



Office for Democratic Institutions and Human Rights

REPUBLIC OF MOLDOVA
PARLIAMENTARY ELECTIONS
6 March 2005

OSCE/ODIHR
NEEDS ASSESSMENT MISSION REPORT
20–24 January 2005



Warsaw
25 January 2005

TABLE OF CONTENTS

I. INTRODUCTION	1
II. EXECUTIVE SUMMARY	1
III. FINDINGS	3
A. POLITICAL CONTEXT	3
B. LEGAL FRAMEWORK	4
C. ELECTION ADMINISTRATION	6
D. MEDIA	7
E. MINORITIES AND LANGUAGES	8
F. INTERNATIONAL AND DOMESTIC OBSERVERS	8
IV. CONCLUSIONS AND RECOMMENDATIONS	9
ANNEX	1

**REPUBLIC OF MOLDOVA
PARLIAMENTARY ELECTIONS
6 March 2005**

**OSCE/ODIHR Needs Assessment Mission Report
20–24 January 2005**

I. INTRODUCTION

The Organisation for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) to the Republic of Moldova from 20 to 24 January 2005. The NAM was composed of Nikolai Vulchanov, Deputy Head of the OSCE/ODIHR Election Section, Gilles Saphy, OSCE/ODIHR Election Adviser, and Stefan Krause, designated Deputy Head of the anticipated OSCE/ODIHR Election Observation Mission (EOM).

The purpose of the NAM was to assess the conditions and level of preparation for the parliamentary elections scheduled for 6 March 2005, in line with OSCE commitments, and to advise on modalities for the establishment of an EOM.

The NAM held meetings in Chişinău with representatives of the authorities, election administration, political parties, media, civil society and international community (see Annex).

The OSCE/ODIHR is grateful to the Ministry of Foreign Affairs of the Republic of Moldova and to the OSCE Mission to Moldova for the support provided during the NAM.

II. EXECUTIVE SUMMARY

Regular parliamentary elections will be held in the Republic of Moldova on 6 March 2005. The 101 members of parliament will be elected by proportional representation in one nationwide constituency for a four-year term. To gain representation, parties and electoral blocs registered by the Central Election Commission (CEC) to contest these elections must pass a staggered threshold of between six and 12 percent, while independent candidates must win at least three percent of the vote.

Regrettably, as in previous elections, voting is not expected to take place in the territories controlled by the Transdniestrian authorities, which has *de facto* not been under the control of the Moldovan government since 1992, and a number of eligible voters residing in that area might not be able to cast their ballot.

The 2005 parliamentary elections mark an important test for the consolidation of democracy in the Republic of Moldova. While the country has an overall positive record with regards to national elections, the governor (Bashkan) elections in Gagauzia in October 2002 were marred by irregularities. Notable shortcomings were

also observed during the campaign for the local elections in May and June 2003, including abuse of administrative resources by the authorities, heavy bias of the State media, and arrests of a few prominent candidates were a source of concerns and marked a negative development.

Many interlocutors voiced concern about alleged abuse of power by the authorities and the ruling Party of Communists of the Republic of Moldova (PCRM). In addition, representatives of political parties alleged harassment by and pressure from the authorities.

The Electoral Code is a comprehensive body of regulations that covers all elections and referenda taking place in the Republic of Moldova and provides an adequate basis for a democratic election, if implemented properly. However several provisions of the Electoral Code require clarification by the CEC.

In June 2004, The OSCE/ODIHR and the Venice Commission (European Commission for Democracy through Law – Council of Europe) have issued Joint Recommendations on possible improvements to the election legislation and the electoral administration in the Republic of Moldova. None of the Venice Commission - OSCE/ODIHR Joint Recommendations has been addressed so far.

The Electoral Code aims at establishing a non-partisan election administration. However, opposition parties running in the elections allege that the CEC is under the control of the ruling party and have expressed lack of confidence in the CEC.

The circumstances in which the Parliament took the decision to set the date of the forthcoming election and in which the CEC decided to open candidate registration have stirred up some controversy, and were subject to court challenges by several political parties running for the elections. The EOM will assess the handling of these cases by the relevant judicial bodies. It is unfortunate that such controversy should have developed so early in the process.

Public broadcasting media remain the most important source of information for most citizens of Moldova. Concerns have been raised about Government control of the public media and pressure on private media, with representatives of political parties complaining about bias of public media in favour of the incumbents and about general lack of access to public media.

Moldovan legislation provides for domestic and international observation. A number of domestic non-governmental organizations have formed a coalition to monitor various aspects of the forthcoming elections and plan to deploy around 2,000 observers on election day.

