

# #101. Does the Parliament Work for You? Parliament's Activity in 2022 Autumn Session in the Light of Civic Monitoring



The autumn session of the Parliament started on September 15 and ended on December 29 , 2022. Nineteen plenary sessions, including 17 ordinary and 2 solemn and diplomatic ones took place in this period [\[1\]](#). The Promo-LEX Association monitored every plenary meeting of the Parliament's 2022 autumn session and provides an overview of the legislature's activity in this period.

Initially, 193 issues were included on the agenda of the

plenary meetings, later, however, changes being accepted in the proportion of 53%. In the opinion of Promo-LEX, such a share of changes of subjects on the agenda affects the transparency and the predictability of the decision-making process. The largest number of requests for changes in the agenda came from the Permanent Bureau (57) and the parliamentary commissions (35). The greater share of changes in the agenda was recorded in the meetings of 06.10.2022; 20.10.22 and 17.11.2022.

Transparency of the drafts examined by the Parliament in the 2022 autumn session was affected in the proportion of 69%. Transparency of the parliamentary meetings held in December was mostly affected. At the same time, Promo-LEX appreciates the fact that mainly in this session the legislature began to publish the information with regard to the priority or emergency mode for the examination of normative acts.

In the 2022 autumn session, the Parliament voted on 111 draft laws in the first reading, of which two – were rejected; 98 in the second reading (1 was rejected); and 5 draft laws were voted on in final reading, in addition to 22 decisions and 2 motions (1-simple and 1- of censure). It should be mentioned that 29 draft laws were voted in the same meeting in 2 readings. Most of the draft laws subjected to voting concerned such domains as economic, financial, fiscal, social protection, labor and healthcare.

Draft laws that were most frequently subjected to vote were registered by the Government (43%) and those by the parliamentary majority (41%). Only 3% of draft laws subjected to vote were developed by MPs from the BCS fraction. In this regard, we highlight the fact that according to the Parliament Regulations, in addition to the draft laws submitted by the Government and the President, every 6th meeting from the beginning of plenary session, priority is given to draft laws submitted by the parliamentarian opposition. However, few draft laws were submitted by the opposition in this

parliamentarian session. At the same time, we always positively appreciate each time the projects that had as authors both deputies from the parliamentary majority and those from the opposition, they usually meet a consensus vote of the majority and the opposition (3%).

Regarding the length of the plenary meetings in relation to the number of draft laws examined, it was not possible to trace a correlation between these values. For example, in the meeting of 12.12.2022, only 5 draft laws were examined, however the session lasted more than 7.5 hours. This can be explained by the complexity of the draft laws debated and voted on, in particular, certain budgeting laws. Conversely, in the meeting of 29.12.2022, 21 draft laws were examined and approved, the meeting lasting about 6.5 hours [\[2\]](#).

Another finding revealed by the monitoring is that the number of MPs registered as present at the plenary meetings is different from the number of MPs participating in the voting process. In none of the monitored meetings, the maximum number of MPs who voted for a draft normative act was equal to that of the number of MPs registered as present. This tendency was noticed by Promo -LEX monitors starting with the first monitoring exercises. Thus, the number of MPs participating in voting ranged between 62% and 96% of the 85 MPs registered as present at the beginning of the session.

MPs absenteeism has become a trend in this autumn plenary sessions, in particular, when it came to the fraction of the SOR Political Party (PPŞ). All MPs of this fractions missed all the plenary meetings, declaring a general boycott to all of the sessions and less having objections to the drafts of the normative acts examined. Similarly, MPs of the Bloc of the Communists and Socialists (BCS) did not participate in five plenary sessions, as a sign of protest (29%).

The Promo-LEX Association does not deny MPs' right to manifest their disagreement with the drafts of normative acts voted on,

by non-participation in plenary meetings. However, we consider that participation in the debate of the draft normative acts, in particular, of MPs from the opposition, increases the transparency of the decision-making process through genuine debates and may contribute to the quality of laws.

In 2023, Promo – LEX will continue monitoring the plenary sessions and will inform society about the activity of the legislature. At the same time, it will observe the cooperation of the Parliament with the civil society and the implementation of the recommendations formulated in The Report on Monitoring of the 1<sup>st</sup> Year of Activity of 11<sup>th</sup> Legislature.

