



European Network of Election
Monitoring Organizations
**Election Observation Mission to Moldova
Presidential Elections 2016**

Rețeaua Europeană a Organizațiilor
de Monitorizare a Alegerilor
**Misiunea de Monitorizare a Alegerilor
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Statement of Preliminary Findings and Conclusions*

Chisinau, 1 November 2016

Preliminary Conclusions

On 30 October, the citizens of Moldova voted to elect the President of the Republic for the first time since 1996, following a Constitutional Court ruling that amendments introducing the election of the President by the parliament in 2000 were unconstitutional. The elections took place in an overall political context characterized by lack of trust in the institutions and political establishment. However, Moldovan citizens headed for the polls on Sunday to elect among nine candidates, marking a turnout of over 49% and showing their willingness to participate in the political life of the country.

The legal framework generally provides a sound legal basis for the conduct of democratic presidential elections. The amendments to the Electoral Code, regulating the presidential election, were adopted just over three months prior to elections. Moreover, in order to comply with the electoral calendar, the CEC adopted supplementary rules close to the deadlines, which sometimes created unnecessary uncertainty and confusion.

The election process was administered in a transparent and open manner. The majority of members of district electoral councils (DEC) and precinct electoral bureaus (PEB) were professionally trained prior to elections by the Central Election Commission based training center. At the same time, in some of the commissions, ENEMO observers noted that members had difficulties with understanding the legislation, which sometimes has led to misinterpretations of the Electoral Code provisions.



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The Central Election Commission made noticeable efforts in implementing a wide voter education campaign by running advertising materials on TV and Radio, in both State language and other languages. On Election Day, the CEC was open for observation and provided timely information about the turnout.

The voters were presented with a wide choice of candidates; however, the legal framework for elections requires to be revised, taking into account international standards, in order to provide equal playing field for all candidates, especially for inclusion of independent ones. Currently, the legislation leaves space for preferential conditions for candidates nominated by political parties with regard to campaign finances; as well as with regard to conflicting deadlines for candidate registration and start of the campaign, which led to a situation in which some candidates started campaigning ahead of others.

The electronic voter verification system served as a very effective measure in preventing multiple voting, while it also enabled transmission of real time information from the polling stations to the CEC and to the public. In some polling stations, ENEMO observers noticed technical problems in its functioning, problems that were promptly resolved and that did not affect the voting process significantly.

Substantial legal requirements for the campaign finance were introduced in 2015; however, the Electoral Code still lacks clarity or regulation on various aspects of the candidate campaign finance. The CEC applied the sanctions for campaign violations inconsistently and its decisions lacked sufficient legal reasoning on imposing one or other sanction. In addition, the CEC had no sufficient funds and human resources to verify the campaign finances properly.

The complaints and appeals were adjudicated in timely manner and within the legal deadlines. The CEC considered complaints in an open manner and following procedures. However, decisions on complaints were not taken by unanimous vote, thus highlighting the CEC members' political sympathies.

Moldovan media suffers from strong partisanship, polarization and lack of autonomy from political and business interest, as well as high concentration of ownership, which threatens pluralism. The conduct of audiovisual media is monitored and regulated, but print media and internet are not. Some broadcasters were sanctioned for unbalanced coverage, but both monitoring modalities and sanctioning mechanisms are not effective and fail to ensure balanced and impartial coverage of the electoral campaign.

The Central Election Commission of Moldova has accredited a large number of domestic and international observers. While the Electoral Code provides for adequate rights and responsibilities of observers, the process of accreditations of international observers has been in certain cases delayed beyond deadlines, thus limiting them in the observation of the pre-election period.

On Election Day, the ENEMO EOM deployed ten STO teams covering opening of polling stations, process of casting the ballots, environment around polling stations, closing of polling stations, vote

count, as well as transfer and intake of the materials and tabulation at DEC's, to assess compliance with national legislation and international standards.

A total number of ten opening polling stations were observed during the opening, the voting procedures were observed in 114 polling stations, and the counting of the votes in ten polling stations. Based on the reports and information received from the observers deployed countrywide on Election Day, the preliminary assessment of ENEMO is that the polling on 30 October 2016 was conducted orderly and in a transparent manner, generally in compliance with the international standards. Procedural irregularities observed, in limited scope or of isolated instances, did not have negative impact on the election process, as they resulted from lack of clear instructions, or negligent attitude of the members of the precinct electoral bureaux.

Preliminary Findings

Background

Direct elections for the President of the Republic of Moldova were held in 30 October, for the first time since 1996, following a Constitutional Court ruling that the election of the President by the parliament was unconstitutional. One of the parliamentary parties¹ considers the process leading to the constitutional changes unconstitutional and has not presented a candidate, but it has nevertheless appointed members to the temporary election commissions (second and third level).

Only little over three months before elections, the National Assembly (Parliament) has amended the Electoral Code, reviving provisions that were repealed in 2000 regarding the election of the President by the people. While this is, in general, not in line with good international practice for democratic elections, the procedures do not differ greatly from the ones already in force for other types of elections.

