

STATEMENT of Promo-Lex Association on the intentions to lift the ban on carrying out electoral agitation on election day and on the day preceding it

In the context of the legislative process initiated by the Parliament and the public debates concerning the appropriateness of lifting the "election silence" requirement, during which the recommendations set forth on this issue by the Association have been heavily used, we have decided to come up with the following clarifications.

We would like to remind you that on August 20, 2018, following the request submitted by the "Legal Committee for appointments and immunities", Promo-LEX has sent an Information Note detailing its arguments by which we expressed our disagreement with the invalidation of the General Mayor's mandate elected in the Chisinau municipality elections held on May 20, 2018. Since no entity participating in the election process has requested the annulment of the elections, we consider that the Judicial Courts have assigned themselves an improper role in the electoral process.

Promo-LEX has clearly stated that the judicial courts have no right to participate as political stakeholders, but only judge cases according to legal proceedings to the extent requested by the participants.

We wish to state that Promo-LEX, due to the technical nature of this document, has not made the *Information note* available to the general public. But, in order to prevent any such

hijacking and distortion of the messages sent by the Association, at the request of central public administration authorities or legal bodies, we reserve the right to disclose such documents as well as technical legal documents.

Moreover, we would like to point out that the proposal Promo-LEX had drawn up and endorsed concerning the lifting of the „election silence” requirement is the only one taken into consideration by the Legal Committee for appointments and immunities out of a total of 25 recommendations and 8 conclusions (that provide a synthesis of the situation) issued by the Association in the [Information note](#) on the need to improve the legal framework.

We continue to support the Promo-Lex recommendation concerning the lifting of the ban to carry out electoral agitation on election day and on the day preceding it, except in locations where the authorities can promptly intervene and sanction any such transgressions, i.e. in the polling station premises and in adjacent spaces. Additionally, we consider that this change will bear the desired results only if certain complex and systemic changes are operated to the legal framework.

Taken out of context and implemented separately, such amendments may not have the desired effect, but, on the contrary, may skew the essence of the democratic voting procedures.

The recommendation regarding lifting the ban on carrying out the electoral agitation on election day and on the day preceding it proposed by Promo-LEX has been included in its activity reports during previous monitoring of elections from of at least three considerations.

Firstly, based on the current legal framework, we cannot speak of a genuine electoral ban on electoral agitation. It is hypocritical to believe that the election day and the day preceding it as being free of any electoral agitation since the Parliament back in 2010 ruled that this ban does not refer

to the information already circulating on the internet and to electoral campaign posters disseminated prior to the election day.

Secondly, our experience as monitors in prior elections has demonstrated that there were many episodes of electoral agitation (reflected in Public Reports issued by the Association), which were, to a large degree, left unsanctioned by the authorities. Under these circumstances, one cannot speak of a fair process since certain electoral contenders observe the ban, while others, on the contrary, have taken advantage of such impunity.

Finally, in the context of a collision between the right to freedom of expression and the ban on carrying out electoral agitation, the democratic standards in the field of election allow for such a measure. Furthermore, a great number of European countries have adopted it.

Specifically, we would like to emphasize that electoral agitation, regardless of the time it is carried out, does not entail the permission to corrupt the voters. The allegation itself, which seems to have become firmly rooted in the local public debates, is a further indicator of multiple systemic problems concerning observance of the electoral legislation.

Promo-LEX, on each occasion, has stressed that the corruption of voters must be sanctioned at any stage of the electoral process, regardless of the fact whether it is permitted or not to conduct electoral agitation on election day and on the day preceding it.

Even though we respect the right to freedom of expression, we cannot but express our regret that the decision factors, mass media outlets and opinion multipliers repeatedly hijack and take out of context the findings expressed by the Promo-LEX Association in its publications.

Under these circumstances we consider that we are both

witnesses and victims of an apparently concerted effort to use in bad faith the findings, the name and image of the Promo-LEX Association. Moreover, we would like to highlight that the actions of political stakeholders, policy and decision makers, mass media outlets and opinion multipliers aimed at promoting certain legislative narrow-focused initiatives, which are taken out of context and disseminated with bad faith, may generate a series of adverse effects that are contrary to democratic norms. We express our full disagreement with the mass communication methods that we now witness, which Promo-LEX deems as manipulative.

In the light of the above Promo-LEX Association is reiterating:

- The need for the political decision makers to approach all recommendations set forth by non-government organizations in their field of expertise in an equidistant and professional manner;
- The need for MPs to treat all the recommendations proposed by Promo-LEX and detailed in the „[*Information note concerning request submitted by the Legal Committee for appointments and immunities, Parliament of the Republic of Moldova, no. 259 of August 20, 2018*](#)” in a systemic and fully engaged manner.
- The need to amend the legal framework on electoral agitation carried out on election day and on the day preceding it, to comply with the democratic standards and with other recommendations proposed by Promo-LEX. Also, urges the stakeholders to abolish the practice of taking singular initiatives out of context, which, in the absence of a complex and systemic approach, may cause adverse effects.