

PUBLIC APPEAL on limited transparency in the process of adoption and abusive content of the CEC Decision no. 1694 of 12 June 2018 on Amending and Supplementing the Regulation on the Status of Observers and the Procedure for their Accreditation

Chisinau, June 19, 2018

The Civic Coalition for Free and Fair Elections and the signatory organizations

- *express their disagreement with the imitation of decisional transparency in the process of approval by the Central Election Commission (CEC) of the amendments to the Regulation on the Status of Observers and the Procedure for their Accreditation,*
- *condemn CEC's defiant behavior towards interested parties, being a public authority specializing in electoral management,*
- *point out the fact that the CEC, having limited time to adjust the regulatory framework for the organization of parliamentary elections based a new election system, for inexplicable reasons, spends its time and resources promoting uninspired initiatives,*

- ***call on the CEC to urgently repeal the decision that includes abusive and limiting conditions in the monitoring of the election process to ensure transparency and legitimacy.***

We remind that on 27 April 2018, on the institution's website, the CEC published the draft decision "On Amending and Supplementing the Regulation on the Status of Observers and Procedure of their Accreditation", approved by the CEC decision no. 332 of 24 October 2006"[\[1\]](#). The deadline for submitting recommendations was 17 May 2018. The CEC did not provide any plausible explanation for the need to adopt these changes.

Under Law no.239-XVI of 13 November 2008 on transparency in the decision-making process and the Government Decision no. 967 of 9 August 2016 on the mechanism of public consultation with the civil society in the decision-making process, the Promo-LEX Association, as an interested party, on 10 May 2018, forwarded to the CEC its findings, conclusions and recommendations with regard to the draft decision submitted for public consultations[\[2\]](#).

By the objections raised, Promo-LEX disapproved on principle the introduction of mandatory requirements for the signature of the candidate nominated for accreditation, qualifying this initiative as unnecessary, designed to substantially complicate and bureaucratize the observer's accreditation and activity. To support this position, relevant legal and procedural arguments were presented, as well as references to international standards in the field.

Subsequently, in the afternoon of 11 June 2018, a summary of objections and proposals (recommendations) to the draft CEC Decision "On Amending and Supplementing the Regulation on the Status of Observers and the Procedure for their Accreditation", approved by the Decision of the Central Election Commission no. 332 of 24 October 2006"[\[3\]](#) was

published on the website of the CEC.

Judging by the document posted on the website, only the Promo-Lex Association submitted recommendations and objections. Apparently, the recommendations submitted were generally welcomed by the project's authors, but it was specified that "the list of persons, whose accreditation is requested, was excluded and a form was introduced", which raised reasonable suspicions in Promo-LEX. No copy of the form was attached to the reply and it is unclear what document is meant.

On 12 June 2018, within less than 24 hours from posting of the Summary, the CEC approved the amendments to the Regulation. With regard to the procedure of approval and its content, we emphasize:

- *none of the 16 proposed modifications and additions are to be found in the original version of the draft decision that is subject to consultations. All the changes are new; they have not been subject to public consultations. We, therefore, find that the approval of the Regulation with amendments that have a significant impact on the election process, conducted in absence of public consultations, is contrary to the provisions of Law no.239-XVI of 13 November 2008 on transparency of the decision-making process;*
- *an Application Form for the accreditation of national observers, which is even more abusive and bureaucratic than the one submitted to public consultations, was introduced as an Annex. Thus, the number of headings to be filled in by the candidate for accreditation has been doubled, requiring the candidate to fill in personally such information as: National Identification number (ID code), participation in previous elections, e-mail address, contact phone number, etc., including the mandatory signature identical to that in the identity card);*
- *it is an alarming attempt to limit the right to report*

of the observer, involved in the elections by introducing the obligation to ensure the confidentiality of personal data, to which the observer has access. Extensive interpretation of these rules may obstruct the election monitoring;

- *we are categorically against this unjustified interference of the election authority in the work of observation missions, achieved by creating artificial barriers;*
- *we qualify this interference of the CEC as an attempt to intimidate the observers, by arbitrarily requesting such contact information as telephone numbers, e-mail addresses, etc.;*
- *we believe that the CEC has conscientiously and provocatively adopted a policy of defiance of the interested parties, involved in election monitoring process.*

In the context of the above, as well as on the basis of the provisions of the Law on Transparency in the Decision Making Process and points 22 and 32 of the Regulation on Public Consultation with Civil Society in the Decision Making Process, ***the signatory organizations call for the urgent abrogation of CEC Decision no. 1694 of 12 June 2018 and urges the election authority to treat the observer's institution not as an enemy, but as a partner, perhaps an uncomfortable one, but the one that contributes to the fairness and legitimacy of election procedures.***

In spite of the insistent actions of the CEC, we still have the conviction that the respective authority, along with other public authorities, responsible for the organization of election processes, sincerely wants to ensure the conduct of free and fair elections in the Republic of Moldova. This will be impossible without free, fair and efficient monitoring of elections by observers.

The signatory organizations reserve the right to discourage,

by any legal means, the harmful initiatives of the supreme election authority to obstruct the monitoring of election processes and to ensure their transparency.

Signatory organizations:

Members of the Council of the Civic Coalition for Free and Fair Elections:

Promo-LEX Association

Association of Independent Press

Center Partnership for Development

National Youth Council of Moldova

CONTACT Centre

Center for Independent Journalism

Community Association "WatchDog.MD"

Institute for European Policies and Reforms (IPRE)

Union of organizations of people with disabilities from the Republic of Moldova

Institute for Development of Social Initiatives "Viitorul" (IDIS Viitorul)

Legal Resources Centre from Moldova

Transparency International Moldova

East-Europe Foundation

Centre for Policies and Reforms

Terra-1530

Foundation for Education and Development – Moldova

BIOS Association

Foundation for Education and Development – Moldova

Institute for Public Policy

Center for Development and Management

National Environmental Center

The Regional Environmental Centre

EcoContact

[\[1\]](#) The Central Election Commission presents for public consultations the draft decision "On Amending and Supplementing the Regulation on the Status of Observers and Procedure for their Accreditation", approved by the decision

of the Central Election Commission no. 332 of 24 October 2006". <http://cec.md/index.php?pag=news&id=1070&rid=21954&l=ro>

[2] The opinion of Promo-LEX on the content of the draft resolution "On Amending and Supplementing point 7 of the Regulation on the Status of Observers and the Procedure for their Accreditation", approved by the Decision of the Central Election Commission no. 332 of 24 October 2006". https://promolex.md/wp-content/uploads/2018/05/Opinie-Promo-LEX_Regulament_CEC_Observatori_10.05.2018.pdf

[3] Summary of Objections and Proposals (Recommendations) to the Draft decision of the Central Election Commission "On Amending and Supplementing the Regulation on the Status of Observers and the Procedure for their Accreditation", approved by the Decision of the Central Election Commission no. 332 of 24 October 2006 "

<http://cec.md/index.php?pag=news&id=1074&rid=22380&l=en>