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Advancing democracy and human rights

PROMO-LEX ANALYSIS

**LEVEL OF IMPLEMENTATION OF THE RECOMMENDATIONS MADE BY
the European Commission for Democracy Through Law and the OSCE Office for
Democratic Institutions and Human Rights
to the Republic of Moldova with Regards to the Draft Laws Amending and
Supplementing Some Legislative Acts
(electoral system for parliamentary elections)**

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Chişinău

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GENERAL CONCLUSIONS

- The Promo-LEX Association found 32 recommendations in the Joint Opinion of the European Commission for Democracy Through Law and the OSCE Office for Democratic Institutions and Human Rights to the Republic of Moldova (hereinafter "Venice Commission and OSCE/ODIHR"), of which it established that 12 (37.50%) were fulfilled, 14 (43.75%) – partially fulfilled and 6 (18.75%) – were not fulfilled at all. As for the score 'fulfilled', the measures carried out were sufficient to rate the recommendation as implemented, with the score 'unfulfilled' being given to recommendations that were not implemented. The 'partially fulfilled' score was assigned to activities that did not prove the full implementation of recommendations. The scoring was done by Promo-LEX Association and it is explained in the table below.
- On the other hand, according to the assessment made by the Parliament – all the recommendations identified by the legislative authority in the Joint Opinion of the Venice Commission and OSCE/ODIHR were fulfilled. The table below proves that such a result was due to a positive self-assessment regarding all the recommendations included in the parliamentary analysis, on the one hand, and due to omitting certain recommendations the experts made in the Joint Opinion, on the other hand.
- ***In the opinion of Promo-LEX, the shared position of the Venice Commission and OSCE/ODIHR that the modification of the electoral system of Moldova is not recommendable is generic and principled.***
- Also, the recommendation to achieve wide consensus in the society with regards to the mixed electoral system deserves particular attention. Considering the nature of the political events in Moldova and the electoral debates organised by Promo-LEX, we see there is no nationwide consensus on this matter. What is more, the society is rather divided. In addition, the opinion polls, including those ordered by Promo-LEX, revealed that the matter of mixed electoral system is not wanted by most of the population.
- The monitoring of the implementation of the new law proves that accepting the recommendations doesn't necessarily mean they will be implemented. Thus, out of about 7 recommendations already implemented, we may say that 5 were implemented with deviations from the legal provisions or with delays (the independence of the National Commission Establishing the Constituencies; the delimitation of constituencies based on the 10% deviation; the establishment of the constituencies abroad; clear criteria for establishing constituencies in the Transnistrian region; release of integrity records, following the example of the new local elections). The non-transparent and sometimes inconsistent implementation of recommendations at this stage raises reasonable suspicions about the integrity and the discretionary nature of the future implementation of the Venice Commission and OSCE/ODIHR recommendations and conduct of elections under the new law.

FINDINGS

<i>No</i>	<i>Recommendation from the Opinion of the Venice Commission and OSCE/ODIHR</i>	<i>Measures taken by the legislator, based on the recommendations</i>	<i>Extent of fulfilment</i>	<i>Substantiation of the position of Promo-LEX</i>
1	Changing the electoral system is not recommendable	The electoral system for the election of the Members of Parliament of Moldova was changed by the Law No 154 of 20.07.2017 amending and supplementing some legislative acts from a proportional one into a mixed electoral system.	<u>Unfulfilled</u>	Promo-LEX Association draws the attention that the electoral system was amended without taking into account the main recommendation of the Venice Commission, which pointed out that the switch from the proportional to mixed voting system is not advisable for the Republic of Moldova. Moreover, the Venice Commission has reiterated and drawn the attention in its opinion that as early as in 2003 they recommended the Republic of Moldova to switch from the proportional electoral system with a single constituency to a proportional system with multi-member constituencies.
2	Changing the electoral system by at least one year before next elections	On 20 July 2017, the Moldovan Parliament has adopted the law No 154 providing for the switch from the proportional electoral system to a mixed system for electing the MPs.	<u>Fulfilled</u>	According to Article 63 of the Constitution and of the Constitutional Court Decision No 31 of 10 November 2010, the mandate of the Parliament is 4 years long and starts on the date that the MPs are elected to the Parliament. The last parliamentary elections took place on 30 November 2014 and, thus, the amendment was supposed to be approved by 30 November 2017. At the same time, the Government of Moldova, by virtue of the final provisions of the Law No 154 of 20 July 2017, was bound to make suggestions on the amendment and adjustment of the legal framework till 20 October 2017. However, it did not happen.
<i>Reaching Consensus by Deep and Comprehensive Debates</i>				
3	Reach actual wide consensus via public consultations (as a result of thorough debates in the Parliament and in the society)	<ul style="list-style-type: none"> - Debates organised by the Parliament; - Public campaigns; - Public debates organised by Promo-LEX Association; Involvement of stakeholders in debates on radio and TV, including those organised by Promo-LEX Association.	<u>Partially fulfilled</u>	There were elements of consensus in the Parliament, where the draft was voted by a majority of parties belonging to the majority coalition and by one opposition party. No broad consensus was achieved in the society, which was proved by the way in which the public debates took place and their content, by the results of the opinion polls and by the demonstrations organized by the extra-parliamentary political opposition, etc. The data from opinion polls are relevant. For example, between February 12 and March 2, 2017, an opinion poll