The elections took place in an overall political context characterized by lack of trust in state institutions, elected officials, especially at the central level, and political establishment². Corruption scandals, poverty and the stagnating economy, as well as division among parties and within the society over the geopolitical course of the country have shaped the overall political background in which these elections took place. Fueled by a major scandal in the banking system³,

¹ Party of Communists of the Republic of Moldova, which actually holds seven seats in the National Assembly.

² According to most of the interlocutors the EOM met with, but also one poll conducted by the International Republican Institute: *Moldova Poll: Desire for Change Drives Enthusiasm for Presidential Election*. <http://www.iri.org/resource/moldova-poll-desire-change-drives-enthusiasm-presidential-election>.

³ The disappearance of \$1 billion from three Moldovan banks, uncovered in the eve of the Parliamentary Elections of the year 2014, is the most notable corruption scandal and with major impact on Moldova's political landscape.

throughout 2015 and beginning of 2016, a series of demonstrations took place across the country opposing corruption and the government. A series of short-lived governments were formed throughout the second half of 2015, until January 2016, when the actual government took office, following an agreement between the parliamentary factions of the Democratic Party (PDM) and Liberal Party (PL), with the support of some non-aligned members of the parliament, and breaking the political deadlock.

Despite deep mistrust in the establishment, Moldovan citizens headed for the polls on Sunday, marking a turnout of over 49%, showing their willingness to participate in the political life of the country.

Legal framework and electoral system

The President of Moldova is elected under a two-round nationwide majoritarian system, for a four-year term. For the election to be valid, at least 1/3 of the total registered voters have to participate in the first round. If the election is declared null and void, the repeated voting for the same candidates shall be organized. A candidate is considered elected if s/he is supported by at least half of the votes cast. If no candidate obtains the required number of votes, a second round is held within two weeks after the first round, between the two candidates who obtained the most votes. In the second round, the election is valid regardless of the turnout, and the candidate who is supported by the biggest number of votes in the second round is considered elected.

Following the Constitutional Court ruling⁴ that the 5 July 2000 revision to the Constitution, allowing members of parliament to elect the president was unconstitutional, on 1 April the parliament called the presidential election for 30 October⁵. The presidential elections of 30 October were the first direct elections since 1996.

The legal framework generally provides a sound basis for the conduct of democratic presidential elections. Moldova is a party to key UN treaties⁶, the European Convention on Human Rights, and the Framework Convention on National Minorities. The presidential elections are regulated by a comprehensive legal framework, primarily consisting of the 1994 Constitution, and the 1997 Election Code, amended in 2016. The Constitution⁷ guarantees the fundamental rights and freedoms and stipulates that the president be elected by freely expressed, universal, equal, direct, and secret suffrage, thus creating the necessary basis for democratic elections. Other relevant legislation includes the Law on Political Parties, the Law on Administrative Court, Audiovisual Code, Law on Assemblies, the respective parts of Code on Administrative Offences, and the

⁴ Constitutional Court Judgment on Constitutional Review of certain provisions of the Law No. 1115-XIV of 5 July 2000 amending the Constitution of the Republic of Moldova, 4 March 2016

⁵ Decision of the Parliament of the Republic of Moldova No.55, 1 April 2016

⁶ International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) the Convention on the Political Rights of Women, International Covenant on the Elimination of all forms of Racial Discrimination (CERD) and Convention on the Rights of Persons with Disabilities (CRPD).

⁷ Section 2 and Article 78.

Criminal Code. The Civil Procedure Code and the Criminal Procedure Code are applicable to proceedings of courts. The legislation is supplemented by regulations⁸, decisions and instructions adopted by the CEC.

The amendments to the Electoral Code, regulating the election of the President of the Republic, were adopted just over three months prior to elections, which, in general, goes contrary to the Code of Good Practices on Electoral Matters of the Venice Commission⁹. Although, the procedures for the election of the President do not alter much from the provisions for parliamentary and local elections, in order to comply with the electoral calendar the CEC adopted supplementary rules (on the collection of signatures, financial reporting, media coverage, etc.) close to the deadlines. Due to many uncertainties, the presidential contestants were frequently forced to seek guidelines and clarifications to the CEC.

Election Administration

Election administration in Moldova is a three-tiered structure: Central Election Commission (CEC), District Electoral Councils (DEC) and Precinct Election Bureaus (PEB). In preparation for the Presidential Elections, the CEC established 35 DEC, including the Electoral Council of the City of Chisinau. The DEC formed 1981 PEBs, while 100 PEBs were established abroad to enable people currently residing outside the country to vote¹⁰. PEBs established abroad reported to the Electoral Council of the City of Chisinau.

The CEC's new composition was approved by the Parliament on 17 June 2016. Three members of the CEC are from the old composition, while six were newly appointed. The mandate of the nine members from the previous CEC composition expired on 11 February 2016. The draft law on the appointment of the CEC members was postponed four times in the plenary sessions of the Parliament. The CEC members are appointed for a period of five years, while DEC and PEBs are established for each election.