*In the period of 2021–2025, the activity of the Parliament of the Republic of Moldova is subject to an exhaustive monitoring within the Promo -LEX Program “Democracy, Transparency and Responsibility” carried out with the financial support of the United States Agency for International Development (USAID). The purpose of monitoring is to increase the transparency of the institution, to contribute to the improvement of legislative procedures and to consolidate the interaction between MPs and citizens.*

[\[1\]](#) The two sessions were not taken into the consideration in the cumulative analysis of statistical data.

[\[2\]](#) In this case, the parliamentary opposition boycotted the meeting (both the PPŞ and BCS), the draft laws being examined and voted on quickly.

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# Promo-LEX findings: most of the decision-making processes in the Parliament's activity are not transparent



During the first year of activity of the 11<sup>th</sup> legislature, the Promo-LEX Association has monitored Parliament's compliance with the legislative procedure, the activity of standing committees, the exercise of the parliamentary monitoring function, communication with citizens and parties concerned, as well as budgetary and administrative management. Analysts' findings and recommendations, as well as MPs' opinions on them, have been addressed, today, in the public discussion "The Activity of the 11<sup>th</sup> Legislature through the Prism of Civic Monitoring".

The event was attended by MPs, analysts, representatives of public authorities, donors and civil society.

The executive director of Promo -LEX, Ion Manole, mentioned that in 2021, the Association set the goal to expand its efforts in monitoring the activity of the Parliament, thus helping it to become more open and closer to citizens. "At the same time, as exponents of civil society, we want to consolidate the decision-making processes, to determine MPs and the legislature to ensure proactive transparency in their activity, to use and publish data in an open format, to communicate as efficiently as possible with citizens, as well as to inform the society about their and the institution's activity", mentioned Ion Manole.

Based on the first year of monitoring, Promo-LEX has developed an annual report, providing a series of findings on the Parliament's activity, as well as recommendations addressed to both the legislative institution and MPs.

Thus, the conclusions on the degree of ***compliance with the legislation on decision-making transparency*** have been formulated based on the analysis of 621 draft normative acts introduced in the legislative procedure. The analysts found that the decision-making transparency was largely disrespected, and at certain stages, it was even seriously affected by legislature's failure to publish certain documents, by a low rate of public consultations on draft laws, by a high degree of ignoring certain recommendations or even by the lack of certain documents.

As for ***the activity of the three parliamentary commissions subject to monitoring***, the Association found a low level of citizens' information about their activity, in particular, in organizing hearings and reacting to petitions.

Questions and interpellations, ***as instruments of parliamentary control***, seem to be frequently confused by MPs. This mechanism of parliamentary control is most often used by the opposition, which asked 37 out of 38 registered questions. At the same time, we emphasize the fact that the Parliament's

website does not provide information to the general public about the use of these tools.

**Parliament's communication with citizens and the parties concerned** is another monitored area. The findings relate to hearings and meetings with citizens, petitions and requests for access to information, quality of the official web page, as well as presence on social networks.

The monitors found that there are no clearly established mechanisms for informing citizens about the scheduled audiences and MPs' visits to the territories; there is no record of the audiences and visits made. As for request for access to information, Promo-LEX has described its own experience, when out of 19 requests, about half of the responses came exceeding the legal deadline, and 20% were too general or incomplete.

In the opinion of Promo-LEX, the official webpage of the Parliament has a complicated and obsolete architecture, which does not cover information of public interest, it is not intuitive and friendly for users with disabilities, it does not contain open data sets. Many headings are empty or the information there is outdated. At the same time, the parliamentary institution is active on social networks, although the information is not updated on all accounts. In their turn, MPs do not sufficiently capitalize on the opportunities offered by social media platforms to inform citizens of the actions carried out.

Another area subject to monitoring is **budgetary and administrative management**. The monitors analyzed information of public interest related to the *approval and* execution of the Parliament's budget, as well as other important aspects such as remuneration of MPs, expenses for business trips, transparency of public procurement. We found a reduced degree of transparency and information of citizens with regard to monthly financial remuneration of each MP. In this context,

Promo-LEX expressed its disagreement with the legislature's refusal to present the information claiming personal data protection.