				<p>ordered by Promo-LEX was conducted, which revealed that 23% of the citizens would support the proportional voting system with closed lists; 12% – changing the current proportional voting system by introducing open lists; 32% – the introduction of first-past-the-post system; 21% – the introduction of a mixed voting system; 12%¹ – DK / NA.</p> <p>Other surveys:</p> <p>a. The IRI Survey, February-March 2017, revealed that 21% of the population strongly support the mixed electoral system, while 22% support it partially².</p> <p>b. The IMAS Survey ordered by PDM, conducted during May-April, 2017 contains the following options: proportional representation – 35%, first-past-the post system – 40%; mixed electoral system – 17%, DK / NA – 8%³.</p> <p>c. The IMAS Survey conducted in July 2017 contained the following options: proportional representation – 35%, first-past-the post system – 30%; mixed electoral system – 24%, DK / NA – 11%⁴.</p> <p>d. The IPP Survey, the Public Opinion Barometer, November 2017: proportional representation – 36.9%; first-past-the post – 19.1%; mixed electoral system – 16.0%; DK / NA – 28.1%.⁵</p>
Funding of Election Campaigns and Political Parties				
4	More comprehensive requirements regarding financial reporting on campaigns and stipulation of criteria on expenditure ceilings	-	Partially fulfilled	<p>Recommendations with broader requirements for financial reporting on election campaigns were not implemented, provisions of this kind being neither present in the previous version of the Code, nor in the draft submitted for examination. At the same time, the Promo-LEX Association reiterates that, according to the monitoring of election campaign funding, the category of expenditures for electoral advertising is the one where most costs are incurred (for the subcategories – outdoor advertising, TV advertising), which is why Promo-LEX included the recommendation to impose limits on it in order to create equal and fair conditions of</p>

¹<https://promolex.md/10433-sondaj-promo-lex-oamenii-vor-schimbarea-sistemului-electoral-doar-23-sustin-sistemul-actual-de-vot/?lang=ro>

²http://www.iri.org/sites/default/files/iri_moldova_poll_march_2017.pdf

³http://imas.md/pic/archives/3/Public%20perceptions%20in%20Republic%20of%20Moldova_May%202017_English.pdf

⁴http://imas.md/pic/archives/6/Socio-Politic%20Barometer%20December%202017_EN%20.pdf