The CEC sessions are conducted twice a week, on Tuesdays and Fridays, while extraordinary sessions can be held upon requirement. The CEC has respected the deadlines outlined in the election calendar for the most important stages of the process¹¹. Sessions are held in a transparent manner and they are open to media, public and observers, meaning that everyone has access to the sessions without any restrictions¹². The CEC sessions are broadcasted live on the CEC's official

⁸ CEC regulations Nos. 2674, 2688, 2689, 3328, 3353, 3375, 4463

⁹ Art. II.2 of the European Commission for Democracy through Law (Venice Commission) Code of Good Practice in Electoral Matters (CDL-AD(2002)023rev) and Interpretative Declaration on the Stability of the Electoral Law (CDLAD(2005)043).

¹⁰ Austria (1), Azerbaijan (1), Belarus (1), Belgium (1), Bulgaria (1), Canada (3), Czech Republic (1), China (1), Estonia (1), France (6), Germany (2), Great Britain and North Ireland (2), Greece (2), Hungary (1), Ireland (1), Israel (2), Italy (25), Qatar (1), Japan (1), Latvia (1), Lithuania (1), Netherlands (1), Monaco (1), Poland (1), Portugal (4), Romania (11), Russia(8), Spain (4), Turkey (3), Sweden (1), Switzerland (1), Ukraine (2), USA (7),

¹¹ Attachment to the Provision of Central Election Commission №119 as of August 23, 2016

¹² Electoral Code of Republic of Moldova, Article 25, paragraph 2.

webpage and agenda of the sessions is published in advance, although sometimes topics are introduced in the agenda shortly before the start of a session.

The drafts of the decisions are prepared and handed out to the observers at the session. The CEC provides some information in Russian and less in English; explaining this with lack of resources to deliver timely translation.

On Election Day, the CEC established an information center at which information on the turnout was processed and provided on screens, as well as on-line. The information appearing on the screens offered information on the breakdown of voters by age and gender. Additional information offered by the CEC to the public included detailed breakdown of the number of voters on main voters' list by regions, voters' who casted their ballot on the main voters' list and voters who casted their ballot on the supplementary lists.

Additionally, the CEC held briefings every three hours throughout Election Day, starting at 10:00 until 22:00. During the briefings was reported on the highest and lowest turnouts throughout the country and abroad, opening and functioning of the PEBs, as well as additional matters. As reported by the CEC, no complaints were received on Election Day, except some isolated cases of violations¹³, which were immediately addressed by electoral administration and other structures.

On Election Day, the information was generally provided timely, except of few instances in which it was not timely updated. These shortcomings were however always addressed and resolved within the timeframe of one hour.

The process of inflow of information into the CEC was well organized on Election Day, however, on many occasions, ENEMO failed to receive clear answers regarding some of the most important stages of the electoral process. According to the CEC the information was tracked, but will be presented to the public only with the final report after the elections. It would be of advantage to organize collection of information from the DEC level on the number of complaints by voters and/or statements made by observers. A better coordination with other stakeholders in the election process, like courts and police, would help to efficiently inform the public about measures taken to resolve the issues.

The DEC's were formed in compliance with the election calendar - 55 days before elections. Similarly to CEC, DEC's sessions are also open to observers. The total number of the DEC members is 317, of whom 156 are women and 161 men. 25 men and 10 women hold positions of DEC Chairs, 15 men and 20 women are Deputy Chairs, while 7 men and 28 women are Secretaries.

According to the CEC, 16 replacements of DEC members were made throughout the period of their functioning. The CEC did not aggregate and publicize information on changes in PEB membership, stating that it will provide these details in the overall report on the results of elections¹⁴. Election legislation foresees two ways of replacement for the members of the DEC's or PEB's. The first is when the member of DEC's or PEB's resign at their own discretion and the second when they are dismissed by the commission for not respecting the law, violating legal

¹³ Case of negative agitation in Orhei, where several people at the entrance of polling stations urged voters not to cast the vote.

¹⁴ In the polling station visited by ENEMO observers, the majority of PEB members were women (80%). Women were well represented also in leadership positions in the PEB's, with 74% serving as Chairperson of the PEB and 81% as Deputy Chairperson.

provisions on agitation, or fail to attend the sessions of the commission (min. 2 sessions consecutively)¹⁵.

If commission members resign at their own discretion, they have to submit a written request to the institution who nominated them to the position (political party, local administration or a court) and then this institution submits the withdrawal and nomination for replacement to the higher electoral body. If there are no submitted replacements, then the CEC draws candidates from the database. Nevertheless, institutions have no limit in time for replacement of the PEB members.

The Precinct Electoral Bureaus were also established within the legal deadline. 30 polling stations were assigned the function to enable voting of Moldova citizens residing in Transnistria, five of them were located in Chisinau.

Before Election Day, the CEC announced that three polling stations, in Basarabeasca, Chisinau and Balti municipalities, would be provided with magnifying equipment for visually impaired voters. This was noted by ENEMO observers in one visited polling station on Election Day. Additionally, three polling stations in Chisinau were provided with sign language interpreters for voters with hearing impairment.