In conclusion, the document presents 68 recommendations on improving the legislative processes and procedures for all monitored areas. The recommendations are addressed to the Parliament, the Standing Committee, the Permanent Parliamentary Commissions, the Secretariat of the Parliament and the MPs.

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# **PUBLIC APEAL: The Promo -LEX Association requests the Parliament to adjust the draft of the new Election Code in compliance with the recommendations of the Venice Commission and OSCE/ODIHR**

Given the examination of the draft of the new Election Code that is to be voted in the second reading, the Promo -LEX Association urges the Parliament of the Republic of Moldova to consider the recommendations outlined in the joint [Opinion](#) of the Venice Commission and OSCE/ODIHR.

It should be noted that many of the recommendations previously submitted to the authorities by the Promo-LEX Association are also [found](#) in the Opinion of the Venice Commission and the OSCE/ODIHR.

Thus, we reiterate some important aspects of the Opinion, which should consolidate the Parliament's efforts to improve the draft of the new Election Code. Therefore, the new Election Code should:

- explain the term “objective reasons” that can determine the organization of elections in two days;
- improve the mechanism that regulates the establishment of the CEC, ensuring the institution's impartiality and political neutrality;
- revise the conditions for selection and appointment, as well as dismissal of CEC members, expressly mentioning these conditions in the law;

- provide details on the procedures for the selection and appointment of CECE II presidents, as well as the period of their office, which will guarantee an activity that is free from any political influence;
- expressly regulate the electoral processes in ATU Gagauzia;
- ensure equal opportunities to participate in elections, by making mandatory the collection of supporters' signatures by both independent candidates and political parties, taking into account their representativeness;
- revise the eligibility conditions of candidates for the position of the president of the country and mayor, so that they comply with international standards;
- revise the provision regarding the obligation of the president of the country and the mayors to compensate the expenses of organizing the elections in case of their resignation at the beginning of the mandate;
- identify a mechanism to verify compliance with the donation ceilings in relation to the donors' annual revenues, especially in the case of donors from abroad;
- review the exclusive responsibility of the appellants (voters and electoral competitors) to substantiate their claims;
- maintain the authority of the courts to confirm/deny the legality of local elections, etc.

In addition to the aspects mentioned above, we request the Parliament to examine [other recommendations](#) previously presented by **the** Promo-LEX Association in public consultations.

Finally, in solidarity with the Opinion expressed by the Venice Commission and OSCE/ODIHR, we recommend that all political forces represented in the Parliament come to a consensus and display constructive commitment in the adoption of the new Election Code.

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# Promo-LEX Association: Efforts to improve the draft of the new Electoral Code must be continued in the second reading

The plenary session of the Parliament has debated and voted today on the draft of the new Electoral Code in the first reading. The Promo-LEX Association welcomes the commitment of authorities to improve the electoral and related legislative framework in accordance with international good practices, but it states that there is still room for improvement of the new Electoral Code.

In this regard, Promo-LEX sent for the examination of the Legislature about [70 recommendations](#). The first round of public hearings was organized on July 26 by the Legal Committee for Appointments and Immunities.

Promo-LEX drew the Legislature's attention to [such aspects](#) as:

- the need to clarify situations, in which elections could be organized in two days;
- the regulation by the Electoral Code of elections held for the authorities of the ATU of Gagauzia;
- revising the right to confirm or deny the legality of local elections granted to constituency electoral councils;
- improving the mechanism for appointing members of the Central Election Commission (CEC) so as to ensure independence of the institution from political factor;

- the need to consolidate the role of observers;
- detailing the provisions on oversight and control of political parties' finances and financing of electoral campaigns;
- setting up polling stations for voters from the Transnistrian region and for those from abroad, etc.

Additionally, Promo-LEX made specific recommendations on improvement of judicial procedures, organization of referendums and parliamentary elections by reducing the electoral threshold, on improvement of local elections by organizing elections on a predetermined day.