Thus, the integrity of the election will, *inter alia*, depend on the performance of the election administration, the existence of an environment which is conducive to a free and peaceful election campaign, the handling of election complaints and the role of the media in the campaign.

The NAM recommends that a standard EOM be deployed to the Republic in Moldova by the end of January to assess whether the 6 March elections are conducted in line with domestic legislation, OSCE commitments and other international standards for democratic elections.

The OSCE/ODIHR kindly requests the OSCE participating States to second 16 long-term observers from early February until mid March, and 150 short-term observers to be deployed across the Republic of Moldova for the week around election day to monitor election day procedures.

III. FINDINGS

A. POLITICAL CONTEXT

The 2005 parliamentary elections will be an important test for the consolidation of democracy in the Republic of Moldova. They come at the end of the regular mandate of the parliament elected on 25 February 2001. The 2001 elections had resulted in a parliament in which the Party of Communists of the Republic of Moldova (PCRM) enjoyed a constitutional majority, having won 71 of the 101 seats. Apart from the PCRM, only the Braghiș Alliance and the Christian Democratic People's Party (PPCD) managed to achieve representation in the Parliament. Almost 30 percent of voters voted for lists which failed to achieve parliamentary representation. Following the 2001 elections, the PCRM formed a government headed by Prime Minister Vasile Tarlev, and in April 2001, parliament elected PCRM leader Vladimir Voronin as President of the Republic of Moldova.

The Parliament of the Republic of Moldova is a unicameral body consisting of 101 members elected by proportional representation in a single, nationwide constituency. In order to gain parliamentary representation, parties running individually must overcome a threshold of six percent. Coalitions of two parties must receive at least nine percent, and blocs of three or more parties, 12 percent. Independent candidates must receive at least three percent of the national vote to be elected.

Regrettably, as in previous elections, voting is not expected to take place in the territories controlled by the Transdniestrian authorities, which has *de facto* not been under the control of the Moldovan government since 1992 and a number of eligible voters residing in that area might not be able to cast their ballot. However, special polling stations are expected to be established on government-controlled territory to serve Moldovan citizens living on the left bank of the Nistru River.

Since independence in 1991, Moldova has had a good record with regards to national elections. Both OSCE/ODIHR final reports on the March 1998 and on the February 2001 parliamentary elections noted that while some shortcomings remained, these elections met international standards for democratic elections, consolidating a trend already evidenced during the previous elections.

However, the conduct of early elections for Bashkan (Governor) of the Gagauzia Autonomous Territorial Unit in October 2002 caused disappointment. The OSCE Mission to Moldova in a press release noted that the Bashkan elections were marred by a “number of procedural irregularities and shortcomings.”

The OSCE/ODIHR EOM for the local elections of May and June 2003 concluded that while these elections were held “generally in accordance with OSCE commitments for democratic elections, ... notable shortcomings observed during the campaign”, including abuse of administrative resources by the authorities, heavy bias of the State media in favour of the incumbents, and arrests of a few prominent candidates were a source of concerns and marked a negative development.

A significant number of interlocutors voiced concerns about alleged abuse of power by the ruling party. Interlocutors from political parties in opposition told the NAM that their members and campaign activists were subject to harassment and pressure from the authorities, including the police; while the NAM was not in a position to investigate these allegations, a prospective EOM should monitor and investigate such allegations.

Over the past two years, the political party spectrum has undergone a certain amount of consolidation, partly due to attempts by various parties to form political coalitions. Thus, several parties of center-left and center-right orientation created the Democratic Moldova Bloc (BMD), which along with the PPCD is seen as one of the main opposition forces challenging the PCRM.

In late December 2004, a total of 19 political parties and socio-political organizations were registered with the Ministry of Justice and were thus entitled to submit candidate lists for the upcoming parliamentary elections. At the time of the NAM visit to Moldova, the CEC had registered the candidate lists of three parties, one socio-political movement, and two electoral blocs, as well as one independent candidate.

B. LEGAL FRAMEWORK

The main legal basis for the conduct of elections and referenda in the Republic of Moldova is the Electoral Code adopted in November 1997 and amended several times since. The latest amendments were adopted in mid-February 2003. The Electoral Code is a comprehensive, largely cohesive body of regulations that covers all elections and referenda taking place in the Republic of Moldova and provides an adequate basis for a democratic election, if there is political will to implement the legislation in good faith.

The legal framework for the elections also includes the Law on Political Parties and Socio-Political Organisations, which regulates political parties’ statutes and registration procedures.