The support for the training of DEC members and PEBs members was provided by the Center for Continuous Electoral Training (CICDE), which is a structure regulated in the Electoral Code. According to the CICDE, trainings were conducted for the participants of the electoral process, including members of various levels of commissions, observers and representatives of political parties and candidates. 295 trainings were conducted for 11,608 participants, out of which 35 trainings were for 247 DEC members, 164 trainings for 4,814 PEB members, two trainings were conducted for 48 heads of PEBs established abroad, as well as trainings for 6,499 other stakeholders. The trainings of the CICDE observed by ENEMO were well organized and highly professional.

The CICDE prepared manuals for members of DEC members and PEBs, compilation of CEC regulations, posters with vote counting procedures, and election calendar. PEB members referred to these materials during their work; however, the manuals can be further improved¹⁶.

From the start of the electoral campaign, as well as on Election Day, the CICDE and the CEC established a 24-hour call center to provide consultation to voters and/or other election stakeholders on challenges faced with participating in the election process. 37 operators were engaged in the call center. According to the CICDE, the consultation provided by the call center specialists is sufficient, however, in some isolated cases, the CICDE has redirected callers to the official structures for interpretation of the legislation.

The CEC has also organized an information campaign in the media, to enhance citizens' awareness about elections. The CEC ordered the production of eleven video, and eleven audio advertising spots aiming at education of voters and motivation to vote. The advertisements covered voting procedures, why it is important to vote, about the procedure of voting and why it is important to vote for all citizens, including minorities. The commercials were distributed from 30 August to 30

¹⁵ CEC regulation No. 2688 as of 07.10.2014 and No. 2689 as of 07.10.2014

¹⁶ The manual for PEB members outlines that in case the voter spoils ballot paper, the entitled second and last ballot will be issued to him/her by Chair of the PEB. However, according to the Electoral Code Article 54, paragraph 6 this function is to be filled by the PEB.

October 2016 on the national and regional TV channels and radio. Five commercials are planned to be broadcasted for the second round.

Candidate registration

Any citizen with the right to vote and over 40 years age, who has been living on the territory of the Republic of Moldova for not less than 10 years and speaks the official language may run for the position of President of the Republic. The Electoral Code further specifies categories of individuals who cannot run for the office¹⁷: those declared incapacitated by a final decision of the court, military personnel in active duty, persons sentenced to prison by a final court decision who are serving their sentence in a penitentiary, persons whose criminal records include crimes committed with intent which have not been expunged, and persons deprived of the right to hold decision-making positions by final decision of a court.

The age requirement to stand as a candidate was raised from 35 to 40 years by the law amending the Constitution, which was challenged before the Constitutional Court. Although the Constitutional Court declared the amendments unconstitutional on procedural grounds, the age requirement was not retained, without sound legal basis, which left room for political speculations¹⁸.

According to the Electoral Code political parties, electoral blocs and citizens have the right to nominate / stand as candidate for the Presidential post. However, only registered initiative groups of a candidate can collect signatures and are obliged to submit financial reporting. This opens a space for political organizations to use their resources and structures to support a candidate in signature collection and campaigning, while being exempted from submitting financial reports. This fact seriously disadvantages independent candidates and creates unequal playfield, which is in contradiction of Article 7.6 of the Copenhagen Document¹⁹.

The nomination of candidates for the position of President of the Republic of Moldova shall start 60 days and end 30 days before the date of presidential elections.

The candidates create initiative groups composed of at least 25 persons and at most 100 persons with the right to vote. Candidates for the office must submit lists with 15,000 – 25,000 support signatures of voters from at least half of the second level administrative and territorial divisions of the country. The maximum number of valid signatures to be collected from each territory was 600.

¹⁷ Article 13, paragraph 2.

¹⁸ The increase of the age limit was also negatively assessed in the OSCE/ODIHR and Venice Commission Joint Opinion on the Draft Law on Changes to the Electoral Code
<http://www.osce.org/odihr/elections/moldova/246576?download=true>

¹⁹ Article 7.6 of Copenhagen Document - respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities.

The candidates for the Presidential position formed originally 24 initiative groups, out of which only 16 have submitted the required number of signatures. Eight of the nominated candidates failed to provide signatures, and four were refused registration because they did not have the required balance of signatures from the regions. Only 12 candidates passed the procedure of registration. In the course of the campaign, two of the candidates withdrew from the race, while one candidate's registration was annulled by a decision of the court²⁰. On Election Day, the voters had thus the chance to cast a vote for nine candidates.

Some interlocutors have criticized the process of signature collection, especially independent candidates complained about uneven conditions in favor of candidates from political parties. Moreover, citizens could sign only in support of only one candidate, which restricts political pluralism and runs contrary to the recommendations of the Venice Commission and OSCE/ODIHR recommendations for previous elections.

It is important to note that four of the candidates, three of which independent, were registered on 6 October 2016, while other already registered candidates had started their campaign on 30 September 2016.

Voter registration

Citizens of Moldova, at the age of 18 on Election Day, have the right to vote, except individuals declared incapable to vote by a final court decision. The persons who have lost their election rights are kept in the State Registry of Voters with the note "Lost voting right" and are not included in the list of voters.

