

# VENICE COMMISSION - REPUBLIC OF MOLDOVA JOINT OPINION ON THE DRAFT LAWS ON AMENDING AND COMPLETING CERTAIN LEGISLATIVE ACTS



DDX6049/17/0166, 15 June 2017

Venice Commission Opinion No. 884/2017  
OSCE Opinion No. - EL-46/01/08/2017

CEL-AD017/1712  
or: 8/9

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW  
(VENICE COMMISSION)  
OSCE OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS  
(OSCE/ODIHR)

REPUBLIC OF MOLDOVA  
JOINT OPINION

ON THE (DRAFT LAWS ON AMENDING  
AND COMPLETING CERTAIN LEGISLATIVE ACTS

(ELECTORAL SYSTEM FOR THE ELECTION OF THE PARLIAMENT)

Adopted by the Council for Democratic Elections  
at its 28th meeting (Venice, 15 June 2017)

and

by the Venice Commission  
at its 111<sup>th</sup> Plenary Session  
(Venice, 15-17 June 2017)

on the basis of comments by

Mr Richard SARRETT (Member, Ireland)  
Mr Erik HOLMØYR (Substitute member, Norway)  
Mr Oliver KASK (Member, Estonia)  
Ms Tatyana HELSCHER BOGUSHEVICH (OSCE/ODIHR Expert)

Partnership for Good Governance



---

**International experts: Minor adjustments to the current electoral system can correct its main disadvantages, and a**

# major reform of the electoral system may have profound impact on political life and democratic consolidation in Moldova



Today, 23 May 2017, the International Conference 'Options and Considerations for Reforming the Electoral System of the Republic of Moldova. Comparisons from International Experience', organized by Promo-

LEX Association, with the participation of experts from the United Kingdom, Lithuania, Georgia, Ukraine, Belarus, Armenia, Norway and Romania, took place at Chisinau. The event aimed to contribute to debate the opportunity to change the Moldovan electoral system by comparing the impact of different electoral systems applied in different social, political, cultural, other contexts.

The 'Electoral System Design in Moldova' study, developed by the international experts Mette Bakken, Norway, and Adrian Sorescu, Romania, (see the presentation [here](#)) was presented during the conference. The authors of the study tried to answer the main question that dominates the public life at Chisinau over the past three months: *'To what extent the electoral system change might be a solution to the people's dissatisfaction or it could bring any improvements in*

*political class and, if it could, what electoral system would bring the most advantages and the least disadvantages?’*

In this context, the study analysed the pros and cons of each electoral system: the majority system in one round and the mixed-parallel system (drafts under discussion in the Parliament), and also the system of proportional representation in regional constituencies and the mixed member proportional system (with compensation). For more details about these electoral systems, including the simulation of 2014 parliamentary election results on the basis of these systems, please see pages 56-66 of the Study.

**Experts Mette Bakken and Adrian Sorescu concluded in this study that despite that the electoral system in place has proven to carry both advantages and disadvantages, major changes to its design may have profound impact on political life and democratic consolidation. In Moldova, it is not clear what would be the result from passing from an electoral system to another one. To this end, the experts formulated the following recommendations:**

- **Adopt an open list proportional system** whereby parties propose a priority list of candidates but where voters can make real impact on the rank-ordering and hence influence who accesses the Parliament.
- **Multi-member districts ought to be established.** The establishment of districts should take into account the existing administrative structures.
- **The legal threshold** for political parties should be **reduced – to 3-4%** – for single parties. In line with traditions in Moldova, incremental threshold may be used for electoral blocks.
- **The legal threshold for independent candidates should be removed.** A natural threshold – resulting from other mathematical properties (electoral formula, district magnitude) of the electoral system – should apply.
- Provided that an open list proportional system at

regional level is adopted, the opportunity of introducing a two-tier system ought to be explored to guarantee the proportionality of the results at the national level.