It should be noted that, during 2021-2022, the Promo-LEX Association supported the activity of the CEC in drafting the new Electoral Code. 419 recommendations were collected and analyzed during the stage of public consultations organized on the CEC's platform, of which 278 (66%) were presented by Promo-LEX, and about 55% of them were partially or fully accepted. The recommendations have been developed based on the experience gained in 23 national election observation missions organized in the more than 13 years of activity in the field.

The Promo-LEX Association is open to further contribution to the improvement of electoral legislation and advocates its adoption in a transparent and inclusive manner. At the same time, it emphasizes the importance of reaching a broad consensus in the Parliament and society with regard to the fundamental changes in the new Electoral Code.

*The activity of the Promo-LEX Association, aimed at improving the Electoral Code and related legislation, takes place as part of the "Advocacy for a new Electoral Code in Moldova" project, implemented with the financial support of the European Union and the International Organization of La Francophonie, as well as the "Democracy, Transparency and Accountability" Program funded by the United States Agency for International Development (USAID).*

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# Second Round of New Local Elections in Bălți Municipality – Worst Turnout Ever



*The Promo-LEX Observation Mission hereby presents the key*

*findings of the second round of new local elections in Bălți, held on 19 December 2021. Four mobile teams consisting of two observers each, which monitored all the 60 polling stations (PSs), reported on the opening of polling stations, voting throughout the day and closing of polling stations.*

In the second-round local elections, the candidate who gains the greatest number of votes shall be considered elected (Article 145(3) of the Electoral Code), regardless of the number of voters who took part in the election. Note, however, that only 9.98% of voters (10218) cast their votes, which seems to be the worst voter turnout in the entire electoral history of Moldova.

According to Promo-LEX observers, the monitored polling stations opened and closed as required by the rules. The vote counting was overall quick and uneventful. However, in one of the eight monitored PSs (PS 045), one observer – who, according to the PEB Chairperson, was a representative of the Centre for Legal Investigation and Human Rights Defence – engaged in the counting process, which demanded police attention to calm people down. In addition, as reported by the Promo-LEX observer, COVID-19 infection prevention measures were not observed in PS 045 during the voting and vote counting. Another case (PS 051) concerned PEB members not filling in the documentation in the right order i.e. they failed to first fill in the special vote counting form, and only afterwards – the statement of votes, having done it the other way around.

The parallel vote tabulation performed by the Promo-LEX OM confirmed the preliminary results announced by the Central Electoral Commission (CEC). Of the total 60 statements of votes collected, 8 were picked up directly from the monitored electoral bureaus (PEBs), the remaining 52 having been taken from the district electoral councils (DECs) as they were being submitted by the PEB Chairpersons. There was a large number of ballot papers declared invalid – 1786 (i.e. 17.53%).

No	Settlement	Candidates	Preliminary results from CEC	Preliminary results from Promo-LEX
1.	Bălți Mun.	Grigorișin Nicolai (independent candidate)	7148 (84.77%)	7148 (84.77%)
2.		Chirilciuc Nicolae ('Patrioții Moldovei' Party)	1284 (15.23%)	1284 (15.23%)

As a conclusion, we reiterate the need to clarify the Electoral Code provisions on the organisation of the second round of elections. We remind, as background information, that the second round of local elections held on 19 December 2021 in Bălți Municipality, was initially scheduled for 5 December 2021, but was suspended by the Central Electoral Commission. Such a decision was made as an electoral contender was deregistered because of violating the provisions of the law on campaign financing.

*This press release was developed as part of the Observation Mission for the New Local Elections carried out by the Promo-LEX Association with the financial support of the United States Agency for International Development (USAID) through the Democracy, Transparency and Responsibility Program. The opinions set out in the public reports and press releases of Promo-LEX OM are those of the authors and do not necessarily reflect the view of funders or partners.*

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# Findings and recommendations of Promo-LEX as a result of monitoring public procurements related to Police Development Strategy



*Promo-LEX Association carried out the monitoring and evaluation of public procurements made by the Ministry of Internal Affairs and General Police Inspectorate during 2016-2020 in the context of implementing the Police Development Strategy. The aim of the Evaluation Mission is to provide an objective image of the legality, transparency, efficiency and efficacy of the procurement of goods, services and works reported to the Strategy objectives. The experts developed a [Report](#) based on the key findings, which was published on 13 December 2021.*