In June 2004, The OSCE/ODIHR and the Venice Commission (European Commission for Democracy through Law – Council of Europe) have issued Joint Recommendations¹ on possible improvements to the election legislation and the electoral administration in the Republic of Moldova. The joint recommendations pointed out several deficiencies that had already been identified in previous OSCE/ODIHR election observation reports. In particular, the document recommended the legislation be amended or clarified on several key issues such as, *inter alia*, the appointment of the Central Election Commission, the level of the threshold to enter the Parliament, the timeframe for updating the voter lists, the requirements for political parties' registration with the Ministry of Justice, the secrecy of the vote, the tabulation and publication of polling stations results, etc.

Several provisions of the Electoral Code require clarification through instructions or regulations of the CEC, for example with regards to the publication of voters lists, the issuance of certificates of eligibility (absentee certificates), arrangements to facilitate participation of students in the election, location of polling stations where conscripts would cast their ballot, or the coverage of the campaign by the media.

None of the Venice Commission - OSCE/ODIHR Joint Recommendations has been addressed. The authorities explained that they would rather amend the legislation after the completion of the forthcoming election process to avoid allegations that such amendments had been made to their benefit. The EOM will pay particular attention to these issues raised in the joint recommendations.

The circumstances in which the Parliament took the decision to set the date of the forthcoming election and in which the Central Election Commission decided to open candidate registration have stirred up some controversy. The leadership of the Parliament told the NAM that the required formalities had been respected, while both PPCD and Social Democratic Party of Moldova (PSDM) representatives alleged that the provisions of the organic law regulating Parliamentary procedures had been violated. It is alleged that these circumstances favoured the ruling party in so far as it enabled them to be the first to register with the CEC and therefore to appear first on the ballot paper.

The PPCD lodged a complaint before the Constitutional Court on 4 January challenging the legality of the parliament's decision setting the date for the elections, and the following day, filed a complaint to the Court of Appeal requesting the CEC decisions of 26 and 27 December on the opening of candidate registration to be annulled. Both complaints were rejected.

In addition, the PSDM filed complaints with the Supreme Court and the Court of Appeal against the same CEC decisions. While there seemed to be some confusion as to which of the Supreme Court or the Court of Appeal has jurisdiction to examine the

¹ Joint Recommendations on the Electoral Law and the Electoral Administration in Moldova of the European Commission for Democracy through Law and the Office for Democratic Institutions and Human Rights of the OSCE, No. 272/2004, Venice, 17 June 2004;

legality of CEC decisions, both courts have dismissed the complaints of the PSDM. The PSDM lodged a final appeal to the Supreme Court, which, as of 23 January had not yet been ruled upon.

The EOM will assess the handling of these cases by the relevant judicial bodies. It is unfortunate that such a situation could have developed so early in the process and that several contestants would already declare lacking confidence in the body in charge of administering the elections.

C. ELECTION ADMINISTRATION

The upcoming parliamentary elections will be administered by a three-tier election administration: the Central Election Commission (CEC), 37 District (Raion) Electoral Councils (DECs), and approximately 2,000 Precinct Electoral Bureaus (PEBs). Each participant in the elections is entitled to designate a representative to election bodies at all levels; these representatives have consultative status.

The CEC is a permanent body which nine members are nominated by the President (3), the Parliament (3), and the Supreme Council of Magistrates (3) for a six-year term. CEC members may serve no more than two consecutive terms. The lower level commissions are formed when elections have been called, and their mandate expires once the election process has been completed. DECs are appointed by the CEC and PEBs are appointed by the relevant DECs.

The current CEC was appointed on 18 December 2003, and the 2005 parliamentary elections are the first ones the CEC will administer in its new composition. Only one member of the previous CEC was reappointed. It was not clarified to the NAM whether the parliamentary quota of three CEC members was nominated with consensus or by the majority faction alone.

The Electoral Code aims at establishing a non-partisan election administration. CEC members may not belong to parties and to other social-political organizations which have nominated candidates for public eligible positions, or participate in political activities, while members of lower levels election commissions may not be members of political parties contesting the elections or get involved in political activities in support of a contestant. However, opposition parties running in the elections allege that the CEC is under the control of the ruling party and have expressed lack of trust in the CEC.

The accuracy of voter lists has been an issue of concern during previous elections in the Republic of Moldova. Since 2001, the existing civil register is compiled by the governmental Department of Information Technologies, and includes data on some 83% of the population (including a number of inhabitants of Transdnistria who have registered as Moldovan citizens). The voter lists are updated before each election by local authorities. In the last local elections, some 12.3% of voters who turned out were added to the supplementary voter lists, an increase over previous elections. This is a

clear indication that further efforts are necessary to improve the accuracy of the voter registers.

