



REPORT no. 5

Observation Mission

Parliamentary Elections of February 24, 2019

Monitoring period: 6 February – 20 February, 2019

Published on February 22, 2019

EXECUTIVE SUMMARY

Legal framework. Promo-LEX Observation Mission (OM) warns on the content of the Circular issued by the Central Electoral Commission (CEC) on 13.02.2019, which provides for derogations from the legal norm on the prohibition of electoral agitation in the polling station. According to it, the presence of a voter and / or a trustee of the electoral contestant in the polling station, bearing the symbol of an electoral contestant, is not an example of electoral agitation. In the opinion of Promo-LEX OM, the prohibition on electoral agitation, stipulated in art. 52 par. (10) Electoral Code is an absolute one in the polling station and at the entrance to the polling station and does not allow any exceptions, regardless of the status of the person in the electoral process. In addition, we consider that the circular mentioned above, through its content, exceeds the competencies of the CEC.

Promo-LEX OM draws the attention of the courts that, with the amendment of art. 13 of the Electoral Code, in making judgments on the application of judicial protection measures it is necessary to decide on the right to vote, based on art. 30811 Civil Procedure Code. Thus, following the examination of the judgments delivered between 31.12.2018 and 20.02.2019 and published on the court portal, we find that out of the total of 20 judgments, only in 2 cases, the court ruled on the right to vote of persons over whom it was decided to institute the judicial protection measure.

Promo-LEX OM reiterates that the approval of the use of video cameras in polling stations was to be made by amending the Electoral Code, through which to examine the feasibility of including such a security measure, its effects and to assess the fitting of the new measure into the existing processes. Article 60 of the Electoral Code expressly provides for actions to be taken to ensure the security of the voting process and this list of actions lacks the provisions on the video recording system.

Electoral Bodies. During the reporting period, the CEC adopted a total of 109 judgments for the organization and conduct of the parliamentary elections of February 24, 2019. Most, about 62 judgments concerned the accreditation of national and international observers. We still find the approval of the decisions to change the composition of the Electoral Council of the uninominal electoral constituency (CECEU), with regard to a number of 11 judgments.

Compared to the previous monitoring period, we are witnessing an increase in the number of accredited observers, especially international observers and experts, whose number has increased by about 5 times. Between February 6 and 20, 2019, as observers and national experts, the CEC accredited a total of 1425 people. The Commission has also accredited 484 international observers and experts.

Regarding the establishment of the Electoral Bureau of the Polling Stations (EBPS), we draw attention to the re-location of about 66% of the Polling Stations (PS) established for the Transnistrian region, outside the legal term for the establishment of the PS, a process that will complicate the information and access of the Transnistrian voters to the location and, implicitly, the movement to the polling stations within the Uninominal Constituency (UC) no. 47 and 48.

EBPS are mostly composed of 7, 9 and 11 members. Of the political parties, most members of the EBPS were delegated by PSRM (Party of Socialists of the Republic of Moldova) and Democratic Party of Moldova (DPM). Most of the BESV members are women.

Of 1490 EBPS visited during the work program, 1136 (76%) of the EBPS headquarters were open, while 354 (24%) EBPS headquarters being closed. Only 889 (60%) of the EBPS made public the

information on the EBPS's work program, in most cases at the entrance to the EBPS headquarters or on the information boards.

Appointment and registration of candidates. Until 20.02.2019, 4 days before election day, as a result of examining the appeals filed by the potential candidates who were refused registration by CECEU, the court decided to register 7 electoral contestants, as follows: "SOR" Political Party- SPP- 4; Party of Communists of the Republic of Moldova -PCRM - 1 and 2 IC.

Also, by February 20, 2019, five other candidates withdrew / announced their withdrawal: CI-4 and DPM-1.

Electoral rolls. Promo-LEX OM found that only in 225 cases (24%) of the total of 928 interviews, the electoral rolls were submitted within the deadline stipulated by the law, in 30 cases (3%) the members of the electoral bureau could not provide this information, and in the case of 673 PS (73%) we attest to the failure to observe the deadlines for transmission of electoral rolls to EBPS.