- **Electoral system reform efforts**, including adjustments to the existing PR system in use, **must pay attention to how changes might interact with the recently introduced 40 percent quota rule.**
- Provided that **Moldova changes the system** by which representatives are elected to parliament, the **issue of minority representation** ought to be carefully monitored.
- Provided that **electoral reform entails the division of the country into electoral districts**, one solution for Moldova is to establish separate electoral districts for citizens abroad.
- Provided that **electoral reform entails the division of the country into electoral districts** and the Transnistrian region remains under the effective control of local authorities, **policy makers ought to explore the possibility of the Moldovan Parliament working with vacant mandates.**

The whole '**Electoral System Design in Moldova**' study, developed by the international experts Mette Bakken, Norway, and Adrian Sorescu, Romania, can be downloaded at [promolex.md](http://promolex.md).

To see all the presentations of the international experts and the discussions from the International Conference '**Options and Considerations for Reforming the Electoral System of the Republic of Moldova. Comparisons from International Experience**', follow the event record on privesc.eu platform: <http://bit.ly/2q7oXQ1>.

[PDF](#)

---

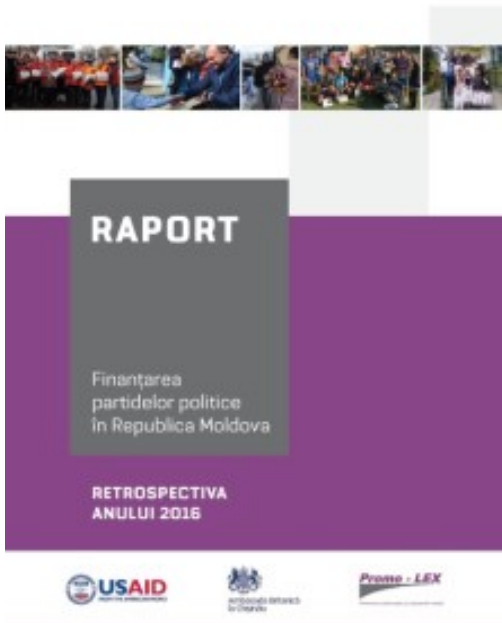
# Study – Electoral system design in Moldova



---

# REPORT Political party fi

# ancing in the Republic of Moldova 2016 Retrospective



# **PUBLIC APPEAL OF THE SIGNATORY ORGANISATIONS on the need to establish a Working Group responsible for developing proposals on changing the Electoral Code and related legislation**

**Date:** 2 February 2017

**Addressed to:** the President of the Parliament of the Republic of Moldova; the Presidents of the Parliamentary Factions; the deputies of the Parliament of the Republic of Moldova

**Subject:** the need to establish a Working Group responsible for developing proposals for changing the Electoral Code and the related legislation

**Contact person:** Pavel Postica, Program Director, the Promo-LEX Association, telephone: 069165154, E-mail: [postica\\_pavel@yahoo.com](mailto:postica_pavel@yahoo.com)

*Mr. Andrian Candu*

**President of the Parliament of the Republic of Moldova**

*Mrs. Zinaida Greceanii*

**President of the Faction of the Socialist Party of the Republic of Moldova**

*Mr. Marian Lupu*

**President of the Faction of the Democratic Party of Moldova**

*Mr. Mihai Ghimpu*

**President of the Faction of the Liberal Party**

***Mr. Tudor Deliu***  
**President of the Faction of the Liberal Democratic Party of  
Moldova**

***Mrs. Inna Supac***  
**President of the Faction of the Communist Party of Moldova**

**The Deputies of the Parliament of the Republic of Moldova**

The Presidential Election in the Republic of Moldova demonstrated—through events that occurred both during the electoral period and on the day of the election—the need to revise the legal framework to make the electoral process more efficient and democratic, a conclusion reached by both the Promo-LEX Association’s Election Observation Mission and by the International Observation Mission.