D. MEDIA

Broadcasting media, in particular television, are the most important sources of information in Moldova. Newspapers and other print media suffer from low circulation and distribution problems.

Until recently, public TV Moldova and Radio Moldova were the only broadcasters with Republic-wide coverage. In December 2004, private NIT television expanded its network to broadcast throughout the Republic. Pro TV Moldova and the First Channel in Moldova can be received in most parts of Moldova, while most other private TV and radio stations have only local or regional coverage. In addition, there are broadcasters funded from the budget of local authorities. Russian and Romanian broadcasters could also be received in Moldova.

Operations of broadcast media are overseen by the Audiovisual Coordinating Council (CCA), which *inter alia* has the authority to sanction broadcasters for violations of relevant legislation through the issuing of warnings, fines, as well as suspension and revocation of broadcasting licenses. For the upcoming elections, the CCA together with the CEC adopted a “Concept for the Reflection of the Election Campaign” which provides rules and guidelines for campaign coverage by the broadcast media. Following strong criticism of the first draft of the “Concept,” the CCA and the CEC amended it, taking into account recommendations made by civil society. However, several interlocutors told the NAM that the “Concept” is overly restrictive and at times vague, thus creating difficulties for journalists and broadcasters.

There are State-owned newspapers, *Moldova Suverana* and *Nezavisimaya Moldova*, as well as political parties’ and private daily and weekly newspapers, both in Moldovan and in Russian. Similar to private broadcasting media, many of the latter are only of local or regional significance.

The OSCE/ODIHR report on the 2001 parliamentary elections noted that the state-owned broadcasting media strictly followed the provisions of the election law, while private broadcasting media and the press often favoured individual parties or candidates. The OSCE/ODIHR Final Report for the 2003 local elections, however, noted “heavily biased state media providing distorted information to voters” as well as other media-related problems.

The Election Code provides contestants in the elections with a limited amount of airtime on public broadcasters, both free and paid. Private media may choose whether they provide free and paid access to contestants. Interlocutors told the NAM that two of the main private televisions, Pro TV Moldova and the First Channel in Moldova, decided to not provide free or paid airtime for participants in the parliamentary elections.

Some party and civic representatives expressed the view that the media situation has deteriorated since 2001 and raised concerns with regards to the freedom of expression and freedom of the media. They said public Teleradio Moldova was tightly controlled by the government and the ruling party and failed to provide balanced coverage, and claimed that private media were also subject to pressure from the authorities. Many interlocutors from political parties claimed that they had virtually no access to the public broadcasters and that their activities are routinely ignored.

In this situation, the extent to which the CEC and the CCA meet their obligations to enforce provisions of the law referring to balanced and impartial media coverage will have a significant impact on the credibility of the elections.

E. MINORITIES AND LANGUAGES

National minorities, mainly Ukrainians, Russians, Roma, Gagauz and Bulgarians, represent around 30 percent of Moldova's population, according to the 1989 census.² Although Moldovan election legislation does not contain specific provisions aimed at ensuring minority representation, national minorities are represented in the Parliament (through the mainstream parties) and in local Government. After the 2001 parliamentary elections the number of non-Moldovan deputies increased from 16% to over 30%.³

Although national minorities are represented in Moldovan political life, national legislation makes it difficult for them to organize politically. The Law on Political Parties stipulates that parties must prove that they have a total of at least 5,000 members, and have offices in no less than half of the administrative-territorial units of the country, with no less than 150 members in each *raion*. As most minorities are concentrated in certain regions, this provision effectively prevents them from establishing their own political parties.

In accordance with Moldovan legislation, ballot papers and official election-related information material will be printed in Moldovan and in Russian. In the 2003 local elections, approximately 30 percent of ballot papers were printed in Russian.

F. INTERNATIONAL AND DOMESTIC OBSERVERS

The Electoral Code provides for election observation by representatives of election contestants, non-partisan domestic observers, international organizations and NGOs and foreign Governments. Domestic observers are defined as "representatives of qualified public associations from the Republic of Moldova", which are "committed under [their] statute to promote human rights and democratic values" and are found by the election authorities to be "capable of exercising civic functions with respect to the election". Domestic observers are accredited by CEC and international observers by

² The proportion rises to 35% when the population of the Transnistrian region is also taken into account.

³ These figures are based of self-determination of MPs.

the Ministry of Foreign Affairs. The law does not provide specific deadlines for accreditation.

