

# First findings of the Promo-LEX Observation Mission for General Local Elections from 5 November 2023



Promo-LEX Association launched on Tuesday, 5 September, the work of the 25th Election Observation Mission (OM) and presented the first Monitoring Report of general local elections from 5 November 2023.

The Promo-LEX OM consists of the core team and 40 long-term observers (LTOs) who will observe the electoral process throughout the electoral period. On Election Day, OM will observe the elections by covering 100% of the polling stations in Balti and Chisinau municipalities (in both rounds of voting, where applicable) with one short-term (static) observer per polling station. Other approx. 200 static observers and 140 observers in mobile teams (70 teams of 2 persons each) will be deployed to polling stations in the rest

of the country, selected based on a representative sample. Promo-LEX will also monitor hate speech and discrimination through 7 observers.

The Promo-LEX OM will present five interim election observation reports and a Final Report. On Election Day (first and second rounds) parallel vote counting will be conducted for Chisinau and Balti municipalities.

The first Monitoring Report of the local elections from 5 November 2023 includes the results of the observation from 1 January 2023, the date of entry into force of the new Electoral Code and covers the pre-election and election period until the start of the nomination of candidates for elective office for level II constituencies – 6 September 2023.

### **First elections organised and conducted under new legal provisions**

In Promo-LEX's opinion, most of the amendments to the Electoral Code are beneficial and aim to address the problems reflected in the monitoring reports of national and international observers, in the addresses of the Constitutional Court, but also in the opinions of the Venice Commission. [In the general local elections on 5 November 2023, many rules will be applied for the first time.](#)

The amendment of the Electoral Code, after the election date has been set, in the context of the implementation of the Constitutional Court ruling on the unconstitutionality of a political party, *may create uncertainties regarding the use of the right to be elected and may affect the foreseeability and predictability of the nomination procedures that will already start on 6 September 2023, given that the Venice Commission is due to present its opinion on these amendments in October, when the registration procedure for candidates will already be completed.*

Other amendments made to the Electoral Code after the election

date has been set include giving electoral bodies the power to make findings of voter corruption. Subsequently, such findings may serve as grounds for the cancellation of registration of an electoral subject. We consider that a criminal act such as voter corruption must be established in a criminal trial, not in an administrative trial. In addition, there may even be concerns about the applicability of these rules.

### **Nomination of candidates before the legal deadline**

According to the electoral calendar, the procedure for nominating candidates for elective office is to start on 6 September 2023 for candidates for elective office in LPA level II, and 26 September 2023 – for LPA level I.

Contrary to this calendar, Promo-LEX OM identified, only for the municipality of Chisinau, at least 11 political parties (PPP0, PDCM, PACE, PAS, LOC, CUB, PPPDA, PL, PSDE, PSRM and CC) that have publicly declared their representatives who will run for mayor. At the same time, two other party leaders announced their intention to run for mayor of the municipality of Chisinau – Ion Ceban (MAN) and Vasile Costiuc (PPDA). For the office of mayor of Balti municipality, the intention of Nicolae Grigorişin (PS) to run for mayor of Balti was noted. And for a number of LPAs of level I, at least 6 parties (PAS, PACE, PDCM, PPR, CC and PSDE) have publicly announced their nominees for mayor.

*Promo-LEX OM finds that the procedure for nominating candidates, in the format provided by the Electoral Code, seems to be reduced to a mere formality, and the de facto nomination of candidates before the legal deadline, as well as their electoral political promotion before the start of the electoral campaign, may affect the principle of equal chances of electoral competitors, as well as contribute to a certain extent to circumventing the legal provisions on campaign financing.*

## **Election-themed promotional activities before the official start of the campaign**

According to the calendar program approved by the CEC, the election campaign for all electoral competitors is set to begin 30 days before the voting day, which is on 6 October 2023. Starting from this date, electoral competitors will have the right to conduct electoral campaigning.

Promo-LEX OM has witnessed, prior to the submission of the report, election-themed promotional activities of potential candidates in the case of 4 parties (PAS, PSRM, PSDE, PPPDA). The most used types of activities were: installation of nominal street tents, distribution of nominal flyers and newspapers and promotion on social networks.

It should be noted that in the case of PAS, following a complaint by a political party, CEC, by Decision No. 1126 of 14 July, issued PAS with a warning and drew attention to the need to comply with electoral legislation.

