

OPINION of Promo-LEX Association on how the second round of elections should be conducted if the Central Electoral Commission's application for de-registration of the electoral contender Marina Tauber from the local elections in Bălți municipality is admitted



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Promo-LEX Association has constantly advocated for free and fair elections in compliance with the law, including

transparent funding of political parties and electoral campaigns. In this regard, we are monitoring attentively the Central Electoral Commission's application for de-registration of the electoral contender Marina Tauber from the local elections in Bălți Municipality.

Promo-LEX expresses its hope that courts will review this case attentively and in details, so that the fundamental electoral rights of all participants in the election are observed, including the right of citizens to be informed when they cast their votes.

We hence ***recommend that stakeholders (electoral contender, electoral bodies and courts) do not delay the submission of complaints or the review and settlement of electoral litigations, as appropriate, in order to comply with Article 73 of the Electoral Code, which states that complaints and litigations shall be settled no later than the election day.***

After reviewing the application on de-registration of electoral contender Marina Tauber, Bălți Court (and courts of appeal, if needed) shall state if undeclared funds and materials were used and if the expenditures made exceeded the ceiling set for the electoral fund.

Without prejudice to this litigation review and to the rights of the parties involved to defend their position, we draw the attention to some aspects related to the organisation of the second round of elections, if the court rules to re-register candidate Marina Tauber for the position of Mayor of Bălți municipality.

In this context, and considering the findings of Promo-LEX observation mission for the previous local elections ([GLE 2015](#), [NLE 2017](#), [GLE 2019](#)), ***we remind about the incomplete provisions of the Electoral Code on the organisation of the second round of elections.*** In particular, we refer to the uncertainty about the way of organising the second round of

local elections in cases when one of the two candidates withdraws or is de-registered by the court. We hence ***draw the attention to the fact that the electoral law does not provide any possibility to replace the withdrawn candidate.***

Only the CEC [Regulation](#) on Drawing Lots (point 26), dated 2018, stipulates that if a candidate withdraws before the election day, the remaining candidate and the candidate who accumulated the next highest score in the first round of elections shall compete in the second round. At the same time, point 2) of Decision No 170 of 23 November 2021 states that „If one of the two candidates withdraws from the electoral race no later than 7 days before the election day, the election shall be held between the remaining candidate and the candidate who accumulated the next highest score in the first round. We thus remind that the rule on the possibility to replace the withdrawn candidate was addressed non-uniformly in the past CEC decisions[\[1\]](#).

We hence believe that the above CEC Decision is not applicable to the current case (de-registration of the electoral contender), because there are fewer than 7 days remaining before the election day. At the same time, the rules included in the Regulation of 2018 and Decision No 170/2021 refer to withdrawal of an electoral contender rather than his/her de-registration. We underline that withdrawal from the electoral race is different than de-registration of an electoral contender, in particular considering that the electoral law does not provide for such norms.

In this regard, according to Article 145(2) of the Electoral Code, the second-round election shall be conducted between the two candidates who gathered the greatest number of votes in the first round. These two candidates shall be written in electoral ballots in descending order of scores accumulated in the first round. However, the printing of ballot papers for Bălți municipality started on 1 December 2021. Respectively, ***if a candidate in an election withdraws his/her candidacy***

after ballot papers have already been printed, according to Article 51(7) of the Electoral Code, the precinct electoral bureau shall stamp 'withdrawn' next to his/her name, on the ballot. Accordingly, the Legislator provided only this solution for cases when an electoral contender de-registers.

As a conclusion, we reiterate the need to clarify the Electoral Code provisions on the organisation of the second round of elections. At the same time, if an electoral contender is de-registered, according to the current provisions of the Electoral Code:

- **the second round of elections shall be organised according to Article 51(7), stamp 'withdrawn' shall be applied next to the name of the de-registered candidate;**
- **the candidate ranking the third according to the results of the first round of elections may not replace the de-registered candidate.**

[\[1\]](#) In the second round of the new local elections in Hirova village (16.05.2017) and Chişinău municipality (23.05.2018), the CEC decisions did not allow to replace the withdrawn candidate, while in the second round of the local elections in Sîngera town, Chişinău municipality, Berlinţi township Briceni district (Decision of 22.11.2017), Chetriş township, Făleşti district and Corlăteni village, Rîşcani district (Decision of 04.11.2020) provided such a mechanism.