According to the provisions of the agreement signed in December 2016 between the Government and the European Commission, Republic of Moldova was to benefit from EUR 57 million as support for Police reform. Note that during the monitored period the amount of budget allocations from the component of support for Police reform amounted to MDL 593.1 million. The funds were managed by four institutions: General Police Inspectorate (GPI), Ministry of Internal Affairs (MIA), Integrated Training Center for Law Enforcement (ITCLE) and 'Stefan cel Mare' Academy of MIA.

A total number of 300 contracts were financed from the budget support and the average value of one contract amounted to MDL 2 million. In general, the funds were used in three key

directions:

- construction and renovation of police stations, pre-trial detention facilities and buildings of GPI subdivisions (33% of about MDL 194 million);
- procurement of TETRA infrastructure and equipment (29% or about MDL 175 million);
- ensuring the Police with vehicles and their revamping (27% of about MDL 161 million).

As regards the distribution between institutions, the biggest allocations from the budget support, about 86.5%, were allocated to GPI (including its subdivisions), followed by MIA (10%), 'Stefan cel Mare' Academy (3.3%) and ITCLE (about 0.3%).

The implementation of the Police Development Strategy resulted in a significant increase in the volume of procurements made by the Police. Promo-LEX found that insufficient institutional capacities generated challenges in terms of staff and time for GPI and MIA in initiating and conducting those procurements. Thus, there were identified various problems related to the procurements, such as: failure to observe the principle of proportionality in formulating the qualification and selection requirements; discrepancies in developing the specifications for goods, works and services; admission of conflicts of interest; as well as inefficient approach to divide the procurement of goods into lots. At the same time, there wasn't a single and efficient approach to establishing deadlines for contract implementation. The transparency aspects were ignored at different stages of the procurement process.

In order to strengthen the public procurement management, Promo-LEX experts formulated a series of recommendations, included in the final section of the report.

The report for the monitoring and evaluation of public procurements is available [HERE](#).

*The procurements related to the Police Development Strategy were evaluated under the 'Civic monitoring of Police Reform in the Republic of Moldova', implemented by Promo-LEX Association between 14 December 2018 and 13 December 2021, with the financial support of the European Union and co-financed by the East-Europe Foundation from resources provided by Sweden.*

*The opinions presented in the public reports of Promo-LEX belong to authors and do not necessarily reflect the donors' view. If there are any discrepancies between the text in Romanian language and its translation in another language, the provisions in the Romanian version prevail.*

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# **Final findings of Promo-LEX Association on the Implementation of Police Reform**



Promo-LEX Association organised, on 9 December 2021, a round table discussion to present the Final Report on the Civic Monitoring of Police Development Strategy. The event took place in the context of completing 'Civic Monitoring of Police Reform' Project, implemented between 14 December 2018 and 13 December 2021.

The report presents the main achievements and drawbacks identified by monitoring the implementation of the 2016-2020 Police Development Strategy and of the 2017-2020 Policy Matrix for Budget Support Implementation. The document summarizes the findings and recommendations formulated in the five semestrial/annual reports produced earlier.

According to Promo-LEX experts, most of the assumed commitments were fulfilled at the beginning and at the end of Strategy implementation period. Regarding the extent to which the 5 objectives were achieved, out of the 84 activities planned, 27 were achieved (32%), 31 – achieved partially (37%), and other 15 are outstanding (18%). At the same time,

*the performance indicators for 11 activities (13%) were formulated too generally, and hence it was not possible to measure the extent to which they were achieved.*

For more information about achievements and drawbacks in reform implementation, please see the infographic below.



The factors that affected the implementation of Police Development Strategy include: the Government changed three times, respectively there were three Ministers of Internal Affairs and four heads/interim heads of the General Police Inspectorate; staff turnover, moratorium over the vacancies at GPI and MIA, and the COVID-19 pandemic during the last year of reform implementation.

