

13 July 2021

STATEMENT

PARTIALLY FREE AND PARTIALLY FAIR ELECTIONS

in an environment marked by hate speech, biased coverage, suspicions of political influence on electoral bodies

Starting from the principles¹ that underpin free and fair elections, set out in international treaties and conventions on civil and political rights and in the Code of Good Practice in Electoral Matters of the European Commission for Democracy through Law (Venice Commission) and

Highlighting that the elections were held in an incomplete legal framework with problematic provisions, which was not improved in line with the recommendations of Constitutional Court, issued in 2016 and 2020, and of the national election observation missions and missions of OSCE/ODIHR and Venice Commission

Civic Coalition for Free and Fair Elections *states* that the Early Parliamentary Elections of 11 July were competitive, voters had a variety of political alternatives to choose from, there were practically no obstacles or pressures likely to hinder electoral contestants' free expression of their options and presentation of their offers to voters, including through electoral debates;

Appreciates the good organization of the election day by the Central Electoral Commission and lower-level electoral bodies;

Attests the positive impact on ensuring equal opportunities for women and men in the Parliament, positive impact of electoral contestants' compliance with the double gender quota when drawing up the lists of candidates;

Based on the aforementioned principles and starting from the irregularities and deviations noticed by member organizations of the Coalition, both during the campaign and on the election day, the Civic Coalition for Free and Fair Elections appreciates the Parliamentary Elections of 11 July 2021 as **partially free and partially fair**, due to the following reasons:

The Coalition believes that ***electoral complaints were reviewed poorly***. The Parliament's failure to adjust the provisions of the Electoral Code concerning electoral complaints to the Administrative Code led to misunderstanding of institutions' competence and applicable procedure. As a result, stakeholders of the electoral process were restricted in their right to contest their opponents' actions and deprived of the right to an effective appeal. ***Delays in the examination of electoral disputes***, particularly regarding the establishment of polling stations for voters from abroad and from the left bank of the Nistru river generated risks for the integrity of the electoral process and compliance with the principle of legal certainty.

The Coalition notes with concern the ***non-transparent and unpredictable process of establishing polling stations abroad, characterized by reasonable doubts of political influence***. Contrary to good practices of the previous elections, CEC did not use any methodology for applying the three criteria set out in Article 31 of the Electoral Code when establishing polling stations abroad. CEC's initial decision of 5 June 2021 ignored increased figures for two criteria – the voter turnout during previous elections

¹ Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE of 29 June 1990, to which the Republic of Moldova acceded on 10 December 1991.

and preliminary registration. Authorities responsible for establishing polling stations abroad demonstrated poor inter-institutional communication, which was also noted by courts. Late establishment of polling stations abroad, only 18 days before voting, contrary to the legal deadline of a minimum of 35 days, did not allow to effectively inform voters abroad on the location of the new polling stations.

We also note that ***process of setting up polling stations for voters from the left bank of Nistru river lacked transparency, raising concerns about political interference*** in the CEC activity. The initially adopted decision to open 44 polling stations², including 3 polling stations within the area not controlled by the constitutional authorities, disregarded the risks to the voting process security and integrity. Although the 3 polling stations³ were later withdrawn, the criteria for opening polling stations for voters from localities on the left bank of Nistru river were arbitrarily instrumentalized by CEC without a clear methodology. The lack of access to information and the ban on campaigning on the left bank of the Nistru river imposed by the separatist authorities from Tiraspol did not allow for free information of voters about the electoral process and the programs of electoral contenders.

The Parliamentary Elections of 11 July 2021 were marked by multiple cases of ***use of administrative resources*** (at least 291 cases⁴) by some electoral contenders, thus affecting the equality of opportunities during elections. Most of them refer to the involvement of civil servants in the election campaign during working hours and taking credits for works/services implemented from public money. Without a clear legal definition of administrative resources and appropriate sanctions for their use, this issue remains unsolved⁵. Proposals to amend the Electoral Code in this respect were introduced in the draft Law No 263 of 19 June 2020, which was approved by the Parliament only in the first reading.

Reporting of election contenders' expenditures to CEC remains problematic and is often incomplete or lacks entirely. According to Promo-LEX estimations, electoral contenders did not report expenditures of at least MDL 10,859,900⁶.

The Coalition noticed with concern the ***dynamics of the use of hate speech*** during the electoral campaign, generated by several electoral contenders against political opponents and President Maia Sandu, which increased significantly as the elections were approaching. Promo-LEX observers identified at least 132 cases of hate speech and incitement to discrimination in the public space, in the media and online environment in the Republic of Moldova⁷. The authorities failed to develop legal solutions and relevant mechanisms to prevent, combat and sanction this phenomenon, and the Parliament failed to approve draft Law No 301/2016 regulating prejudice-motivated crimes in the final reading.

