also consider adopting an instruction on recounts to outline all relevant procedural steps and to ensure consistency of implementation.
17. The system of remuneration to members of election management bodies could be reviewed to reflect the workload and to ensure that fees paid are competitive enough to attract qualified personnel.

Election Campaign

18. Consideration could be given to providing electoral contestants more designated places for posting campaign materials.

Complaints and appeals

19. Complaints and appeals provisions would benefit from redrafting using clear and unambiguous language to outline exhaustively complaint adjudication procedures by the election administration and to avoid any misinterpretations in regard to the jurisdiction of electoral bodies and courts. Electoral bodies and courts could receive training on complaints and appeals provisions in force and be kept duly updated on any further adjustments.
20. The provisions on the validation of election results by courts could be clarified in order to remove the ambiguity as to whether results of the first round of voting should be validated before the second round takes place.

Media

21. Enforcement mechanisms for CCA decisions should be improved, in particular with the view to establishing such timeframes for the adoption and entry of sanctions into force that would ensure timeliness of redress.

Gender and national minorities

22. Provisions ensuring the inclusion of women in winnable positions on candidate lists could be considered.
23. Voter education programs specifically targeting the Roma community could be considered.

ANNEX: OFFICIAL ELECTION RESULTS*

CEC Data on June 05, 2011 Local Elections*

Number of voters on regular voter lists	2,552,922	
Number of voters added to supplemental voter lists	39,178	1.53%
Number of ballots issued to voters	1,417,893	
Number of voters that voted	1,417,818	
Turnout		54.86%
Number of valid votes	1,379,055	
Number of invalid votes	38,763	
Number of unused and cancelled ballots	1,144,112	
Number of ballots received by PEBs	2,562,005	

*Data includes the results of elections to rayon and municipal councils (Chisinau and Balti), and excludes Gagauzia.

CEC Data on June 19, 2011 Mayoral Run-Offs

Number of voters on regular voter lists	1,896,561	
Number of voters added to supplemental voter lists	23,748	1.25%
Number of ballots issued to voters	1,044,891	
Number of voters that voted	1,044,856	
Turnout		54.41%
Number of valid votes	1,035,106	
Number of invalid votes	9,750	
Number of unused and cancelled ballots	844,303	
Number of ballots received by PEBs	1,889,194	

Mayoral Elections (1st Round and 2nd Round)

Electoral Contestant	1 st ROUND				2 nd ROUND			
	Votes		Mayor positions		Votes		Mayor positions	
	Total	%	Total	%	Total	%	Total	%
Party of Communists of the Republic of Moldova (PCRM)	463,553	30.64%	115	29.79%	348,175	33.64%	88	17.22%
Liberal Democratic Party of Moldova (PLDM)	304,482	20.12%	120	31.09%	210,681	20.35%	166	32.49%
Liberal Party (PL)	297,398	19.65%	27	6.99%	269,810	26.07%	70	13.70%
Democratic Party of Moldova (PDM)	248,816	16.44%	85	22.02%	140,612	13.58%	135	26.42%
Independent Candidates	120,484	7.96%	35	9.07%	40,380	3.90%	33	6.46%
Other	78,390	5.18%	4	1.04%	25,448	2.46%	19	3.72%
TOTAL	1,513,123	100%	386	100%	1,035,106	100.00%	511	100.00%

Rayon and Municipal Council Elections

Electoral Contestant	Votes		Councilors' positions	
	Total	%	Total	%
Party of Communists of the Republic of Moldova (PCRM)	508,422	36.87%	434	38.75%
Liberal Democratic Party of Moldova (PLDM)	311,988	22.62%	300	26.79%
Liberal Party (PL)	223,257	16.19%	130	11.61%
Democratic Party of Moldova (PDM)	212,548	15.41%	227	20.27%
Independent Candidates	55,885	4.05%	9	0.80%
Other	66,955	4.85%	20	1.79%
TOTAL	1,379,055	100%	1,120	100%

Town and Commune/Village Councils Elections

Electoral Contestant	Votes		Councilors' positions	
	Total	%	Total	%
Party of Communists of the Republic of Moldova (PCRM)	327,768	29.51%	3,438	32.34%
Liberal Democratic Party of Moldova (PLDM)	281,342	25.33%	3,039	28.59%
Liberal Party (PL)	130,919	11.79%	1,162	10.93%
Democratic Party of Moldova (PDM)	209,270	18.84%	2,264	21.30%
Independent Candidates	95,786	8.62%	336	3.16%
Other	65,692	5.91%	389	3.66%
TOTAL	1,110,777	100%	10,628	100%

* Source: www.cec.md/index.php?pag=alegeri&opa=view&id=406&d=11&sd=68&start=&l=, website of the Central Election Commission of Moldova. The tables do not include the results of all repeat votes and recounts.

ABOUT THE OSCE/ODIHR

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.

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.

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, 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. OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

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**, 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. 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.

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 ODIHR website (www.osce.org/odihr)