

APPEAL on lack of transparency in the adoption of amendments and completions to the Electoral Code referring to the election of the President of the Republic of Moldova

On 04th March 2016 the Constitutional Court adopted the Decision [\[1\]](#) which inter alia declared unconstitutional the Law No. 1227 of 21st September 2000 amending the Electoral Code with revival of the repealed provision of the Title IV "Presidential Elections in the Republic of Moldova".

On 18th March 2016 the Parliament approved a decision that constituted [\[2\]](#) a working group responsible for drafting a bill on amending and supplementing the Electoral Code in accordance with the decision of the Constitutional Court no. 7 of 4th March 2016, in order to ensure the exercise of the Moldovan people the right to elect the President by universal, equal, direct, secret and free suffrage.

On 7th April 2016, in the Parliament, the working group created on 18th March 2016 registered the project [\[3\]](#) No.144 on amending and supplementing the Electoral Code no. 1381 of 21st November 1997. Essentially the bill comes to restore the Title IV "Elections of the President of the Republic of Moldova" following the appropriate decision of the Constitutional Court and to adjust the rules restored to the current provisions of

the Electoral Code.

On 14th April 2016 the Parliament voted at First Reading the bill no.144 of 7th April 2016. At that time in the legislative debates it was decided to send the text for expertise to the Venice Commission. During the meeting [\[4\]](#) of the Venice Commission from 10th to 11th June 2016, is to be adopted an advisory opinion on the text of the bill no.144 voted in First Reading by the Parliament.

The signatory organizations note that during drafting and adopting in First Reading of the said bill no debates or public consultations were organized. Similarly, the signatory organizations warn that public authorities, namely the Parliament, has the obligation to consult citizens, associations in the field, other interested parties on drafting legislative, administrative acts, which can have social impact on their livelihoods and human rights. From the point of view of the signatories, restoring the right of citizens to choose directly their President is vitiated by lack of transparency in the adoption of legislation by which this law will be achieved in practice.

Moreover, the signatory organizations note that the text of the bill no.144 is imperfect and will be supplemented by provisions clarifying and regulating the following topics:

- Sources, financial thresholds and financing mechanism of the initiative groups for collection of signatures;
- Legal prohibitions but also the responsibility of the candidate or the initiative group in case of admission of violations from legal or financial procedures;
- Reporting mechanism of the initiative groups' activity, including the segment of accumulation of financial resources and the way of spending them.
- Responsibility of political parties in case of admission of financial misconduct by initiative groups created by

them;

- Clarifying the role and the place of the initiative group to collect signatures and its members in the electoral process;
- Submission by or against the initiative group of appeals for actions or inactions taken.

The lack of regulations may clearly vitiate the process of electing the President and may constitute grounds for numerous political accusations between different actors and/or candidates. Worse, the lack of clear regulations may favour non-transparent funding of the campaign for collecting signatures and/or to use the campaign for collecting signatures as a disguised part of electoral campaigning.

In this context, signatory organizations ask the Leadership of Parliament and/or the working group that drafted the bill to hold a public discussion/debate of the project where the authors opinion, position and notification of the Venice Commission would be presented and where the position of civil society organizations, non-parliamentary political parties on the mentioned bill would be heard and listen. Moreover, the signatory organizations announce their willingness to facilitate the public debate of the mentioned bill by offering neutral space and logistical support needed to organize a public event in this regard.

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6. Center for Independent Journalis
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8. Foundation for Development
9. BPW Moldova
10. "Terra-1530"
11. CPD
12. Coalition for Free and Fair Elections
13. Association Bios
14. Resource Centre DIALOG-Pro
15. EcoContact
16. "Acces-info"
17. ARD "Habitat"
18. ADEPT
19. CRJM
20. Transparency Moldova
21. REC Moldova
22. Union of Disabled People Organizations in Moldova
23. Ecological Movement of Moldova
24. Small Business Association (AMB)

[1]

<http://www.constcourt.md/ccdocview.php?tip=hotariri&docid=558&l=ro>

[2]

<http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3131/language/ro-R0/Default.aspx>

[3]

<http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3166/language/ro-R0/Default.aspx>

[4]

[http://www.venice.coe.int/webforms/documents/?pdf=CDL-PL-0J\(2016\)002ann-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-PL-0J(2016)002ann-e)