⁵<http://ipp.md/wp-content/uploads/2017/12/Prezentarea-publica.pdf>

				electoral competition for all electoral stakeholders. The electoral code stipulated the provision of up to 2 minutes per day during the election campaign on each broadcaster for paid electoral advertising, to each electoral competitor in accordance with the recommendations of the Commission and of Promo-LEX.
5	Enough time for the efficient supervision of financial statements	Article 43(1) provides that the reports on the funds received and expenses made during the election campaign shall be submitted to CEC on a weekly basis.	<u>Partially fulfilled</u>	The old version of the Electoral Code provided that the reporting period was two weeks, while this aspect was missing from the submitted draft. Reducing the time for the submission of campaign funding reports from two weeks to one week (those during the campaign) is partially in line with the requirement of the Venice Commission; at the same time, the obligation to submit the final report 2 days before the election day is a limiting measure for election candidates, who are thus forced to avoid reporting the expenses of the election day and to violate, therefore, the transparency measures. Promo-LEX has repeatedly recommended extending the deadline for submitting final reports so that they could be submitted 2-3 days after the election day.
6	Proportional penalties for violations regarding election campaign funding during the collection of signatures and during the campaign;	By amending Articles 41 and 43, the initiative groups obtained the same rights and obligations as the election candidates in relation to the election campaign funding and reporting. Article 75(2) provides that for the violation of the electoral legislation, the Central Electoral Commission or the electoral constituency council may apply to the initiative group or to the election candidates the following sanctions: a) warning; b) de-registration of the initiative group; c) initiating the proceedings for contraventions in line with the law; d) stopping appropriations from the state budget as a key or complementary sanction; e) requesting to de-register the election candidate.	<u>Fulfilled</u>	The initiative groups were regulated neither in the previous edition of the Electoral Code, nor in the draft submitted for endorsement. The current version provided for the application of the current sanctions to initiative groups too. At the same time, Promo-LEX recommends to increase meaningfully the sanctions related to non-compliance with the provisions aiming at political parties' financial transparency. At the same time, Promo-LEX believes it imperative to clarify when exactly the sanctions listed in Article 75(2) of the CEC Regulation on Election Campaign Funding and in the CEC Regulation on Initiative Group Funding can be applied.

7	Electioneering by third parties	<p>According to the amendments to Article 43(10), all the services and actions envisioned in para. (8), provided for free by individuals and legal entities, and all the volunteering actions conducted during signature collection and during the election campaign in favour of and election or competitor shall be assessed by the initiative group and by the election candidate, and shall be put down in the financial statement according to the regulation approved by the Central Electoral Commission.</p>	Fulfilled	<p>These issues were regulated neither in the previous edition of the Electoral Code, nor in the draft submitted for endorsement. The fact that the Electoral Code is being amended in line with the recommendations of the Venice Commission as far as electioneering by third parties is concerned, by taking into account the local context of Moldova is a progress indicator, but it is not enough for ensuring appropriate transparency when it comes to the support provided by third parties. The Opinion⁶ suggests clearly that this is a grey area that needs to be tackled further, particularly by implementing these provisions.</p>
<i>Integrity of Election Candidates</i>				
8	Business people or other local stakeholders influencing candidates	<p>Article 41(2)(d) provides that the general ceiling for the transfer of funds on the 'Electoral Fund' account of the election candidate shall be established by the Central Electoral Commission, using as a basis a coefficient multiplied by the number of voters from the constituency where the elections are held.</p> <p>Also, Article 41(2)(e) provides for lower ceilings on the donations from individuals and legal entities to the 'Electoral Fund' account for one election campaign, which were established at 50 and 100 average salaries, respectively, for the year concerned.</p> <p>Article 49(e) and (f) provides that the candidates shall submit upon registration the statement of wealth and personal interests for the last two years before the year in which the elections are held, in accordance with the Law on the Statement</p>	<u>Partially fulfilled</u>	<p>Regarding the first mentioned rule – we believe that the relation of dependence between the ceiling of expenses for elections and the number of voters in the constituency is welcome and excludes the possibility of excessive spending in constituencies where there are fewer voters. It can also be determined and linked, to a certain extent, to the expenses made for a vote in the previous elections, but this needs to be regulated additionally.</p> <p>Also, corroborating the coefficient applied by the CEC to calculate the maximum amount of the funds that can be transferred to the 'Electoral Fund' account of the electoral candidate with the ceiling for donations from individuals and legal entities, we get the following picture:</p> <p>The coefficient of MDL 25.25 multiplied by the number of about 60 000 voters in a single-member constituency would amount to MDL 1 515 000, and the ceiling for donations from individuals (50 average salaries), who also own a business and who can thus donate as a legal entity too (+ 100 average salaries) would be MDL 757 700. Given that in previous campaigns, the candidates spent maximum 50% of the total amount allowed, we could deduce that one single person (businessman) is able to fund the election campaign of an election candidate.</p>

⁶ CDL-AD(2017)027, Opinion No. 901/2017 ODIHR Opinion-Nr.:POLIT-MDA/314/2017, Strasbourg, Warsaw, 11 December 2017, Point 57. Source: <http://www.osce.org/odihr/elections/moldova/362051?download=true>.