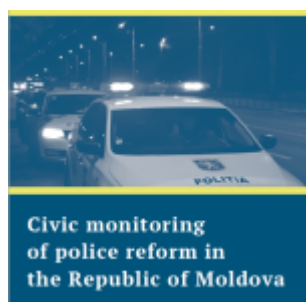
However, according to the Financial Agreement of 'Support for Police Reform' Program, concluded between the European Commission and Government of the Republic of Moldova, people's trust in the police was established as an indicator to measure the impact of the reform. Thus, during the Strategy implementation period a trend of increasing people's trust in

the Police was noticed, from 25.8% in April 2016 to 40.9% in October 2020 (according to [Public Opinion Barometer](#)). However, this indicator is fluctuating and, in June 2021, the trust in Police dropped to 30.9%.

To ensure sustainability of the obtained results, and in order to remove the system-related problems we encourage MIA, GPI and other relevant public authorities to ensure continuity of police development efforts by developing and implementing new strategy papers. In this regard, Promo-LEX experts formulated a series of recommendations, included in the final section of the report.

The VIDEO recording of the Report presentation event can be accessed [HERE](#).

For the Final Report on Civic Monitoring of Police Reform please click [HERE](#).



*The Report was developed by Promo-LEX Association as part of "Civic monitoring of Police Reform in the Republic of Moldova". The Project is supported financially by the European Union and co-funded by the US Embassy to Chisinau and East Europe Foundation from resources allocated by Sweden.*

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# Findings of the Promo-LEX Observation Mission on the Second Round of New Local Elections of November 21 (December 5) 2021



Promo-LEX Observation Mission (OM) presents its main findings with regard to the opening and closing of polling stations (PS), voting during the Election Day and incidents reported by observers in the second round of the new local elections held on November 21 (December 5) 2021. At the same time, we inform the audience about the results of the quick count of voting

results, carried out by Promo-LEX OM in 12 polling stations in 5 settlements, where elections for the position of mayor were held[\[1\]](#). A static short-term observer (STO) worked in each section.

We remind the reader that, according to the CEC Decision no. 170 of November 23, 2020, the second round of elections was to be held on December 5, in 6 settlements, including Balti municipality. However, on the morning of the Election Day, the CEC decided to suspend the holding of the second round of elections in Balti constituency due to the cancelation of the registration of an electoral contestant. Promo-LEX OM expressed its disagreement with the actions of the CEC, noting that the electoral law does not provide for the procedure of suspending the conduct of the second round of voting on the grounds indicated in the decision of the CEC[\[2\]](#).

The Promo-LEX Association considers that the second round of elections was to be organized under the conditions of art. 51. para. 7 of the Electoral Code, under which the PEB should have applied on the ballot paper the stamp with the mention "*withdrawn*" next to the candidate whose registration was canceled. Promo-LEX observers of the four mobile teams that were to observe the local elections in Balti confirmed that 60 polling stations did not open on the day of the second round of elections.

According to the observers, in the other five settlements, the voting was organized efficiently and was carried out smoothly. All 12 monitored PSs were regularly opened and closed, and the voting procedures were conducted in compliance with COVID-19 safeguards.

During the Election Day, the Promo-LEX OM identified four incidents, all in Cupcini electoral constituency. Two of them refer to a short-term power outage, which caused insignificant malfunctions in the operation of "Elections" State Automated Information System (PS 16/9, 10 Edinet, Cupcini). One incident

is related to problems identified in the voters' lists (PS 16/9 Edinet, Cupcini), and another – to the short-term acceptance of an observer (BECS), who did not present an ID card. All these incidents were promptly settled.

The closure of the observed PSs took place regularly. The counting of votes by the electoral bodies was generally quick and calm.

Traditionally, in these elections, the Promo-LEX MO carried out a parallel vote counting. All 12 protocols were obtained directly from the PEBs (Precinct Electoral Bureaus). The findings of Promo-LEX OM confirm the preliminary results announced by the Central Electoral Commission.

In the case of one protocol, the formula  $i = c + j$  could not be correctly applied. Thus, either the unused and canceled ballots or the signatures from the electoral lists were incorrectly counted.