The Promo-LEX Association, during its Election Observation Missions (EOMs) for the presidential election in 2016, the local elections in 2015 and the parliamentary election in 2014, has monitored electoral processes and presented interim reports, which contained observations on: the legal framework, the activity of electoral bodies, the involvement of public administrations, the behavior of electoral candidates, the use of administrative resources and situations that could be qualified as vote buying, the organized transport of voters, problems with voter lists and the exercise of the right to vote abroad, flaws in [the financing of electoral campaigns and political parties](#), violent and denigrating discourse and the involvement of religious organizations in the election campaign, etc. The principle findings and recommendations were summarized and explained in the [Final Report of the Promo-LEX EOM](#), publicly presented on 26 January 2017 at the Round Table “X-Ray and Assessment of the Direct Presidential Election in the Republic of Moldova on 30 October 2016. Post-Election Conclusions.” The Promo-LEX EOM provided a total of 40 recommendations addressed to the Parliament of the Republic of Moldova on modifying the Electoral Code and related

legislation. Another 43 suggestions were addressed to other actors involved in the electoral process (the Central Election Commission, electoral candidates, law enforcement bodies, etc.)

In the same vein, the Independent Journalism Center (CJI) and the Independent Press Association (API) monitored the behavior of the press during the election and also found irregularities in the legal provisions on reporting about election campaigns and inefficiencies in the regulation of broadcasters' activity by the Audiovisual Coordinating Council (ACC).

At the same time, the International Election Observation Mission, in particular OSCE/ODIHR and the European Network of Election Monitoring Organizations (ENEMO), highlighted significant flaws in the electoral process in their published reports, including ambiguous provisions on the registration of electoral candidates, the low credibility of the Audiovisual Coordinating Council, problems in the monitoring of election campaign financing, the lack of pluralism in the mass media and diversity of opinions, flaws in the administration of the electoral process, concerns about the settlement of electoral disputes, the underrepresentation of women in candidate lists, unjustified provisions differentiating independent candidates, the unjustified denial of the electoral rights of people with disabilities, elderly people, and conscripted soldiers.

In addition, we refer to [Constitutional Court Decision No 34 from 13 December 2016](#) confirming the election results and validating the mandate of the President of the Republic of Moldova. The Constitutional Court pointed out certain shortcomings of the election and issued, for the first time, 6 written recommendations to the Parliament. The Constitutional Court drew attention to certain problems in the legislation related to:

- the examination of complaints about the organisation and conduct of elections;

- the system for voting abroad and the inclusion of additional criteria for establishing the number and geographic distribution of ballots abroad, including by providing polling stations abroad with a reserve quantity of ballots;
- criminalization of vote buying during presidential elections;
- the enactment of a system that allows the prompt and immediate punishment, including by criminal proceedings, of any attempts by religious organizations to interfere in election campaigns;
- the institution of effective tools allowing the relevant authorities to apply dissuasive and immediately enforceable sanctions (such as suspending broadcasting rights for the entire period of the election campaign) to those media outlets that violate their obligation to be impartial during the electoral period.

We note that, in accordance with Article 28<sup>1</sup> of the Law on the Constitutional Court, any observations (findings) of the Constitutional Court, stipulated in writing, about gaps (omissions) in the law because of the failure to fulfill constitutional obligations must be examined by the relevant authority, which must then notify the Constitutional Court of the results within 3 months. The deadline for notifying the Constitutional Court is 13 March 2017.

We note that, according to Articles 15 and 16 of the Law on Legislative Acts, Parliament has the right to establish Working Groups consisting of experts and specialists in relevant fields in order to develop drafts of legislative acts. In addition, art. 6 of the Regulation of the Parliament of the Republic of Moldova states that parliamentary factions have the right to make proposals on forming working groups and groups of experts in various fields of activity.

In this context, **the signatory organizations consider it**

imperative that Parliament establish a Working Group responsible for developing proposals on modifying the Electoral Code and related legislation, according to the Recommendations of the Constitutional Court, in addition to the recommendations of local and international EOMs, with the balanced representation of the deputies of the Parliament of the Republic of Moldova, representatives of the Central Electoral Commission, political parties not currently in parliament, and civil society organizations.