We still show differences in the number of voters in the State Electoral Register (SER) and voter rolls. We note that EBPS members are making changes to improve the quality of electoral rolls, but we draw attention to the fact that some of these are done without confirmatory documents (for 84 out of 255 identified).

Based on discussions with EBPS members, a number of deficiencies were found in the electoral rolls, the most notably being the inclusion of the deceased (23% of the PS where interviews were conducted); address errors (11%) and erroneous misappropriation of the voter at PS / locality (5%).

In the Mission's view, it is not clear the different (alphabetically or by address) sorting of electoral rolls from different EBPS but belonging to one and the same locality, sector or constituency.

Promo-LEX OM addressed a request for information to the Public Services Agency (PSA), which was intended to monitor the internal migration of the population during the electoral period. Promo-LEX observers have identified and documented at least one case that raises reasonable suspicion of possible artificial migration of voters from one Uninominal Constituency (UC) to another.

Electoral conflicts. During the monitored period, according to the Promo-LEX OM observation, at least four contestations by LB, PSRM and the ACUM Block were filed within the CECE, which concerned voters' corruption, electoral advertising, and the use of administrative resources and national symbols in the electoral campaign. At the same time, a number of 6 contestations regarding the actions of the electoral contestants in the UC were handed over from the CEC on the basis of the letters accompanying the CECE. According to the Advisory Opinion of the Supreme Court of Justice no. 103 of 18.01.2019, the contestations concerning the actions of the electoral contestants in the UC will be examined in the first instance by the CECEU which registered the respective electoral contestants.

During the reporting period the CEC received 24 contestations, and a decision was made on 30 contestations. Most complaints (23) were submitted by representatives of political parties (14 - PSRM, 3 - LP, 3 - ACUM Block, 2 - SPP, 1 - PCRM), a contestation being filed by an IC. Most contestations concern the non-declaration of funds used (11), the use of administrative resources in the electoral campaign (7), the registration / non-registration of the electoral contestant (4), etc.

Electoral litigation. During the monitored period, 13 requests for summons were filed in the court of law in the electoral field, 7 - by the candidates nominated by political formations (1- Our Party (OP), 2- SPP, 2- ACUM Block, 2- PSRM), and 6 - to independent candidates. Three requests for

summons were filed against the CEC at the Chisinau Court of Appeal and 9 requests for summons against the judgments issued by the Chisinau, Comrat, Drochia, Hincesti and Orhei courts. 10 requests for summons were filed to the Supreme Court of Justice: 2 by PSRM, 1-LP, 1 by an independent candidate, 2 by electoral bodies (CECE 29, CECE 31), 3 by a voter, 1- by a legal person.

Electoral contestants. Compared to the first two weeks of campaign, Promo-LEX OM has practically doubled the number of electoral activities. During the monitored period, Promo-LEX OM identified at least 1 085 election events: 31% - DPM; 22% - PSRM, 12% - SPP, 11% - ACUM Block, 6% - OP. Depending on the geographic distribution, these occurred in the following localities: Chisinau (40%), Balti (8%), Cahul (6%), Straseni (5%) and Edinet (4%).

During the monitored period, Promo-LEX OM observers reported at least 196 cases that can be qualified as use of administrative resources, of which in 109 cases is targeted the DPM, in 36 cases - PSRM, in 14 cases - ACUM Block, in 13 cases - IC, in 8 cases - OP, in 7 cases - SPP, in 6 cases - PCRM and in 3 cases - LP.

Segregated according to the types of resources used, the cases refer to electoral assemblies organized within the state institutions with employees during the work hours (168); the involvement of civil servants / with a public dignity function in campaign activities during working hours (20); the award by candidates of merits for public works / services made from public money (5); use of state institutions to promote electoral initiatives (3).

Promo-LEX observers have also reported at least 3 cases which can be qualified as offering gifts with an electoral tint: DPM (2), SPP (1).