There is no official statistics about people with mental health problems in Moldova. However, they can be divided into two categories with regard to the right to vote: those who are declared incapable to vote by a court decision and those who are not. The latter can vote, including the ones who are hospitalized. In May 2015, the Parliament passed a bill according to which people with mental health problems were granted the right to vote. President Nicolae Timofti did not promulgate the law. According to the CEC, 358 voters were disenfranchised by a final court decision.

The CEC creates the voter list based on information in the State Register of Voters (SRV), which is extracted from the State Citizens' Register, run by the Centre for State Information Resources "*Registru*". State Automated Information System "Elections" is the computerized system used on

²⁰ Since the start of the campaign, three candidates have withdrawn from the race.

On 15 October 2016 the candidate Andrei Nastase, representing the Party Platform Dignity and Truth, withdrew in favor of Maia Sandu (Party Action and Solidarity) as common candidate of the center-right opposition parties. Following a complaint from the presidential candidate Silvia Radu to the CEC, and subsequent request of the CEC to the Court of Appeals of Chisinau, the latter annulled the registration of Inna Popenco as a candidate on behalf of the Party "Equality". On 26 October 2016, the candidate of the Democratic Party, Marian Lupu, has announced publicly his withdrawal from the race, through a press conference. After the Court ruling CEC passed a decision to take him of the ballot on 28 October 2016. For elections day he remained to be on the ballot, but stamp "withdrawn" was placed across his name.

Election Day for checking voters in the voters' list and tabulation of voting results. 869 authorized persons are granted access to the State Registry of Voters. On Election Day SAIS "Elections" was managed by two operators per polling station, who conducted the ID verification process and, if the voter had not voted yet, entered a check mark in SAIS "Elections", which prevents the voter to vote at another polling station.

According to the interlocutors, one of the most debated matters regarding the SRV remains the inclusion of deceased persons who were not recorded in the SRV before 2004. The process of exclusion of deceased persons from the SRV requires the submission of a death certificate, which is especially difficult to obtain for persons who died abroad.

The State Registry of Voters contains 3,247,106 eligible voters, while only 2,809,503 are included in the voters' lists, according to the CEC officials. This difference is accounting for the 220,000 who are citizens of Moldova residing in Transnistria. According to the CEC, 63,000 voters do not have a permanent official residential registration. The CEC made a decision on 25 October to enable these voters to vote at the place of the last residence, or any other polling station, by including them in the additional voter list. Moreover, 100,000 voters possess expired ID cards. The legislation permits the voters with expired identification documents to apply for a temporary certificate in order to be able to cast a ballot.

The CEC printed 3,131,227 ballot papers; 2,379,883 in the State language and 751,344 in Russian language.

Campaign finance

Substantial legal requirements for the campaign finance were introduced in 2015, improving campaign oversight, reporting requirements and stipulating criteria for campaign spending limits. However, the Electoral Code still lacks clarity or regulation on various aspects of the candidate finance, for example, sanctions on initiative groups' finance violations or acceptance and limits of in kind donations. In addition, the CEC applied sanctions (warning, deregistration) inconsistently and its decisions lacked sufficient legal reasoning on imposing one or other sanction²¹.

Presidential candidates were required to open a special bank account and all campaign funds had to incur through this account until 28 October 2016²². The account shall be closed immediately after elections. The CEC established²³ that the campaign finance ceiling for a presidential candidate was MDL 65,797,538²⁴. Initiative groups of presidential candidates did not receive public funding for campaigning, which has put parties with less resources and independent

²¹ Maia Sandu was warned for campaign finance violations while against Inna Popenco the deregistration procedure was initiated. On contrary, Igor Dodon was not sanctioned for the acceptance of in kind donations.

²² The candidate Maia Laguta did not open an account.

²³ Decision No. 240 of the CEC, 13 September, 2016

²⁴ Approx. EUR 2.9 million.

candidates in a position of disadvantage. Some interlocutors have expressed concerns that lack of public funding, combined with high prices for electoral advertising in audiovisual media, has prevented them from being able to reach out to voters effectively.

According to the law, the CEC is responsible to oversee the campaign finance, review financial reports, and to decide on complaints regarding the campaign finance. In case of violations of campaign finance rules, the CEC imposes sanctions. However, the CEC has no sufficient funds and human resources to verify properly the campaign finances.

All presidential candidates, except Ana Gutu and Maia Laguta submitted their financial reports to the CEC within the legal deadline. Andrei Nastase's report indicated that he had made no expenses. The financial reports are posted on the CEC website. It must be noted that some presidential candidates have been sanctioned on campaign finance violations few days before elections²⁵.

Election Day

On Election Day, ten STO teams of ENEMO observers were deployed to follow opening, voting and counting procedures. Observers in total made 134 visits to polling stations, of which ten during the opening procedures, 114 during the voting and ten during the counting and tabulation of results. Observers also followed the transfer of results to seven DECes.