		<p>of Wealth and Personal Interests; as well as the certificate of integrity.</p>		<p>Therefore, we welcome the diminishing of the maximum ceiling for donations, but we also reiterate the need to adjust it to the standard of living of ordinary citizens and their actual capacities to make donations. Also, the possibility of a candidate to reach the ceiling for donations from a very small number of individuals (even smaller number of legal entities), or even form one, would cast doubt on the representativeness of the population involvement in funding an election campaign. Broad financial involvement would mean the supported candidate is very trusted.</p>
<p>9</p>	<p>Defining clearly the concept of integrity and the source of the police records</p>	<p>Article 49(f): certificate of integrity, issued according to the law, by the National Integrity Authority, which shall contain the following information about the candidate:</p> <ul style="list-style-type: none"> - existence of legal/judicial restrictions to run for or to hold public positions; - information about the existence/non-existence of final statements of wealth and personal interests, statuses of incompatibility and confiscation of the unjustified property — documents that are not prescribed; 	<p><u>Partially fulfilled</u></p>	<p>We have certain findings regarding this alleged achievement.</p> <p>During the monitoring of the new local elections in the autumn of 2017, Promo-LEX reported on the institutional and procedural imperfections as regards applying for and receiving certificates of integrity. However, CEC sent out a circular whereby it ordered ECCs to admit the candidates' files without those certificates and has requested the same the National Integrity Authority in a centralized manner. We are concerned that in such a short time, the situation might not improve too much and it might create bottlenecks in the 2018 parliamentary elections.</p> <p>We also question the inability of a person to be registered if they don't have the certificate of integrity, but even CEC, in its answer to a complaint, stated that: 'NIA's findings regarding the statements of wealth and personal interests, regarding incompatibility and unjustified property forfeiture – documents that are not prescribed, which may be indicated in the certificate of integrity – do not restrict access to a public office. [...] Accordingly, the NIA's findings put down in the certificate are not used for not allowing one to be registered as election candidate, but failing to submit such a certificate to the central electoral body – is. The purpose of that certificate is to inform the public about the candidates. Considering the aforementioned, we believe that certificate does not have a clear role as long as the authorities deem the information in it irrelevant and impose penalties only for not submitting it.</p>

Parliament Accession Threshold				
10	Decreasing the parliament accession threshold for parties	Article 95(2) provides that the minimal threshold of representation is made of the following ratios of the valid votes across the whole country: a) for a party or a socio-political organisation – 6%; b) for an electoral block – 8%.	<u>Unfulfilled</u>	The accession threshold for parties, which are the main electoral stakeholders, remained at 6%. In fact, the threshold increased two times. Compared to the previous proportional system, when a political party with 6% of public support could delegate to the Parliament at least 6 MPs, according to the new electoral system, the same political party with similar popular support at national level will be able to delegate to the Parliament at least 3 deputies , i.e. twice less ⁷ .
Single-Member Constituencies				
11	Establishment of a special independent entity for the delimitation and review of constituencies, with the involvement of a geographer, a sociologist and with a balanced representation of parties and representatives of minorities.	Article 80(2) provides that single-member constituencies shall be approved by the Government on the basis of the decision of an independent commission , the membership of which is established by Government Decision and among which there must be representatives of the: a) Central Electoral Commission; b) Legal Committee for Appointments and Immunities of the Parliament; c) Presidential Office of the Republic of Moldova; d) parliamentary factions and groups; e) extra-parliamentary political parties that obtained more than 2% of the valid votes at the last parliamentary elections; f) People’s Assembly of Gagauzia; g) associations of national minorities; h) local public authorities; i) Office for Diaspora Relations; j) civil society and academia in the field, including geographers and sociologists.	<u>Partially fulfilled</u>	The initial version submitted for examination provided that CEC had the task of establishing single-member constituencies. As a result of recommendations, a commission was set up, consisting of representatives of parties, of the academia, of minorities. However, there is reasonable suspicion regarding the independence of the commission, because ⁸ : the right to establish it was given to a political body – the Government, which is subordinated to the parliamentary majority; the regulation of the commission was developed by the Government, not by the commission, which is not in line with the law; the mandate of the commission members was not determined in terms of duration and the procedure to revoke/add members was not described; the establishment of the commission in violation of legal deadlines, etc. All the aforementioned cast doubt on the independence of the commission.
12	Organising extensive and comprehensive	-	<u>Unfulfilled</u>	Public consultations on the establishment of single-member constituencies were organised neither by the commission, nor by the Government ⁹ . In addition, all external proposals, for