All interlocutors welcomed the possible deployment of an OSCE/ODIHR EOM for the parliamentary elections in March 2005. Other international observers are expected to be deployed by the OSCE Parliamentary Assembly and the Parliamentary Assembly of the Council of Europe. A number of Moldovan non-governmental organizations have formed a coalition to monitor various aspects of the election process, including election day. Members of the Coalition have deployed long-term observers and also intend to deploy around 2,000 observers on election day. Political parties are also planning to deploy observers to monitor voting and counting procedures.

IV. CONCLUSIONS AND RECOMMENDATIONS

The OSCE/ODIHR NAM recommends that an EOM be established, some six weeks before election day, to observe the forthcoming parliamentary elections in the Republic of Moldova. In addition to a core team of experts, the mission should also include 16 long-term observers, eight teams of two observers each, to be deployed throughout the Republic of Moldova in early February to follow the campaign and election preparations. In addition, the secondment by participating States of 150 short-term observers to follow election day procedures is considered necessary.

ANNEX

ODIHR Needs Assessment Mission List of Meetings

Thursday, 20 January 2005:

- 8:00 – 9:00 Briefing in OSCE Mission
- 9:30 – 10:15 **Mr. Mihailo**, Chairman of Audio-Visual Council
- 10:30 – 11:15 **Mr. Valerii Climenco**, Chairman of “Ravnopravie” Social-political movement
- 11:30 – 12:15 Government funded press:
Nezavisimaya Moldova
- 14:15 – 15:00 Local public broadcasters
Euro TV, **Mr. Arcadie Gherasim**
Antenna C, **Mr. Vasile State, Director**
- 15:30 – 17:00 NGO Coalition:
Viitorul, **Igor Muntean**, did not attend
Adept, **Igor Botan**
Helsinki Committee, **Mr. Stefan Urytu, Mrs. Dorin Chirtoaca**
LADOM, **Mr. Paul Strutescu**
Apel, **Mr. Ion Bunduchi**
IJC, - **Mrs. Corina Cepoi**
Media Impact, **Mrs. Natalia Melnicenco-Vrajmashu** – Program Coordinator
- 17:10 – 18:00 Meeting with National Public Broadcaster “Teleradio Moldova”
Mr. Ilie Telescu, President TRM
Mr. Sergiu Batog, Vice President TRM

Friday, 21 January 2005:

- 8:30 – 9:15 Christian Democratic Popular Party (PPCD)
Mr. Iurie Rosca, Mr. Nagacevski
- 9:30 – 10:30 **Mr. Petru Railean**, Chairman of Central Election Commission
Mr. Ivan Cucu, Deputy Chairman of CEC
Mr. Valentin Vizant, Secretary of CEC
- 10:45 – 11:30 **Mr. Mihai Camerzan**, Deputy Chairman of Parliament
attended also by **Mr. Victor Stepaniuc**, Chairman of Central Committee of PCRM and of PCRM fraction in Parliament
- 11:45 – 12:30 Meeting with NN, Ministry of Interior
- 12:45 – 14:30 **Ambassador Vladimir Philipov**, Special Representative of the Secretary General of the Council of Europe
- 15:00 – 15:45 Bloc “Moldova Democrata” (BMD)
Mr. Oleg Serebrian, Deputy Chairman, PSL Leader
- 16:00 – 16:30 **Mrs. Eugenia Kistruga**, Deputy Minister of Foreign Affairs

16:45 – 17:30 Social Democratic Party (PSDM)
Mr. Eduard Mushuc

17:30 – 18:15 Patria-Rodina
Andrei Andrievsky, Party of Socialists

Saturday, 22 January 2005:

09:30 – 10:00 Debriefing with **Ambassador William Hill**, Head of OSCE Mission to Moldova

10:00 – 11:00 Breakfast Briefing with OSCE Ambassadors, hosted by Ambassador Hill, OSCE Mission to Moldova

11:30 – 12:30 **Mr. Valentin Vizant**, Secretary of the CEC

Monday, 24 January 2005:

9:30 – 10:15 **Mr. Nikolay Ryabov**, Ambassador of the Russian Federation to Moldova

11:00 – 11:45 **Mrs Heather M. Hodges**, Ambassador of the USA to Moldova
Mr. John Winant, Deputy head of US Mission to Moldova, and
Mrs. leisha Woodward, Public Affairs Officer

13:00 – 13:45 **Mr. Molojen**, General Director of Department for Information Technologies (DIT)

14:00 – 14:45 **Mr. Bernard Whiteside**, Ambassador of the UK to Moldova, representing the EU on behalf of the Luxemburg EU Presidency