On this basis, the signatory organizations request that the Parliament of the Republic of Moldova:

1. Establish a Working Group (February 2017);
2. Develop draft laws to change the Electoral Code and related legislation (February – March 2017);
3. Debate and discuss the draft in public (April – May 2017);
4. Have the proposals for change endorsed by international institutions, particularly by the Venice Commission and OSCE/ODIHR (May – July 2017);
5. Approve changes to the Electoral Code and related legislation in the Parliament of the Republic of Moldova (September – October 2017).

***Signatory organizations:***

1. The Promo-LEX Association
2. The East Europe Foundation
3. The Institute for European Policies and Reforms (IPRE)
4. Center for Investigative Journalism (CIJ)
5. Terra 1530
6. The Center for Independent Journalism (CJI)
7. Legal Resources Centre in Moldova (LRCM)
8. The Association for Participatory Democracy (ADEPT)
9. The Students' Alliance of Moldova
10. Transparency International – Moldova
11. The Women's Association for Environment Protection and

## Sustainable Development

12. The Independent Press Association (API)
13. The Institute for Public Policy (IPP)
14. The Foundation for Advancement of the Republic of Moldova
15. The Ecological Movement of Moldova
16. The Union of Organizations of People with Disabilities in the Republic of Moldova
17. The Institute for Development and Social Initiatives "Viitorul" (IDIS Viitorul)
18. Partnership for Development Center

[PDF](#)

---

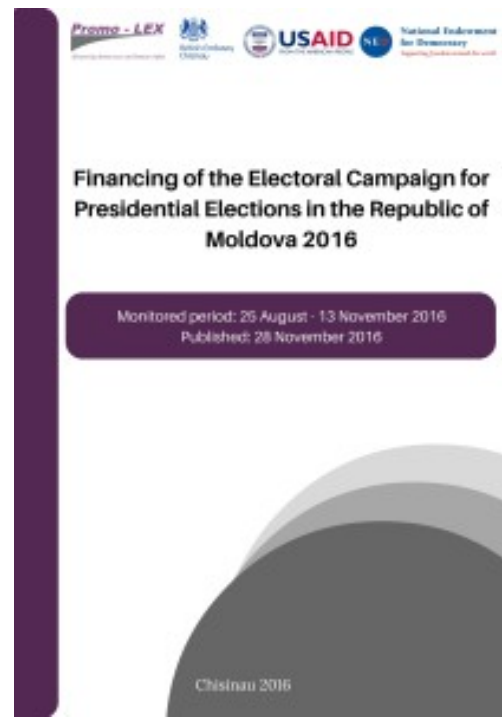
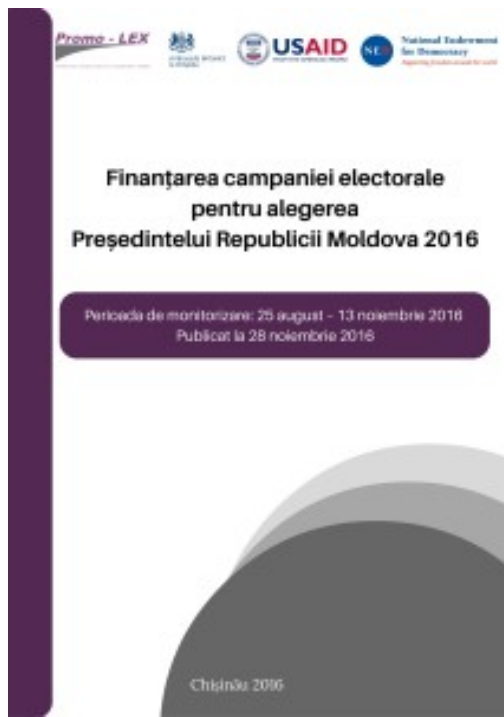
# FINAL REPORT Observation Mission for the Presidential Election in the Republic of Moldova on 30 October 2016