⁷ <https://promolex.md/9925-d-e-c-l-a-r-a-t-i-e-cu-referire-la-modificarea-sistemului-de-alegere-a-deputatilor-in-parlament/?lang=en>

⁸ <https://promolex.md/10189-opinia-asociatiei-promo-lex-cu-referire-la-proiectul-regulamentului-initiat-de-ministerul-justitiei-privind-activitatea-comisiei-de-delimitare-a-circumscripțiilor-uninomiale/?lang=en>

⁹ <https://promolex.md/10733-apel-public-privind-transparenta-limitata-si-deficiențele-constatate-in-procesul-de-adoptare-a-proiectului-hotararii-privind-constituirea-circumscripțiilor-uninomiale/?lang=en>

	consultations with all relevant stakeholders			example those that the Promo-LEX Association made, were ignored and were discussed.
13	Starting constituency delimitation at least one year before elections	Article 80(7) provides that the borders of the single-member constituencies may not be changed in less than one year before the elections.	<u>Fulfilled</u>	The draft submitted for review provided that the borders of the single-member constituencies could be changed no later than 180 days before ordinary elections.
14	The allowed deviation from the rule must not exceed of 10% (depending on the number of voters).	Article 80(4)(b) provides that the difference in the number of voters from one single-member constituency to another must not account for more than 10%.	<u>Partially fulfilled</u>	In the submitted draft, the deviation provided for was of 15% maximum. It is alarming that despite the inclusion of the Commission's recommendations on the 10% limit in the text of the Electoral Code, this legal rule was not implemented, as the constituencies were established with a deviation of more than 10% ¹⁰ . In addition, the implementation was also imperfect because, to calculate the deviation, the number of voters in the lists was used, without taking into account the total number of voters in SRV.
<i>National Minorities</i>				
15	Constituencies established in regions with a concentrated minority population should not to be merged with other territorial units or parts of the country in order not to dilute the representation of minorities	Article 80(4)(f) provides that the single-member constituencies in which national minorities are concentrated shall be established taking into account their interests and the borders of the respective administrative territorial units.	<u>Partially fulfilled</u>	Such provisions were missing from the submitted draft. However, if introduced, these provisions should have been followed by the specification that the 10% deviation is inapplicable. Taraclia constituency has about 35 082 voters.
16	Create contiguous constituencies that do not connect parts of the ATUG with other parts of the country	Article 80(4)(g) provides that the single-member constituencies on the territory of the Autonomous Territorial Unit of Gagauzia shall be established in such a way as not to exceed the administrative borders of the autonomy, and these constituencies cannot be added settlements from outside the autonomy, taking into account the risk of diluting the national minority.	<u>Fulfilled</u>	Such provisions were missing from the submitted draft.

¹⁰<https://promolex.md/wp-content/uploads/2017/11/Single-member-constituencies-in-Moldova-Analysis-1.pdf>