*We reiterate that, in the opinion of Promo-LEX, the political election-themed promotion of candidates before the start of the electoral campaign negatively influences the principle of equal opportunities of electoral competitors, contributing to the circumvention of legal provisions on electoral campaign financing.*

## **Misuse of administrative resources**

In the run-up to the electoral period, Promo-LEX identified several instances of the misuse of administrative resources, involving expenditures from the public budget with the aim of gaining political advantage. These cases involved two public authorities of level II: the City Hall of Chisinau Municipality and the City Hall of Balti Municipality. In both cases, unplanned informational materials with a clear electoral bias were prepared, which could be considered as activity reports of local public authorities (LPA). This

contradicts the Law on Publicity, which stipulates that messages of public interest cannot contain information regarding managerial achievements and/or objectives accomplished by entities in the public sector.

We note that on August 24, 2023, as a result of qualifying the informational materials distributed by the City Hall of Balti as a misuse of administrative resources, CEC prohibited the public authority from disseminating these materials.

Another situation, assessed by Promo-LEX as the use of administrative resources, concerns PSRM, where the distribution of newspapers promoting the candidate for the position of mayor of Chisinau, Adrian Albu, was observed. In the content of the newspaper, PSRM took credit for numerous activities implemented at the level of the Chisinau Municipal Council using public funds (repairs of roads, parks/squares, kindergartens, schools, healthcare assistance programs, etc.).

*We note that the new Electoral Code provides a more comprehensive definition of the notion of administrative resources, and it prohibits and sanctions their use by candidates during electoral periods. Observing that the misuse of administrative resources is admitted by actors concerned not only during electoral campaigns but also outside of them, including for political promotion, Promo-LEX previously recommended regulating the prohibition and sanctioning of the use of administrative resources both during and outside of electoral periods.*

### **Stricter financing of electoral campaigns**

Promo-LEX OM will closely monitor the implementation of the new electoral campaign financing rules, as well as the financial reporting requirements of electoral competitors. Traditionally, we will estimate the expenses incurred by electoral contestants during the electoral campaign for their promotional activities. These expenses will be compared to the

ones declared to CEC in their reports on campaign financing. This will enable us to assess the level of transparency and fairness in electoral campaign financing.

The strengthening of CEC's role in overseeing and controlling the financing of electoral campaigns and the activities of initiative groups in the new electoral legislation represents a substantial qualitative leap. Promo-LEX has consistently recommended strengthening the role of CEC and adopting a proactive approach in monitoring the finances of electoral competitors and political parties. However, significant challenges in this regard include the lack of sufficient human resources within CEC's specialized Directorate to implement the new legal provisions and the risk of excessive politicization of this issue in the public sphere once the financial transparency requirements for political parties and electoral competitors are rigorously implemented.

### **Filing and examination of notifications**

At the time of drafting the report, CEC has approved 4 decisions on notifications submitted in the electoral context. These concern 12 notifications from: 6 police inspectorates (1 decision) and 5 political parties (3 decisions). The subjects concerned were: Political Party „Renaştere” (PR) (6 notifications), PAS (3 appeals), the Mayor of Chisinau municipality (1 a notification) and City Hall of Balti municipality (1 notification). All the notifications pertained to the dissemination and distribution of advertising materials. In the case of PR, the materials were without identifying elements, and in the case of the Mayor of Chisinau, the Balti City Hall and PAS – materials „for the purpose / with elements” of electoral campaigning.

During the same monitoring period, the „Incoming documents” section of the CEC website identified 6 notifications and one Supplement to a notification. It is worth noting that the actual notification to which the Supplement was submitted was

not found in the list of incoming documents. All the notifications were filed by the political party National Alternative Movement (MAN), targeting PAS, alleging that „the party’s candidates would benefit from an illegal period of dissemination of electoral campaigning”. According to CEC website, at the time of drafting the Report, the authority sent 2 responses explaining its position on 2 notifications (including the one with the supplement). In this context, for better information of actors concerned Promo-LEX recommended the Central Electoral Commission to ensure the publication on its website of all notification and complaints registered in the chancellery.

The full report is available [here](#).

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\*If there are any discrepancies between the text in Romanian language and its translation into another language, [the Romanian version of the report will prevail](#).