Promo-LEX identifies at least 3 cases of use of electoral advertising, without complying with the requirements for advertising material, and at least 65 cases of placement of advertisements in unauthorized places (DPM-31, SPP-13, PSRM-4; LP and PCRM - 3; ACUM - 2; OP - 1; IC - 3).

Promo-LEX OM notes almost a doubling of cases in which street / promotional / online election advertising was used - at least 2209 situations, of which DPM was involved in 30%, PSRM - 26%; SPP - 20%; ACUM Block - 10% and OP - 5%. The most popular types of advertising were newspapers / brochures, leaflets, posters - 44%, street banners - 17%, and visibility items (jacket, vests, scarves, bags, etc.) - 13%.

Promo-LEX OM observers also reported at least 6 cases of intimidation / violence / vandalism involving candidates. In three cases, the contestants were targeted as victims (PSRM, PCRM, ACUM Block and IC), and in one case caused intimidation. Additionally, we witness 4 black PR cases.

Funding in the electoral campaign. According to the official CEC website, between February 2 - 15, 2019, Promo-LEX OM found that 90% of the electoral actors had submitted to the CEC reports on the financing of the electoral campaign. Thus, 307 electoral contestants, including 29 IC ¹, out of a total of 340 registered at the CEC in both the uninominal (325) and the national (15) constituencies, submitted reports for the weeks 2 and 3 of the electoral campaign.

¹ IC Valeriu Ghiletchi, IC Valentina Geamana, IC Dumitru Cebotarescu, IC Alexandru Cimbriciuc, IC Alexandru Patron, IC Iurii Carbune, IC Sergiu Biriucov, IC Valeriu Cerba, IC Galina Bostan, IC Mihail Cirlig, IC Ion Lopicus, IC Oleg Binzar, IC Viorel Savva, IC Roman Palancica, IC Calin Vieru, IC Boris Volosatii, IC I Alexandru Bujorean, IC Andrei Porubin, IC Sergiu Biriucov, IC Dumitru Pogorea, IC Stela Stingaci, IC Alexandr Oleinic, IC Oleg Golopeatov, IC Veaceslav Cunev, IC Valentin Dolganiuc, IC Ion Groza, IC Gheorghii Leiciu, IC Anatolie Vengher, IC Nicolae Botgros).

The total volume of financial resources cumulated and reported to the CEC by the electoral contestants, between 2 and 15 February 2019 is 24 343 390 MDL with an initial balance of 3 124 056 MDL and the amount of the expenditures is 24 934 331 MDL, the final balance amounting to 2 533 115 MDL. The financing sources were made up of bank transfers from 5 political parties (OP, PCRM, ACUM Block, MPA, LP) from the current account on the account "Electoral Fund", in the amount of **1 154 750 MDL**; donations from 15 legal entities for 4 electoral contestants (SPP, OP, ACUM Block, IC Savva Viorel) in the amount of **5 263 050 MDL**; the donations from 894 individuals for DPM, ACUM Block, NLP, PRM, IC Dumitru Ceboatarescu, IC Valeriu Ghiletschi, IC Valentina Geamana in the amount of **17 613 990 MDL**; the material donations from 5 electoral contestants in the amount of **1 213 635 MDL**.

Promo-LEX OM found the admission of donations by an electoral contestant, exceeding the ceiling of the financial means that can be transferred to the Electoral Fund account from the legal person. Thus, 2 donations amounting to 1 390 000 MDL from Ex Factor-Grup LLC, which were transferred on February 14, 2019 for SPP, were found. At the same time, donations, which need to be checked by the State Tax Service (STS), have been identified as they exceed the 75,000 MDL ceiling on individuals who have paid financial contributions to the electoral fund for two electoral contestants (DPM - for who donated 1 individual and SPP - for which donated 14 individuals). Further, the OM found that an electoral contestant (Valeriu Munteanu / ACUM Block) had notified the CEC about another alleged violation committed by SPP by admitting the donations received on February 14 on the Electoral Fund account, which are also donations from some entities who have carried out activities funded or paid out of public money a year before the start of the electoral campaign, this being prohibited by the Electoral Code.