The Transnistrian Region				
17	Clear criteria for establishing electoral constituencies in Transnistria, taking into account the implementation aspects, including those related to campaigning and use of foreign funds.	Article 80(6) When establishing single-member constituencies on the left bank of the Nistru River, the following criteria shall particularly be taken into account: a) the administrative borders of the administrative territorial units on the right and left banks of the Nistru River, according to the Law on the Administrative-Territorial Organization of the Republic of Moldova; b) the data from the State Register of Voters, including those based on the preliminary registration, according to the procedure established by the regulation approved by the Central Electoral Commission.	<u>Partially fulfilled</u>	According to the initial version of the draft, CEC is to determine the number, demographic and geographic coverage of the single-member constituencies in the settlements on the left bank of the Nistru River on the basis of precise criteria established in its own Regulation. Certain criteria were specified in the current version of the draft. However, aspects regarding campaigning and the use of foreign funds were not put down.
18	Specific and detailed provisions on voting by Transnistrian residents that would address the establishment of polling stations, the collection of signatures and the conduct of the campaign	Article 32(3): When opening polling stations for voters in the settlements on the left bank of the Nistru River (Transnistria), the following criteria shall be observed: a) the polling stations shall be opened in the administrative territorial units under the constitutional control of the Moldovan authorities both on the left bank and on the right bank of the Nistru River; b) for the settlements on the left bank of the Nistru River, separate polling stations will be opened on the basis of data from the State Register of Voters, including on the basis of preliminary registration, according to the procedure established by the regulation approved by the Central Electoral Commission; c) when opening polling stations, the number of voters who participated in the previous elections and the borders of the electoral constituency in relation to voter's domicile shall be taken into account	<u>Partially fulfilled</u>	Details on campaigning are missing. In addition, both the initial version of the draft and the current version of the EC, Article 86(6) provide that the signatures in support of the candidates from single-member constituencies established for the settlements on the left bank of the Nistru River (Transnistria) may come from any constituency. This does not ensure the representative character of the candidate in a particular constituency.

		according to the data from the State Register of Voters, including according to the preliminary registration.		
Gender Equality				
19	Inclusion of additional special temporary measures to encourage parties to ensure a fair representation of both sexes on the list of candidates or the possibility to impose the requirement that a representative number of women be included on winning positions on the list of candidates, for the proportional component of the elections	<p>Article 46(4) provides for an increase in budget support of at least 10% of the amount appropriated for the budget year to political parties that will observe the quota of at least 40% of women candidates proposed for single-member constituencies, as well as a multiplication factor for each female candidate elected in single-member constituencies.</p> <p>Article 86(1) provides that in order to be registered by the electoral constituency council, a female candidate in a single-member constituency may be registered if she collected the signatures of at least 250 and at most 500 supporters with the right to vote in the constituency where she is a candidate (for men – at least 500 and at most 1000).</p>	<u>Fulfilled</u>	The electoral code contained provisions regarding the obligation to draw up lists of candidates for parliamentary elections with the minimum representation rate of 40% for both sexes. The draft submitted for review did not regulate this issue for single-member constituencies. Measures in this regard were introduced as recommended.
Elections Abroad				
20	Detail and specify the aspects regarding the criteria for establishing single-member constituencies abroad	<p>Article 80(5) provides for the following criteria:</p> <p>a) information held by the Moldovan diplomatic missions and Consular Offices in the countries of residence;</p> <p>b) information held by the central public authorities, including the relevant official statistical data;</p> <p>c) information resulting from prior registration of citizens staying abroad, in accordance with the procedure established by the regulation approved by the Central Electoral Commission;</p>	<u>Fulfilled</u>	It is regrettable that despite the implementation of the recommendations and the specification of criteria for the establishment of constituencies abroad, the legal provisions were not taken into account in determining the number of constituencies established abroad ¹¹ .

¹¹<https://promolex.md/10646-opinia-asociatiei-promo-lex-cu-referire-la-numarul-de-circumsriptii-uninomiale-care-urmeaza-a-fi-create-pest-hotarele-tarii-si-repartizarea-acestora-potrivit-zonelor-geografice-1/?lang=en>

		<p>d) number of voters who participated in the last election;</p> <p>e) other relevant data obtained by the central public authorities, upon request, from the authorities of the host country, as prescribed by law;</p> <p>f) when establishing the boundaries of constituencies created abroad, the Commission shall act in accordance with the regulation approved by the Government, and shall take into account the relevant geographic areas, such as: the Member States of the European Union, Norway, Iceland, Switzerland, Liechtenstein, San Marino, the countries of South-East Europe that are not members of the European Union, Turkey, Israel; the member states of the Commonwealth of Independent States, Ukraine, Georgia, Asia, the Middle East; North America, South America, Africa, Australia, New Zealand, taking into account the borders of states that cannot be intersected on the inside.</p>		
21	<p>Clear and stable criteria for CEC on how to determine the number of polling stations abroad, including on using demographic statistics</p>	<p>Article 31(4) provides that the following criteria shall be used to set up polling stations abroad:</p> <p>a) information held by the Moldovan diplomatic missions and Consular Offices in the countries of residence;</p> <p>b) information held by the central public authorities, including the relevant official statistical data;</p> <p>c) information resulting from prior registration of citizens staying abroad, in accordance with the procedure established by the regulation approved by the Central Electoral Commission;</p> <p>d) number of voters who participated in the last election;</p>	<p><u>Fulfilled</u></p>	<p>According to the previous version of the Electoral Code and to the initial draft, polling stations were established abroad on the basis of preliminary registrations of the voters residing abroad and of the number of voters who participated in the previous election.</p> <p>Thus, we have found more criteria.</p> <p>At the same time, as we have a general rule, we note that the legislator did not regulate explicitly the possibility to open additional polling stations for the second round of elections in the cases when this is required, in the event of massive demands from the citizens living abroad, considering what happened at the 2016 presidential election.</p>