N.	Settlement	Elected mayor	Preliminary results of the CEC	Preliminary results of Promo-LEX	Difference
1.	Village of Opaci, Causeni district	Pinteac Roman	544 (57,02%)	544 (57,02%)	–
2.	Commune of Hartop, Cimislia district	Caraja Vitalie	399 (60,27%)	399 (60,27%)	–
3.	Town of Cupcini, Edinet district	Magu Ludmila	1162 (51,57%)	1162 (51,58%)	+0,01%
4.	Village of Balceana, Hancesti district	Temciuc Aurelia	302 (57,30%)	302 (57,31%)	+0,01%
5.	Commune of Cneazevca, Leova district	Tomsa Larisa	216 (53,33%)	216 (53,33%)	–

Promo-LEX repeatedly draws the reader's attention to the uncertain situation with regard to the finality of the electoral process in Balti constituency.

*The press release has been drafted within the Observation*

*Mission of the Local Elections of November 21 (December 5) 2021, conducted by the Promo-LEX Association with the financial support of the United States Agency for International Development (USAID) through the “Democracy, Transparency and Accountability” Program.*

*The views expressed in the public reports and press releases of Promo-LEX are those of the authors and do not necessarily reflect the views of the funders or partners. The contents of this document are subject to editorial revision.*

*If there are discrepancies between the text in Romanian and its translation into another language, the variant of the text in Romanian shall prevail.*

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[\[1\]](#) Village of Opaci (Causeni district), commune of Hartop commune (Cimişlia district), town of Cupcini (Edinet district), village of Balceana (Hancesti district), commune of Cneazevca (Leova district).

[\[2\]](#) [OPINION](#) of the Promo-LEX Observation Mission in the new local elections with regard to the suspension of the second round of elections on December 5, 2021 in Balti municipal constituency.

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# OPINION of Promo-LEX Observation Mission for the New Local Elections on suspending the second round of elections on 5 December 2021 in Bălți Constituency

**Promo - LEX**

*Advancing democracy and human rights*

## OPINION

of Promo-LEX Observation Mission for the New Local Elections on  
suspending the second round of elections on 5 December 2021  
in Bălți Constituency

***Promo-LEX Observation Mission for the New Local Elections expresses its bewilderment and disagreement with Central Electoral Commission's decision to 'suspend' the second round of the new local elections for the position of mayor in Bălți Constituency.***

Promo-LEX has constantly advocated for free and fair elections in compliance with the law. Unfortunately, the incomplete legal framework, in tandem with abuses committed by some electoral contenders in funding their electoral campaign

undermined the rights of voters and of the other electoral contenders to free and fair elections.

In this context, the Mission draws the attention ***that the electoral law does not provide for suspension of the second round of elections on grounds stated in CEC decision.*** Moreover, according to Article 26(1)(o) of the Electoral Code, CEC has the positive obligation to ‘ensure the conduct of the second round of elections (...)’.

The Mission finds that, though the legislator regulated the situation when a competitor could be sanctioned by removal from the electoral race, it did not provide any possibility for suspending or annulling the elections on grounds of removal of a contender from the second round of the election. Note that ***only courts may check and establish the lawfulness of elections, confirm election results or declare the election null, as appropriate.***

At the same time, ***CEC interpretation of the ‘impossibility to conduct the second round of the local elections for the position of Mayor with one single candidate’*** (Article 145(2) of the Electoral Code), ***does not correlate with the previous practice.*** Local elections have been held previously with one single candidate, and their outcomes were confirmed by the court and by the Central Electoral Commission, respectively<sup>[1]</sup>.

Therefore, Promo-LEX Association maintains its position presented in the Opinion<sup>[2]</sup> of 3 December 2021, stating that ***the second round of elections shall be organised according to Article 51(7)***, and stamp ‘withdrawn’ shall be applied next to the name of the de-registered candidate.

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<sup>[1]</sup> For instance, the elections for the position of Mayor of Hirova village, Călărași district of 14.05.2017, and the elections for the position of Mayor of Lăpușna township, Hîncești district, November-December 2017.

[2] [Opinion](#) of Promo-LEX 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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**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**



## 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

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 complains 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.**

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[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.