Opening

ENEMO observers monitored the opening procedures in ten polling stations. Nine of 10 Precinct Election Bureaus opened on time, while one PEB opened with a minor delay of up to 15 minutes due to late arrival of the PEB members²⁶. The procedure of opening of the polling stations was generally conducted in order and according to the procedures, being positively assessed by STO teams in all observed polling stations, except one.

Voting

ENEMO STO teams visited 114 polling stations to observe polling, which was generally conducted in orderly and well organized manner. Observers reported some isolated cases of violations and irregularities such as family and group voting²⁷, PEB member assisting to blind voters to cast the ballot, breach of procedures for spoiled ballot²⁸, insufficient number of PEB members²⁹ or campaign materials within 100 meters from the polling station. In 5% of the

²⁵ Inna Popenco's deregistration was requested by the CEC Decision, No. 435 of 20 October, 2016, and Maia Sandu was warned by the CEC Decision, No. 498 of 25 October 2016.

²⁶ PEB 1/159.

²⁷ PEB 22/5.

²⁸ PEB 1/197.

²⁹ PEB 32/18.

observed polling stations, the secrecy of the vote was affected by the improper layout of the polling station and set-up of the voting booths.

Essential election materials were present in all polling stations. The most noted irregularity reported was not properly sealed ballot boxes or presence of unsealed additional boxes in 9% of the polling stations visited³⁰. Observers noted only small number of minor or unfounded complaints filed at the PEB level (5%).

Identification procedures were always followed properly in 92% of the polling stations, while in one PEB did not stamp ID card inserts³¹ and in one issued ballot to persons not on the voter list without valid documents³². Automated Information System *Elections* for voter identification and verification was functional in all visited polling stations, however observers reported that there were few cases of malfunctions of internet connection for one laptop, while the other laptop was still operational with alternative internet connections. Those problems were solved with additional technical support, without interruption of voting, causing some queues of voters being processed just one operator during this period. Overall PEB conduct during the voting was assessed positively in 93% of polling stations visited.

ENEMO observers also evaluated accessibility of polling stations for persons with disabilities and in 22 per cent easy access was ensured, while in 45 per cent of polling locations minor assistance was facilitated and in 33 per cent voting premises were not suitable. For visually impaired voters PEBs were equipped with magnifying glass in half of the polling stations visited.

In the polling station visited by ENEMO observers, the majority of PEB members were women (80%). Women were well represented also in leadership positions in the PEBs, with 74% serving as Chairperson of the PEB and 81% as Deputy Chairperson.

A number of irregularities and violations were observed during the voting at the Prison No.13 in Chisinau³³. Voters were called in the PS by the prison administration who permanently kept at least three of its present in the polling station at all times. Moreover, the prison administration verified voters' IDs and surnames and asked if they were willing to vote. Disproportionate number of prison administration and its interference in the work of the PEB confused the voters and created an intimidating atmosphere in the polling station, taking into consideration its location. Moreover, the prison administration, in its copy of the supplementary voters list, marked each voter's surname with "+" or "n" if s/he voted or refused to vote. Voters names who refused to vote were written down by the prison administration on the separate paper.

Counting

ENEMO observers visited ten polling stations during the closing time and there were no queues of voters reported at closing time (9 p.m.). In seven cases the counting procedures were followed properly and in the right sequence, while in three cases were observed some procedural irregularities, such as ballots not announced one by one, ballots in doubt not considered and voted

³⁰ E.g. PEB 11/2, PEB 11/5, PEB 6/5, PEB 22/5, PEB 1/197.

³¹ PEB 2/1.

³² PEB 10/1.

³³ PEB 1/123.

upon, marks in protocol not made after each step of counting, or preliminary results not entered in special sheets for the vote count. Lack of transparency in those cases was of rushing nature and some clear procedures were omitted in the training manuals. There were no cases of unauthorized persons or complaints observed during the vote counting procedures. Results' protocols were posted in eight cases, while two PEBs observed did not post them³⁴.

District Election Councils

The transfer of materials from polling stations by the PEBs to the DEC has been conducted according to procedures in nine cases of ten observations³⁵. The premises and access of observers in rooms for the DEC intake of materials and protocols from PEBs was limiting observers to follow the process and, in half of the cases of DEC observations, they were negatively assessed. Violations of procedures of the corrections of PEB protocols were reported in two cases, while in another case missing protocol copies were handwritten, including signatures of other absent PEB members.

Complaints and appeals

Voters and presidential candidates can file complaints about action, inaction or decisions of all level of election commissions, candidates, and media. A complaint must be first considered by a higher election commission, before being lodged with the respective court.

Complaints against the decisions of the Central Election Commission are lodged with the Chisinau Court of Appeal. Decision of the first instance can be appealed to the Supreme Court and its decision is final. All complaints must be decided before Election Day.

On Election Day, complaints related to rights to vote or to the administration of elections filed with the PEBs can be appeal directly to the court of law. A small number of complaints filed to the PEBs on the Election Day, in most cases lacked effective remedy in contravention of paragraph II.3.3 of the Venice Commission's Code of Good Practice in Electoral Matters. In many cases, PEBs did not consider them according to the legal framework, or disregarded them³⁶. On the other hand, voters rarely used the available electoral dispute resolution mechanisms, which might be due to lack of confidence in the election administration, courts, and law enforcement bodies.