		e) other relevant data obtained by the central public authorities, upon request, from the authorities of the country of residence, as prescribed by law.		
<i>Electioneering via Broadcasters</i>				
22	Requiring broadcasters to provide free air time and to organise debates including for the candidates in the majoritarian voting system	Article 70 provides for an extension of the right to reflect in the mass-media on the candidates from the single-member constituencies, not just for elections in the national constituency.	<u>Fulfilled</u>	In the initial version of the draft provided for the obligation of the broadcasters to grant free air time and electoral advertising time only for parliamentary elections in the national constituency, excluding the candidates from the single-member constituencies.
<i>Candidates Withdrawing Their Candidacy</i>				
23	Adjust the deadline for withdrawing from elections, to avoid their replacement late in the process	According to Articles 88 and 89, the national list can be amended and candidates can withdraw from the race no later than 14 days before election day.	<u>Partially fulfilled</u>	<p>The initial version of the draft and the older version of the Electoral Code provided that it was no later than 7 days before election day that a candidate could withdraw and an entire list of candidates could be withdrawn and a candidate on the list could be replaced.</p> <p>At the same time, note that Article 51(5) provides that once that period of time passed, a candidate may only be de-registered on the basis of a court decision. Looking at the 2016 presidential elections, the court decision may also be issued at the request of the candidate.</p> <p>In this context, we believe that the legislator should have also amended the general rule so as not to allow a candidate to withdraw after having filed an application to this end with the court, but only if the electoral legislation was violated.</p>
<i>Duties that Should be Performed by CEC</i>				
24	Having CEC register candidates and appoint mandates	Article 85(3) provides that the candidates to the position of Member based on single-member constituencies, including independent candidates, shall be registered with the electoral constituency councils. Article 75(5) provides that one can be de-registered upon request by CEC, and in the case of local elections – at the request of the electoral constituency council too, by a final court decision that stipulates:	<u>Partially fulfilled</u>	<p>The registration of candidates for single-member constituencies remained a task of the electoral councils, just as provided in the initial draft.</p> <p>The assignment of mandates was made the task of CEC (for both the nationwide constituency and the single-member constituencies).</p>

		<p>a) the use, by the election candidate, of unreported financial and material funds or their expenses above the ceiling for the electoral fund;</p> <p>b) the use, by the election candidate, of funds coming from abroad;</p> <p>c) non-suspension from office of the candidate who has such an obligation. In such a case, the independent candidate is de-registered or taken out from the list of candidates;</p> <p>d) violation, by the election candidate, of the provisions of Article 52(3). Article 99(2) provides that CEC shall assign mandates to the candidates elected in single-member constituencies.</p>		
25	Verifying financial statements on the election campaign	Article 43(1) provides that all financial statements regarding the funding of election campaigns shall be submitted to CEC.	<u>Fulfilled</u>	The initial draft provided that the election candidates in the single-member constituencies were to present the financial statements to the constituencies and not to CEC, as established in the current version of the Election Code
<i>Other Aspects</i>				
26	Avoid excessive regulation and limitation of the number of members of initiative groups and of the collection of various documents	In Article 87, the obligation that the initiative group should consist of at least 20 and no more than 100 people with voting rights (parliamentary elections) was excluded. Other than that the provisions stayed the same.	<u>Partially fulfilled</u>	<p>No changes were made to the documents that are to be collected by the initiative groups.</p> <p>At the same time, the Promo-LEX Association cautions that by the changes it made, the Parliament demonstrated a selective and even discriminative attitude towards the other initiative groups. Thus, for presidential elections, it remained compulsory that the initiative group should consist of at least 25 and no more than 100 people with the right to vote. In case of republican referendum – at least 100 members, and in case of local referendum – at least 20 members.</p> <p>An exceptionally important aspect, in the opinion of Promo-LEX – the right of persons appointed by group members to collect signatures (including those appointed by candidates / initiative group members) remains unregulated. This is an unjustified extension, which also removes the status of the members of initiative groups. In addition, we believe it is</p>