---

# Financing of the Electoral Campaign for Presidential Elections in the Republic of Moldova 2016



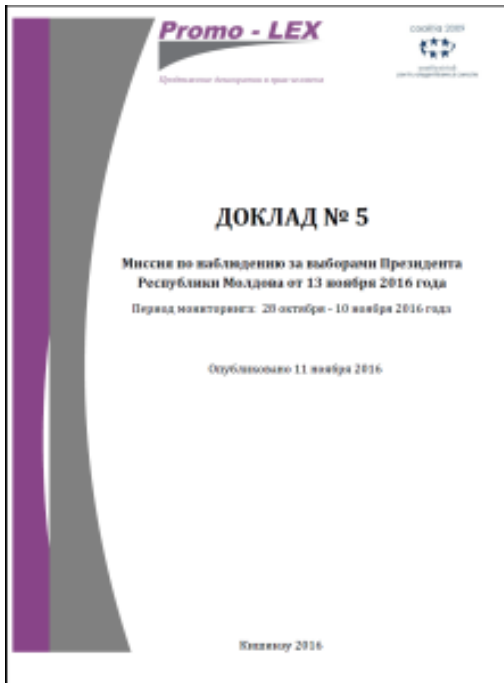
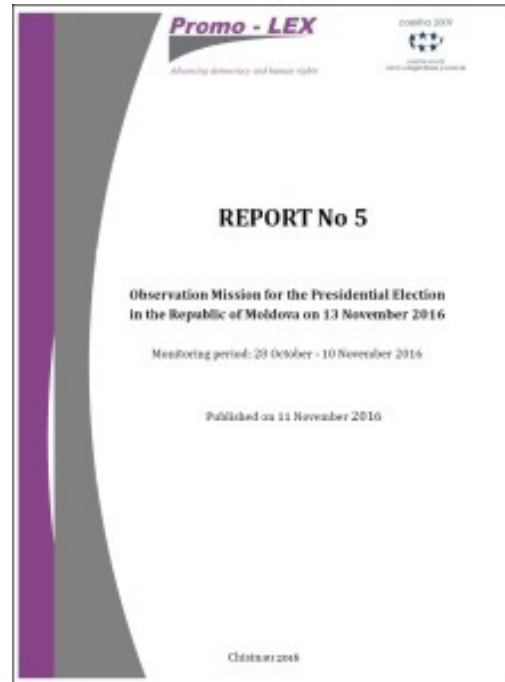
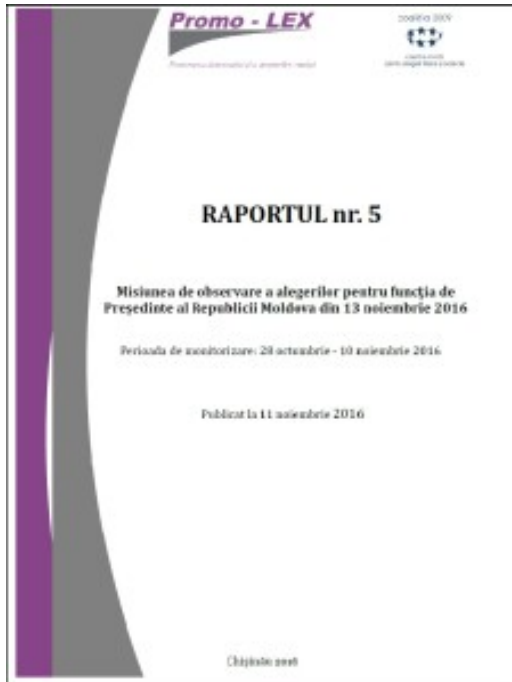
---

# Political parties and election campaign financing in the EaP countries



---

# REPORT No 5 – Observation Mission for the Presidential Election in the Republic of Moldova on 30 October 2016



# REPORT No 4 – Observation Mission for the Presidential

# Election in the Republic of Moldova on 30 October 2016

