

Promo-LEX Observation Mission notes worrying trends that may affect organisation and conduct of electoral process and results of local elections



Promo-LEX Association presented on Thursday, 5 October, the second Report of the Observation Mission (OM) for general local elections from 5 November 2023, in which it notes worrying trends that may affect both the organisation and conduct of electoral process and results of elections. The observation period for events covered in the report runs generally from 5 September to 3 October 2023, but also includes changes to the legal framework adopted as a matter of urgency on 4 October.

New legislative restrictions on the right to be elected – a

dangerous precedent

Promo-LEX OM notes with concern several problematic issues regarding the establishment of the latest restrictions on the right to be elected by the provision of the Commission for Exceptional Situations (CES) and the amendment of the Electoral Code by the Parliament.

Not being expressly empowered with the right to intervene in restricting the right to be elected and invoking alleged risks, CES issued Provision No. 86, by which, by way of derogation from provisions of the Electoral Code, it decided that certain categories of persons, whose actions led to declaration of unconstitutionality of the political party or were targeted in the Constitutional Court's judgement, would not be able to participate in the general local elections from 5 November 2023.

Similar restrictions were declared unconstitutional by the Constitutional Court, and the reasons for the declaration of unconstitutionality also apply to the restrictions set by CES. Thus, some of the criteria set out in CES provision do not appear to be objective, and are rather general and insensitive to particular circumstances. At the same time, with reference to the established mechanism by which the law enforcement bodies draw up and send to the Central Electoral Commission (CEC) a list of persons in respect of whom certain suspicions exist, it is not clear who will verify/control and ensure that no abuses or errors are admitted in this process.

At the same time, the quality of the mechanism established for individual assessment of a person's involvement in the political party's activity comes along with the reversal of the burden of proving the person's dissociation from the political party's actions before declaring it unconstitutional. Promo-LEX OM considers that this mechanism could be rather cumbersome for electoral bodies.

Given that CES largely comprises members of the Government (usually from political parties), a dangerous precedent has been set for the Executive to become involved in the organisation and conduct of the elections and to influence the results of the elections and question their legitimacy.

Amending the electoral legislation by the Parliament as a matter of urgency with the inclusion of restrictions on the right to be elected similar to those established by CES provision was done in violation of principle of stability of electoral legislation and with the omission of legislative stages (endorsement, expertise, public consultation), before the start of the electoral campaign – which can ensure neither the quality of the legislative act, nor an effective implementation and uniform applicability, neither a transparent and competitive organization and conduct of elections.

Promo-LEX OM has urged on every occasion for ensuring wide consultation on the amendments to the Electoral Code, reaching consensus on the amendments with other political actors, seeking the opinion of the Venice Commission on them and expeditiously approving the amendments without neglecting or rushing the legislative procedures.

Increase in the number of cases of misuse of administrative resources

During the observation period, Promo-LEX OM found 15 cases of misuse of administrative resources, including 2 cases of use of state institutions to promote electoral initiatives (Government of the Republic of Moldova and Mayor of Condrita village, Chisinau mun.). According to Promo-LEX OM, these cases have the biggest impact on the electorate, as they involve the adoption of normative acts in various areas.

Just 12 days before the start of the electoral campaign, on 25 September, Prime Minister Dorin Recean announced the

Government's "Spor pentru Moldova" (Bonus for Moldova) package, which provides for salary increases and financial bonuses for various categories of budget employees. Immediately after the package was announced, the ruling PAS party began promoting it via sponsored social media.

Just four days before the start of the campaign, on October 2, and one day before registering as a candidate for mayor of Chisinau mun., nominated by MPSN, the Mayor of Condrita village, mun. Chisinau, Andrei Donica, adopted a provision ordering the compensation of the tariffs paid by consumers for natural gas, with retroactive effect from 7 June.

The other 13 cases of misuse of administrative resources refer to electoral candidates taking credit for public works/services (repair of roads, parks/schools, kindergartens and schools, street lighting, health care programs, reduction of public transport prices, etc.) carried out with public money (1 case – PS, 5 – PSRM, 7 – PȘ).

First activities of potential voter corruption

The promotion by the "Șansă" (Chance) Party (PȘ) of the "Satul Moldovenesc" (Moldovan Village) and "Orașul Moldovenesc" (Moldovan town) projects, launched by Ilan Șor, president of the former "Șor" Party, declared unconstitutional, can be considered as a case of potential voter corruption. On 21.09.2023, at an official event, PȘ announced its support for these projects, involving infrastructure investments for localities, from obscure sources, while Ilan Șor is on the sanctions list and his properties are seized. During the monitored period, at least 4 cases were observed (in Taraclia, Cahul, Andrușul de Jos and Baurci-Moldoveni, Cahul district) where persons declaring themselves to be from "Ilan Șor's team" were collecting signatures for the 2 projects.

Investigating cases of illegal financing of political parties

During the observation period, the National Anti-Corruption

Centre, the Anti-Corruption Prosecutor's Office and the Security and Intelligence Service carried out several criminal prosecutions, including searches, targeting the involvement of Ilan Şor, president of the unconstitutional party, in the illegal financing of political parties.

Criminal procedural measures were applied to at least three candidates for local elections (Mihail Bagas, Alexandr Nesterovschi and Irina Lozovan).

Without commenting on the indispensability and reasonableness of the prosecution measures carried out and applied during this period, Promo-LEX OM considers that both the lifting of parliamentary immunity and the application of custodial measures on political figures during the electoral period are likely to influence the voter's opinion in favour or against an electoral competitor/political party. At the same time, the detention of candidates during the electoral campaign deprives them of the right to engage in electoral campaigning.

Increased pre-campaign activism by political parties

Between 6 September and 3 October 2023, at least 190 election-themed activities were observed, which can be qualified as promotion of electoral candidates and competitors. The most widespread activities were distribution of materials with election-themed information (promotion of the nominated candidate, candidates' vision of local development, main issues, party's merits in local development, etc.). These accounted for 58% of all reported activities. This was followed by sponsored promotional activities on the competitors' internet network, which accounted for 28% of all promotional activities. The most reported activities were for PSRM (35%), followed by PAS (20%) and MAN (7%).

In addition, 11 activities carried out for the purpose of officially nominating candidates for election were reported. Some of them created some confusion even among candidates. For

example, in the case of PSRM, the candidate nomination event on 19 September 2023 was presented as a launch event for the electoral campaign which, in fact, will only start on 6 October 2023.

Promo-LEX OM notes that the expenditures related to organising and carrying out these activities will not be reported as expenditures incurred during the electoral period (campaign expenditures). These will be reported as financial expenditures of the political party.

Designation and registration of competitors

Based on the interim results of candidates' registration at ECEC level II, Promo-LEX OM finds that the elections are competitive. During the observed period, ECEC Chisinau registered 13 candidates for the office of mayor and ECEC Balti – 6 candidates. The mentioned councils also registered 20 electoral competitors for the office of councillor. No independent candidate has been registered yet for mayor's office in these two constituencies, and only one has been registered for the councillor's office.

In the remaining 32 level II (district) electoral constituencies, 197 competitors were registered for district office, of which only 23 were independent candidates (12%). Independent candidates were registered in less than half of level II constituencies. At least 21 political parties registered their lists for district office. According to the monitors' observations, in the case of registration dossiers for candidates for councillor for level II constituencies, the minimum representation quota for both genders was respected when registering candidates.

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

The report was prepared with the financial support of the United States Agency for International Development (USAID) under the Democratic Transparency and Accountability Programme

and of the European Union under the project „Strengthening the electoral legislative framework and assessing its implementation during the 2023 general local elections“.

*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.