				necessary to regulate strictly the persons who have access to citizens' personal data ¹² .
27	Review the cases of re-runs, not only because of invalidation of elections on the basis of violations on the election day, but also on the basis of pre-election violations (misuse of administrative resources, inequalities during the election campaign reflected in the mass-media, etc.)	Article 102 provides for the conditions under which the Constitutional Court can rate the elections as invalid. Thus, should the Constitutional Court determine that during the voting and vote counting the provisions of this Code were violated and affected the voting results and awarding of mandates, the elections shall be declared null.	<u>Fulfilled</u>	According to the initial version of the draft, the Constitutional Court was to declare the elections null if during the voting and vote counting the provisions of this Code were violated and affected the voting results and awarding of mandates. The situation could be interpreted narrowly, as if the violations on the basis of which the elections could be declared invalid needed to be committed only on the election day, not before the elections. Thus, the current wording clarified the conditions.
28	Addressing the two-week period of time set for the election re-run (considered to be insufficient)	Article 104(1) provides that if the elections are declared null, then CEC shall organize, within 2 weeks, election re-runs in the constituencies concerned.	<u>Unfulfilled</u>	The term was not increased. Besides, the legislator did not regulate strictly when are the two weeks counted from not even in the current version of the code – is it from the election day or from the day that the Constitutional Court declared the elections invalid on.
29	Issues in the judicial proceedings for the settlement of complaints and appeals, as well as for the termination of the mandates of MPs falling in the territorial jurisdiction of the first-level courts	-	<u>Unfulfilled¹³</u>	The procedure for solving complaints and appeals has remained unregulated: how and by which court will the appeal be examined, since there are several districts in a single-member constituency, which can be subject to different courts
30	Reducing the maximum number of voters per polling station instead of increasing it	Article 30(2) continues to provide for the same minimum and maximum number of voters per polling station (30 and 3000 voters, respectively).	<u>Unfulfilled</u>	In the old version of the Code, the maximum number was 3000 voters per polling station. It did not decrease. With regards to this matter, the Venice Commission referred to the increase in workload (it would be necessary to issue 2 ballot papers per voter), which would lead to queues. In this respect, even if the number of voters per polling station was not limited, it would be appropriate to consider the possibility of increasing the number of electoral officials in the large polling stations.

¹²https://promolex.md/wp-content/uploads/2017/01/raport-electoral-final-2016_EN_.pdf, page 15.

¹³<https://promolex.md/wp-content/uploads/2017/11/Single-member-constituencies-in-Moldova-Analysis-1.pdf>

31	Limit the number of voters on the additional voter lists	Article 58(2)(a) voters who brought to the polling station a certificate confirming their right to vote. In the case of parliamentary elections in single-member constituencies, local elections or local referenda, only the certificates confirming the right to vote on the territory of the respective constituency will be accepted.	<u>Partially fulfilled</u>	No other conditions were provided for limiting the inclusion of voters on additional lists other than limiting the use of certificates confirming the right to vote on the territory of the single-member constituency concerned. Students and pupils with the right to vote can be included on the additional lists too ¹⁴ .
32	Review the period of time within which CEC and the CC can take decisions regarding the assignment of mandates to alternate candidates	Article 2(10) and (11) of the Law No 39/1994 on the Status of Members of Parliament, provide that CEC is to take the mandate-assigning decision within 5 days, while the CC – within 10 days.	<u>Fulfilled</u>	The initial version of the draft provided for 10 days for CEC and 30 days for the Constitutional Court.

¹⁴<https://promolex.md/10213-efectele-sistemului-mixt-studiu-de-caz-votul-studentilor-si-elevilor-poate-decide-soarta-alegerilor-din-unele-circumsriptii-uninomiale/?lang=en>