

# **Statement on invalidation of the election of the mayor of Chisinau municipality**

**We, the Signatory Organizations, members of the Civic Coalition for Free and Fair Elections, and of the National Platform of Eastern Partnership Civil Society Forum, and other non-governmental organizations,**

**We are deeply concerned and alarmed by the judgments issued by the Chisinau City Court on June 19, 2018 and the Chisinau Court of Appeal on June 21, 2018, invalidating the local elections of the Chisinau mayor of May 20, 2018 (round I) and June 03, 2018 (round II).**

**We declare with all responsibility that we totally disagree with the reasoning and arguments used to void the vote of over 240,000 inhabitants of Chisinau, or about 40% of the municipality electorate.**

**We believe that the reasoning of the decisions of the Chisinau Court and the Court of Appeal is deficient, inconclusive and undermines citizens' confidence in the independence and professionalism of the judiciary.**

**We assume the right to resort to all legal means to defend the public interest and to advance our position set forth in this Statement.**

**Contrary to the judgments issued by the courts and in support of the above-mentioned desiderata, we present the following conclusions:**

- Applying a punishment not provided by legislation and the sanctioning of more than 240,000 voters who participated in the elections. We emphasize that the**

Electoral Code provides for three types of sanctions: legal (electoral), contraventional and criminal. For illegal campaigning in the Election Day the candidate/candidates are imposed a contravention fine of maximum 1500 MDL (about 75 euros). In fact, more than 240,000 voters who exercised their right to vote, none of whom contested the lawfulness of the elections, were punished by invalidating the elections; as well as all the Moldovan citizens who pay taxes to the state budget, as the local elections were funded from the state budget.

- **The deficient and unconvincing reasoning of the judgments issued.** The finding of the Court of Appeal that candidates' calls, addressed to the voters on the Election Day, influenced the results of the elections had to be analyzed by their impact. It could have had both negative and positive impact. To void the elections, the Chisinau Court had to prove that the influence was negative. But this cannot be proved, unless citizens or candidates challenge the election results or, if citizens protest. If the impact of the campaigning made by candidates in the Election Day led to increased participation in the second round, then the court had to demonstrate that higher voter turnout damages the electoral process, which is impossible to prove. The Chisinau Court identified an influence on elections results which was not qualified anyhow. This disqualifies the decision to invalidate elections.
- **Judgments with an unclear and destabilizing impact.** The abstruse decisions of the courts undermine the entire electoral process, which according to the legislation, must conclude with the election of Chisinau mayor. If the courts declared the elections void, they had to clearly and unequivocally identify the guilty ones and remove them from the electoral competition, calling repeated voting. This has not been done, and the impact of the judgments has prompted voters' protest.

- **No candidate challenged the results of the local elections in Chisinau** The defeated candidate requested the court to determine the violations similarly invoked in the [Constitutional Court decision of 13 December 2016](#) on the confirmation of the election results and the validation of the mandate of President of the Republic of Moldova. Additionally, election results have not been challenged by the electoral bodies neither by the observation missions.
- **The judiciary continues the practice of selective justice.** In the case of the candidate of the political party Şor competing in the local elections in Jora de Mijloc village, where allegations of violations were submitted both by candidates and observers, and could have led to the exclusion from the election race and therefore, to the cancelation of elections due to corruption of voters through aggressive campaigning, which exceeded the financial ceiling allowed by law, the elections were still validated. On the other hand, in the municipality of Chisinau, for a minor offense sanctioned by a fine of 1500 MDL (about 75 euros), which can be applied exclusively to the candidate responsible for the offense, and which is not included in the list of legal sanctions that may lead to exclusion from electoral race, the elections were called invalid, thus the winning candidate being, de facto, excluded from the race.
- **Delay and lack of transparency in the case examination.** The Chisinau Electoral Constituency Council had to pass on the minutes and the elections report to the Chisinau Court in 48 hours after the closure of the polling stations. The counting was finalized on 04.06.2018, 12:00, but the above mentioned materials were sent to court only on 11.06.2018. The Chisinau Court illegally and unjustifiably banned the free observation of the trial by reporters and journalists and, moreover, threatened them with sanctions. We

underline that journalists, in the electoral context, have the same rights as observers, and have access to all election materials and can assist at all election operations, validation of the mandate, being among the last election operations.

- **By issuing such judgements, there is, de facto, an unjustified suppression of the freedom of expression,** by prohibiting the public call for voters' mobilization to participate in the elections on Election Day.
- There are growing doubts that by invalidating the elections and given the imperfect legal framework (publicly confirmed by CEC officials), **there is the risk of a total suppression of the popular will in Chisinau.** Thus, there is a risk that repeated elections will not be organized and the country's capital will be headed by an acting mayor.
- **Negative consequences of the invalidation of elections.** The trenchant attitudes of the development partners resonate with the assessments on the failure of justice sector reform, once again confirmed by the unjustified decisions issued by the courts on invalidation of Chisinau mayor elections. The growing concern about what has happened due to the negative judicial practices can be extended to the upcoming parliamentary elections given the mixed electoral system.
- **Voters' protests against the court decisions.** Chisinau voters protest is aimed at raising awareness among citizens and development partners, aiming at mobilizing the local and international public opinion in order to restore democracy in the Republic of Moldova. In these circumstances, it is justified to ask the development partners to review the conditions for granting any kind of assistance to Moldovan authorities.

**In the context of the above, the signatory organizations ask the courts to come back to normal operation, to apply in good**

faith the legal provisions and repeal the judgments issued by the Chisinau Court (Center headquarters) on June 19, 2018 and the Chisinau Court of Appeal on June 21, 2018, which did not validate the local elections of Chisinau mayor on May 20, 2018 (round I) and June 03, 2018 (round II).

The signatory organizations reiterate their support for the rule of law and the supremacy of the popular will and call on all actors involved in the process to show political maturity and deep respect for the truly democratic traditions.

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[www.alegaliber.md](http://www.alegaliber.md) – **The Civic Coalition for Free and Fair Elections** is a permanent, voluntary entity, made up of 35 nongovernmental organizations from the Republic of Moldova, having the aim to contribute to the development of democracy in the Republic of Moldova, by promoting and conducting free and fair elections in accordance with the standards of the ODIHR (OSCE), the Council of Europe and specialized institutions affiliated to it.

**The National Platform of the Eastern Partnership Civil Society Forum** is an informal NGO network, created within the framework of the Eastern Partnership Civil Society Forum, set up in five working groups, specialized on different areas of expertise. At present, 85 civil society organizations of the Republic of Moldova are members of the National Platform.

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