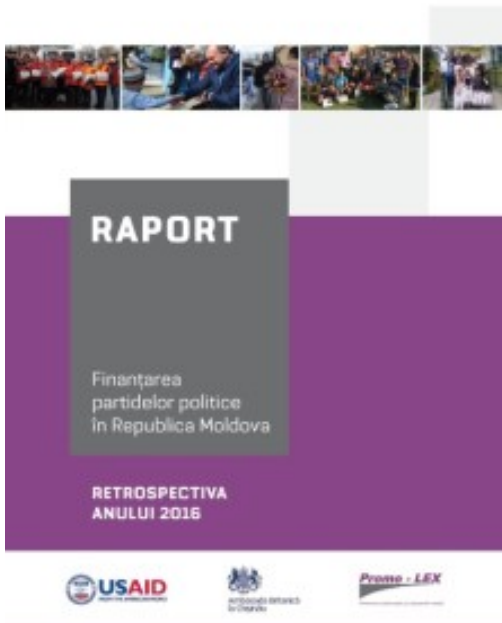


Study – Electoral system design in Moldova



REPORT Political party fi

ancing in the Republic of Moldova 2016 Retrospective



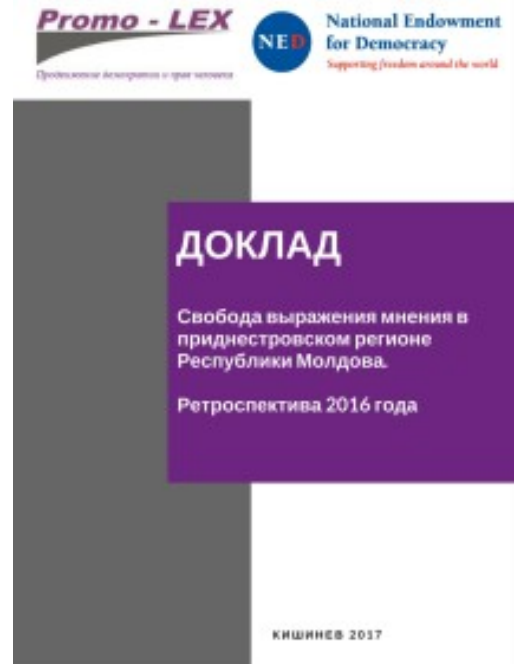
Report – The right not to be subjected to torture and ill-treatment



Report – The Right to Freedom and Security of Person in the Republic of Moldova

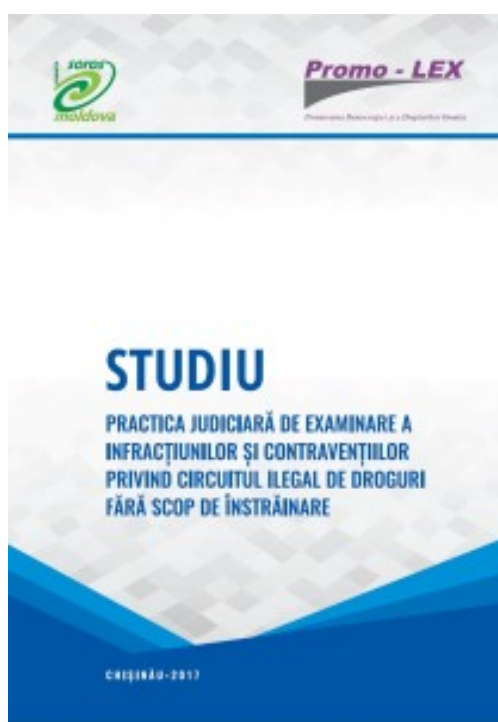
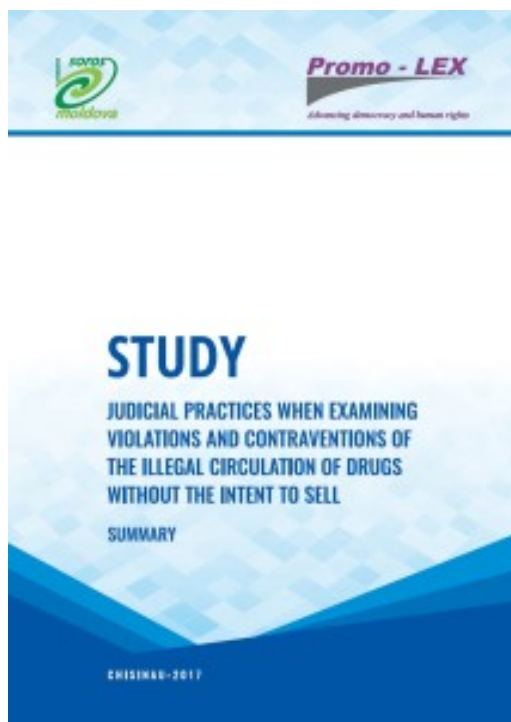


Report – Freedom of expression in Transnistrian region of Republic of Moldova. 2016 retrospective



Judicial practices when

examining violations and contraventions of the illegal circulation of drugs without the intent to sell



Guide | Know your rights! Be protected!