The CEC reported having considered 34 complaints. Out of them, three complaints were satisfied (one partly), ten complaints were rejected as unfounded and/or referred to other institutions, 16 complaints were found inadmissible, three complaints were withdrawn by the complainants, and

³⁴ PEB 32/82, PEB 4/3.

³⁵ PEB 36/12 transfer composition did not comply with the legal requirement.

³⁶ ENEMO observed a complaint filed with the PEB at the mobile voting center at the Prison No. 13 in Chisinau. The complainant manifested the lack of campaign materials to make an informed choice and lack of voter education in the above-mentioned prison. Regrettably, this complaint was not decided properly and later disappeared.

in two cases responded ceased. All of the complaints alleged Election Code violations, and were filed by the presidential candidates against other candidates.

The CEC considered complaints in an open manner and following the procedures established by the legislation, however, the decisions on complaints were not taken by unanimous vote, thus highlighting the CEC members' political sympathies. Decisions on complaints between presidential candidates were posted on the CEC webpage. The CEC also maintains a registry of complaints and all communications received.

Contested CEC decisions were mostly rejected by the Chisinau Court of Appeals as unfounded. In general, the Supreme Court rejected appeals against the decisions of the court of first instance. Not all of the decisions are posted on the courts' webpage.

Media

The mission of ENEMO has not conducted media monitoring. Findings and opinions in this section are drawn from interviews with interlocutors and desk research.

Moldovan media suffers from strong partisanship, polarization and lack of autonomy from political and business interest, as well as high concentration of ownership, which threatens pluralism.

TV and radio coverage of elections is regulated primarily by the Audiovisual Code³⁷ and the Electoral Code, the latter including general provisions about principles of operation for print media and internet³⁸, but there is no regulatory or monitoring body for the conduct of the last two. General provisions include the obligation to provide equal, balanced and impartial conditions to electoral contestants. Broadcasters with national coverage have also the obligation to provide free airtime to electoral contestants³⁹. Specifically for these elections, the CEC has adopted on 6 September 2016 the "Regulation on electoral coverage in mass media for the Presidential Elections of 30 October 2016"⁴⁰, which also includes few provisions on the conduct of print media and internet, provisions that are non-enforceable in practice, in absence of a body to do so. Electoral campaign is prohibited on E-Day and the day preceding it, while electoral advertising has continued to be present on the internet on both days⁴¹.

³⁷ Audiovisual Code of the Republic of Moldova. Promulgated under no. 260, 4 August 2006.

³⁸ Articles 63 and 64 of the Electoral Code.

³⁹ 5 minutes/day for TV channels and 10 minutes/day for radio stations.

⁴⁰ Central Election Commission. Regulation No. 181, "Privind reflectarea campaniei electorale la alegerile prezidențiale din 30 octombrie 2016 în mijloacele de informare în masă din Republica Moldova", 6 September 2016.

⁴¹ Article 47, paragraph 8 of the Electoral Code does exclude "information which has already been posted on the internet" from this obligation. Nevertheless, it is not clear if the provision refers to articles already posted or advertising, as it states "dissemination of campaign information".

The conduct of audiovisual media is monitored and regulated by the Audiovisual Coordination Council (CCA). The CCA has monitored the main news editions of 14 TV channels⁴² throughout the campaign and examined two reports⁴³ on their conduct. Moreover, all broadcasters who had expressed their intention to cover the elections were obliged to send weekly reports to the CCA.

Based on the conducted monitoring, the CCA has sanctioned eight TV channels for unbalanced coverage, seven of which received a public warning upon examination of the first report and the maximum fine the law prescribes⁴⁴ after the second⁴⁵, while one has been issued a public warning upon examination of the second report⁴⁶. Moreover, one TV channel and two radio stations⁴⁷ have received a public warning on 28 November for failing to submit weekly reports to the CCA about their coverage of elections.

The type of sanction applied can range from issuing a public warning to withdrawal of the license, with different degrees of other sanctions in between. Nevertheless, both monitoring modalities and sanctioning mechanisms are not effective and fail to ensure balanced and impartial coverage of the electoral campaign. Only a small number of TV channels are monitored and only during the main news editions; applied fines are minimal; while the timing the sanctions were applied for the Presidential Elections made the mechanism ineffective as the campaign was already over at the moment the second sanctions were applied.

Election observation

The legislation of Moldova provides for observation by authorized observers of the political parties and for non-partisan observation of both international and domestic organizations, as well as foreign countries⁴⁸.