According to reports submitted to CEC between 2 and 15 February 2019, Promo-LEX OM notes that the largest share of CEC's reported expenditure was for advertising - 75% or 18 688 947 MDL and 12% for promotional materials - 3 098 109 MDL; followed by expenses for events and meetings - 8% (2 045 667 MDL); transport expenses - 2% (541 246 MDL) and other expenses - 2% (560 362 MDL, including telecommunication expenses - 340 000 MDL, additional maintenance costs - 109 899 MDL, expenses for delegation or detachment of persons volunteers / observers) - 11,500 MDL, expenses for omvds and banking services - 98,963 MDL).

Promo-LEX OM notes the non-declaration of expenses for campaign offices, election staff and agitators / observers of electoral contestants on election day and hopes that these will be found in the final report on the financing of the electoral campaign they were to submit up to February 22, 2019.

As a result of comparing the data reported to CEC with those observed, the mission estimated an amount of at least 1 082 137 MDL that was not reported.

Biriucov, IC Dumitru Pogorea, IC Stela Stingaci, IC Alexandr Oleinic, IC Oleg Golopeatov, IC Veaceslav Cunev, IC Valentin Dolganiuc, IC Ion Groza, IC Gheorghii Leiciu, IC Anatolie Vengher, IC Nicolae Botgros).

¹ SPP, PCRM, PSRM, ACUM Block, DPM, OP, GRP, LP, MPA, PVP, PNL, PPDA, PVE

Hate speech. On the basis of information reported by monitors, at least 4 cases where electoral competitors generated discriminatory messages or other forms of intolerance in the public space

were identified, of which: PSRM - 2 situations; ACUM Block and LP - 1 and independent candidate Dumitru Cebotarescu - 1.

On the other hand, referring to the contestants that were targeted in the hate speech, we mention the following situations: ACUM Block - 8 times, and PSRM, DPM, SPP and the independent candidate Valeriu Ghiletschi - once.

Analyzing the cases from the perspective of the types of hate speech, we observe that the most - in at least 5 cases - sexist prejudices are exploited and gender stereotypes are perpetuated in society and in other 4 cases homophobic expressions are used.

Educational and electoral training activities. Both civil society organizations and electoral authorities have continued to inform citizens about voting procedures and organized electoral debates at both national and uninominal constituencies.

Promo-LEX continued the "Go to Vote" campaign with the slogan "The second tour will not be. VOTE IN THE FIRST!" developing the following types of activities: direct information of about 41,000 voters in 74 localities (46 UC); organizing 7 televised and 6 radio electoral debates with the participation of candidates from the national constituency; organizing 10 public debates in 10 uninominal constituencies with the participation of 29 candidates from the UC; the creation and promotion of 2 video spots that promoted the call to vote.

Contextually, Promo-LEX expressed its perplexity over the actions of the ACUM Block, which uses in its election campaign a phrase from the campaign slogan of the Association - the second tour will not be. Starting from the principle of good faith, Promo-LEX Association qualified the assumption of the phrase as a technical error and urged the contestant to exclude and not to allow the printing of new materials of electoral agitation with the same slogan.

Promo-LEX also draws attention to the Disclosure submitted to the CEC by DPM through which the contestant qualifies certain aspects of promotional material used in the Promo-LEX campaign as political agitation, to support a particular contestant. The Association rejects the allegations as groundless and the arguments put forward - as unfounded.

In this way, Promo-LEX draws the attention of all parties involved in the electoral process and reiterates that it will continue its electoral education in the same apolitical, consistent, equidistant and impartial way..

CEC and CICDE activities in the field of information focused on the following: operator training; the continuous operation of the call center; additional information on the addresses of the opened sections within the Transnistrian constituency and those opened outside the country; ensuring the accessibility of the electoral process.