ICNL Opinion on the Draft Law no. 161 on Amendments and Supplements to Certain

Legislative Acts (“Big Brother” Law)



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In March 2016, the Republic of Moldova's Ministry of Internal Affairs presented the Draft Law for Amending and Completing Some Legislative Acts, which addresses online behavior by criminalizing certain actions and providing government agencies with additional surveillance and investigatory powers. The Draft Law (Amendments) were approved by the Government of the Republic of Moldova and submitted to the Moldovan Parliament for review and enactment.

The Amendments seek to amend eight laws¹: (1) the Law on the Intelligence Service of the Republic of Moldova; (2) the Criminal Code of the Republic of Moldova; (3) the Criminal Procedure Code of the Republic of Moldova; (4) the Law on Professional the Professions of Medical Doctor; (5) the Law on Electronic Communications; (6) the Code for Construction; (7) the Law on Preventing and Fighting Against Computer Crimes; and (8) the Law on Special Investigation Activity.

At the request of local partners, ICNL has developed an overview of the possible implications to the freedom of expression and right to privacy, should the proposed Amendments be adopted in the current form. The issues are reviewed against the backdrop of international standards and ensuing good practices. ICNL aims available to follow further developments with the Amendments and provide technical assistance to the stakeholders to ensure that illegal acts online are prevented without restrictions to the fundamental freedoms and rights.

ICNL is concerned that the Amendments contain provisions that may potentially have a chilling effect on the freedom of expression and right to privacy. As drafted, the Amendments violate international standards guaranteeing these fundamental rights. Key concerns include the following:

- **Vague Grounds to Block Websites.** The Amendment permit authorities to block access to websites for vague reasons, including if such websites contain “information propagating war or incitement, calls to hate or national, racial or religious discrimination, to hostility and violence, containing or distributing instructions on how to commit crimes.”² Vague language such as this may invite arbitrary and subjective application.

¹ There is some concern with the way these multiple amendments to the laws were introduced, as they address various issues and might be used for subjective interpretations on certain occasions.
² Amendments, Article 1(2)(3) – Amendment to the Code for Construction, Article 147 and Article 1(3)(b) – Amendment to the Law on Preventing and Fighting Against Computer Crimes, Article 1(1)(c).



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În luna martie 2016, Ministerul Afacerilor Interne al Republicii Moldova a prezentat proiectul de Lege pentru modificarea și completarea unor acte legislative, care vizează comportamentul online, criminalizând anumite acțiuni și acordând autorităților guvernamentale noi puteri suplimentare de supraveghere și investigații. Proiectul de lege pentru modificarea și completarea unor acte legislative (în continuare: “Proiectul de lege”) a fost aprobat de către Guvernul Republicii Moldova și înaintat Parlamentului pentru examinare și adoptare.

Proiectul de lege vizează modificarea a opt legi¹: (1) Legea privind Serviciul de Informații și Securitate al Republicii Moldova; (2) Codul Penal al Republicii Moldova; (3) Codul de Procedură Penală al Republicii Moldova; (4) Legea cu privire la construcția profesională de medici; (5) Legea comunicațiilor electronice; (6) Codul Construcționist; (7) Legea privind prevenirea și combaterea infracțiunilor informatice; și (8) Legea privind activitatea specială de investigații.

La solicitarea partenerilor locali, ICNL a elaborat o prezentare generală a posibilităților implicite pentru libertatea de exprimare și dreptul la viața privată, în cazul în care modificările propuse în proiectul de lege vor fi adoptate în forma lor actuală. Prezentarea este examinată în contextul standardelor internaționale și a practicii bune. ICNL este dispus să urmărească în continuare evoluția Proiectului de lege și să acorde asistență tehnică factorilor de interes pentru a asigura prevenirea și evitarea încălcărilor drepturilor și libertăților fundamentale.

ICNL este îngrijorat de faptul că Proiectul de lege conține prevederi care ar putea avea drept efect săchilirea “liberă de gând” în ceea ce privește libertatea de exprimare și dreptul la viața privată. În forma sa actuală, Proiectul de lege include prevederi care pot restricționa accesul la informații fundamentale. Principalele îngrijorări sunt următoarele:

- **Medie vagi pentru blocarea paginilor web.** Modificările permit autorităților să blocheze accesul la paginile web din motive vagi, inclusiv în cazul în care aceste pagini web conțin “informații care propagă teroarea, incită la ură sau violență, conțin instrucțiuni despre cum să comită crime.”² Limbajul vag și subiectiv poate fi utilizat pentru a restricționa accesul la informații fundamentale. Principalele îngrijorări sunt următoarele:

¹ Există îngrijorări referitoare la modul în care aceste multiple modificări au fost introduse, deoarece ele adresează diverse probleme și ar putea fi utilizate în scopuri subiective în unele cazuri.

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

Mr. Andrian Candu

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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 28¹ 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

**Alternative report to the UN
CESCR Committee on Moldova's
third Periodic report
regarding the implementation
of the International Covenant
on Economic, Social and
Cultural Rights**

