

Findings and recommendations of Promo-LEX Mission regarding the 2023 general local elections



General local elections of 5 (19) November 2023 have proved that the electoral legislation, applied for the first time, still needs improvement, and that changes to the legal framework during the electoral period have a negative impact on the fairness, transparency, predictability, and integrity of the electoral process. Lessons learned from the local election were discussed during a round table organized by Promo-LEX, attended by representatives of electoral bodies, other relevant institutions, political parties, judicial bodies, and civil society organizations.

When bringing forward the main findings and recommendations of the Observation Mission (OM), Promo-LEX analysts emphasized that elections took place in a challenging political,

internal, and external context, shaped by several phenomena (military aggression against Ukraine and Russia's hybrid war in Moldova; the unprecedented declaration of unconstitutionality of a political party in Moldova, political "migration" of mayors, etc.) which influenced the conduct of the election.

Overall, Promo-LEX evaluated the administration and conduct of election by electoral bodies as positive. CEC has been able to handle its duties, even though they were more complex given the new electoral legislation. However, the institution also faced challenges such as insufficient human resources; delayed adjustment of the legal framework to the provisions of the Electoral Code; certification procedure for new electoral officials; processing and timely publication of reports on campaign financing, as well as appeals and complaints filed by electoral actors. The heavy workload assigned to lower electoral bodies, especially ECEC I, which at times seems to have exceeded their capacities, has created difficulties in managing the electoral process.

Changing the rules of the game mid-game

Conducting the election during a state of emergency and through amendments to the Electoral Code made during the electoral period, including as a result of declaring a political party unconstitutional due to opaque and illegal financing, has sparked a cascade of uncertainties that demand to be addressed in the context of future elections.

Although the party declared unconstitutional was dissolved, its leaders continued to be involved in the electoral campaign through other parties resurrected on the eve of the elections or independent candidates. Approving changes to the existing legal framework, including by involving, contrary to the principle of legal certainty, the Commission for Exceptional Situations in restricting the right to be elected and in cancelling the registration of candidates, had a negative

impact on the fairness of the electoral process and on the rights to elect and be elected. Such circumstances have created uncertainties for voters, electoral bodies, and electoral competitors, and transparency and predictability of the electoral process have been affected.

We recall that according to the Code of Good Practice in Electoral Matters, the stability of electoral legislation is one of the fundamental conditions of a democratic state based on the rule of law, and an important element of the credibility of the electoral process. Promo-LEX recommends that the Parliament refrain from approving amendments to electoral legislation during the electoral period or if there are objective circumstances warranting amendment, the law should be enforced in the next elections. We also emphasize that for an electoral process to be fair, where all electoral competitors enjoy equal opportunities, same rights to elect and be elected, the Exceptional Situations Commission must not intervene.

Promo-LEX found other legal issues that are not sufficiently regulated in the new electoral legislation and need to be solved. These refer, among others, to uncertainties regarding implementation of the restriction on the right to be elected for persons deprived of the right to hold managerial positions, the support of electoral competitors by subjects other than those who appointed them, the requirements for cancelling the registration of some electoral competitors and the image transfer from a political party that was declared unconstitutional to a political party registered in the electoral race, the control of the constitutionality of provisions in electoral matters, the late resolution of electoral disputes by removing the exception of unconstitutionality.

Illegal financing and misuse of administrative resources

According to Promo-LEX, among the most serious violations in

the campaign remain the misuse of administrative resources and illegal financing. Although the electoral and related legislation has been tightened, there is no significant decrease in the number of such cases compared to the last general local elections.

According to Promo-LEX Observation Mission, 185 cases of administrative resource utilization were reported, particularly involving the engagement of individuals with public positions in campaign activities (61), organisation of electoral meetings within public institutions, with the employees of those institutions, during their working hours (56), and candidates attributing credit for public works/services carried out using public funds (41).

Promo-LEX observers have also identified at least eight cases that can be qualified as electoral gifting. In addition, security and law enforcement bodies state that there was also one case of systemic electoral corruption of both candidates and voters, which led to the cancellation of registration of candidates nominated by SP in all electoral constituencies.

More transparent reporting of campaign financing

The new electoral legislation strengthened the role of CEC in the supervision and control of the financing of electoral campaigns. In addition, even though the new Electoral Code seems to facilitate the process of opening the “Electoral Fund” account, just like in the case of the previous elections, several political parties have informed about the commercial banks’ refusal to open this account.

The late approval of the relevant regulatory framework appears to have created difficulties for competitors in filling in and submitting reports. However, Promo-LEX OM has found a relatively high degree of submission of financial reports by competitors at CEC. In addition, submission of reports by independent candidates to ECEC remains incomplete, though more

transparent than in the previous local elections.

Out of 36 political formations that nominated candidates, 32 political formations submitted at least one campaign finance report, and 27 submitted weekly financial reports/corresponding information, including the final report. Even though in the first stages CEC was unable to publish the reports within legal terms, the process has improved along the way. The main financing sources, according to the reports, are income accumulated from individuals (donations) – 51% and own funds held on the accounts of political parties (34%).

As a result of the civic monitoring, Promo-LEX OM estimated unreported expenses for at least 4,743,455 lei. The most unreported expenses were estimated for PS (38%), followed by PSRM (16%) and PR (12%). Unreported expenses made up for 13% of the total reported expenses. Their share has decreased compared to the previous three national elections (the share of unreported expenses from the total reported ones for the parliamentary elections in 2021 was 32%; for the presidential elections in 2020 – 39%, and for the local elections in 2019 – 31%).

Although the campaign financing seems to have been more transparent, we still consider it to be low and requiring further attention. We recommend again adding provisions to the Electoral Code to regulate political and electoral financing by “third parties” more effectively.

Less hate speech than in the parliamentary and presidential elections.

The level of hate speech usage in the 2023 local general elections (102 cases) was much lower compared to the parliamentary elections in 2021 (299 cases) and the presidential elections in 2020 (448 cases); however, it remained at the same level as in the previous local elections in 2019 (101 cases). The main sources of spreading hate speech

remained social media (54 cases) and the mass media (34 cases).

Next, hate speech was mainly used by men (89 cases), aged between 35-50 years (72 cases). The criteria that most often formed the basis of hate speech were “political affiliation” (69 cases), “sex/gender” (37 cases), “health” (27 cases), “professional activity” (11 cases) and “sexual orientation/gender identity” (11 cases). Of the total number of hate speech authors, 53% were electoral competitors and politicians. LGBTQI people continue to be the target of the most aggressive forms of hate speech. Marital status, gender roles, physical appearance, etc. formed the basis of sexist speeches directed against women in particular.

Promo-LEX notes a positive dynamic regarding the public authorities’ reaction to hate speech in the context of the 2023 general local elections. The number of registered complaints and documentation of alleged cases of hate speech is increasing compared to the last four years.

All the findings and recommendations of the Promo-LEX Observation Mission for 2023 general local elections are included in the FINAL REPORT, which can be accessed [here](#).

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