The last accreditations were handled by CEC on October 28. The total number of officially registered observers was 3,764: 3,202 domestic observers from 20 organization, out which 106 observed out of country polling stations; 562 international observers from 52 international organizations; 38 from 18 foreign election bodies, 92 from seven foreign NGOs, from 4 countries; 68 from diplomatic missions in the Republic of Moldova; and 364 from international governmental institutions (OSCE/ODIHR, Parliamentary Assembly of OSCE, Parliamentary Assembly of European Union, European Parliament, Delegation of the European Council, CIS - EMO). All

⁴² "Moldova-1", "Prime", "Canal 3", "Canal 2", "Publika TV", "TV 7" "Accent TV", "Pro TV Chisinau", "Jurnal TV", "N4", "Realitatea TV", "Ren Moldova", "NTV Moldova" and "RTR Moldova".

⁴³ First report, covering the period 30 Sept. – 9 Oct. and the second 10 – 19 Oct.

⁴⁴ 5,400 MDL, approx. 245 EUR.

⁴⁵ "Prime", "Canal 2", "Canal 3", "Publika TV", "Jurnal TV", "Accent TV" and "NTV Moldova".

⁴⁶ "N4".

⁴⁷ "Aiîn Aciîc", "Plus FM" and "Radio 7 / Радио 7".

⁴⁸ Article 63 of the Electoral Code and Regulation No. 110 "On the status of observers and their registration", 18 August 2016.

international organizations were accredited, except for some cases for which the CEC requested to change few observers because of problems with invalid documents.

Concerns about cases of obstruction of observers to conduct effective observation were reported by the domestic organization, Promo-LEX, which has conducted extensive election activities and on E-Day has covered all polling stations nationwide, as well as some polling stations abroad.

ENEMO notes that the procedure for the accreditation of international observers is complicated and not completely transparent, as other bodies, besides the CEC are involved it⁴⁹. In at least two cases, the CEC did not respect the ten days deadline for the accreditation of foreign observers⁵⁰, set forth in the “Regulation on the status and registration of observers”.

Strict and narrow rules on mass media and public's access to the courts adopted by the Superior Council of Magistracy on 29 September 2016⁵¹, may undermine transparency and credibility in complaints and appeals procedures in the courts.

Mission information and acknowledgements

The European Network of Election Monitoring Organizations (ENEMO) is an international network of 23 leading non-profit, non-partisan and non-governmental organizationsⁱ from 18 countries of Central and Eastern Europe and Central Asia, including three European Union countries, founded on 29 September 2001.

ENEMO seeks to promote civil society organizations' involvement in societies with democracies in transition and other non-democratic forms of governing, towards improvement of electoral processes, greater transparency of the governments and their accountability to the citizens, and respect of basic human rights and freedoms. To achieve this aim, ENEMO works independently or in cooperation with its member organizations.

Following an invitation by the Moldovan authorities, ENEMO has established an Election Observation Mission (EOM) to monitor the Presidential Elections of 30 October 2016. The EOM is composed of six core team members, based in Chisinau, and was established on 10 October 2016. Ten teams of short observers were deployed throughout the country on E-Day and have observed the opening, voting, closing, counting and tabulation of results by PEBs, as well as activity of DEC's. ENEMO observers have also monitored the activity of the CEC throughout Election Day.

⁴⁹Ministry of Internal Affairs, Ministry of Foreign Affairs and European Integration, Security and Intelligence Service and Ministry of Justice – CEC Regulation No. 110 “On the status of observers and their registration”, 18 August 2016.

⁵⁰ ENEMO Core Team members were accredited fifteen days after submitting the required documentation. No additional documentation was requested, nor problems in the provided documents pointed out. According to CEC officials, the delay was due to procedures conducted by other institutions.

⁵¹ Arts. 21, 23, 24 of Regulation No 633/26 on the access to the courts, 29 September 2016.

This preliminary statement is based on findings of the Core Team and short-term observers, in reference to compliance with international standards for democratic elections, national legislative framework, and OSCE commitments. The report does not render a final assessment of the entire election process, the EOM will defer its final assessment until the end of the process and issue a final report within 60 days from Election Day.

ENEMO's International Election Observation Mission for the Presidential Elections of 30 October 2016 in Moldova is financially supported by the Embassy of the Kingdom of the Netherlands, within the Accountability Fund Program; and the Black Sea Trust, a Project of the German Marshall Fund of the United States.

**The English version of this Statement is the only official document.
An unofficial translation is available in Romanian.*

¹ ENEMO member organizations are: Center for Civic Initiatives - Bosnia and Herzegovina; Center for Democratic Transition – Montenegro; Center for Free Elections and Democracy – Serbia; Center for Monitoring and Research CeMI – Montenegro; Coalition for Democracy and Civil Society – Kyrgyzstan; Committee of Ukrainian Voters - Ukraine; Election Monitoring Center – Azerbaijan; GONG – Croatia; ISFED – Georgia; It's your choice – Armenia; Citizens Association MOST – Macedonia; Pro-Democracy Association – Romania; Republican Network of Independent Monitors – Kazakhstan; Golos – Russia; Obcianske Oko – Slovakia; Belarusian Helsinki Committee – Belarus; Society for Democratic Culture – Albania; Promo LEX – Moldova; KRIIK Albania Association; Human Rights Centre "Viasna" – Belarus; Foundation for Support of Civic Initiatives – Kazakhstan; Kosovo Democratic Institute – Kosovo; OPORA – Ukraine.