The Coalition found that ***the media, with some exceptions, had a biased behavior, covered the electoral contenders in an unfair manner and did not provide comprehensive information to the public about the electoral process and voting methods.***

Monitoring of audiovisual media services revealed a disproportionate presentation of the electoral contenders, particularly between the Electoral bloc of Communists and Socialists (BECS) and other candidates. BECS was the most visible electoral contender, being extensively promoted by two television broadcasters (NTV Moldova and Primul in Moldova) out of 10 broadcasters monitored by CALC and favored through the time allotted to appearances, by three others (Moldova 1, Prime TV and Publika TV). Three television broadcasters had an unbalanced editorial policy favoring PP ȘOR, while

² <https://a.cec.md/ro/cu-privire-la-organizarea-sectiilor-de-votare-pentru-alegatorii-din-2751-99578.html>

³ <https://a.cec.md/ro/pentru-modificarea-anexei-la-hotararea-comisiei-electorale-centrale-nr-4965-2751-99658.html>

⁴ See cumulative data from the Reports No 2–5 of Promo-LEX Observation Mission for the Early Parliamentary Elections of 11 July 2021. <https://promolex.md/category/alegeri/parlamentare/anticipate-2021/?lang=ro>

⁵ Draft Law No 263 of 19 June 2020 was passed by the Parliament only in first reading.

⁶ It refers to the electoral period until 2 July 2021.

⁷ During 11 May – 5 June 2021.

TV6, RTR Moldova and Prime TV allocated more space to the representatives of this party. Another three television broadcasters (Pro TV, TV8 and Jurnal TV) covered the election campaign relatively equally, with the exception of the last week of the campaign when BECS was disadvantaged.

The Broadcasting Council, the broadcasting regulator, **did not exercise its supervisory and control duties with the utmost diligence and good faith** and did not take prompt decisions to ensure fair and equitable coverage of candidates by all audiovisual media services providers. BC released only one monitoring report during the election campaign, which revealed deviations from the law by several broadcasters, but imposed sanctions in only one case, other television broadcasters were ignored. The lack of promptness and efficiency of this institution did not contribute to ensuring free and fair elections.

Biased, selective and unbalanced coverage of the election campaign was even more pronounced in the online media. The results of the monitoring of ten news portals indicate that BECS was the electoral contender most often displayed within a positive context, while PAS was most often displayed within a negative context. Only two of the portals monitored (Agora.md and Newsmaker.md) had, in general, a balanced editorial policy in relation to the political stakeholders. Actualitati.md and Kp.md portals demonstrated obvious political partisanship in favor of BECS, and Timpul.md - in favor of AUR. These online publications totally disregarded the rules of journalistic ethics, publishing tendentious articles that discredit politicians and electoral contenders, making speculations and insinuations without presenting the response of people concerned. Four portals (Noi.md, Sputnik.md, Unimedia.info, Gagauzinfo.md) had an editorial policy which supported, to a greater or lesser extent, the electoral contender BECS, and Realitatea.md supported PAS. It was found that some portals published articles with hidden advertising, i.e. not properly marked.

The large number and diversity of electoral incidents noted on election day is a particular concern with regards to these elections. By 10:30 p.m., Promo-LEX observers reported 459 incidents⁸, including: rumors, attempts or even cases of in-kind or cash rewards offered to voters (15 cases), violation of the secrecy of voting (89 cases), electioneering or negative PR in the polling station (28 cases), irregularities in the electoral rolls but also in the operation of Elections SAIS (57 cases) etc.

Although it is a long-standing problem for the electoral process in the Republic of Moldova, **organized transportation of voters** was not regulated by the Parliament so far. During the electoral period, CALC submitted two applications to CEC, requesting to adopt a decision for the Parliamentary Elections of 11 July 2021 that would prevent organized transportation of voters on the election day⁹. Contrary to the good practice established previously, CEC did not adopt such a decision. As a result, Promo-LEX observers reported 29 cases of organized transportation of voters. According to the observers' reports and media sources actively covering the election day, a clear connection emerges between cases of transportation of voters and allegations of buying votes.

The Coalition notes the **persistence of discrimination against people with special needs**, who continue to face barriers to physical and information accessibility. More 70% of polling stations were not accessible for the people with locomotor disabilities, the number of accessible polling stations being less than 1%. Except two electoral contestants who published their electoral manifestos in Braille, the other electoral contestants did not develop and disseminate materials and formats accessible to people with special needs. Only the CEC and CICDE developed and broadcast video spots with translation into sign language. At least three TV broadcasters - PRO TV, TVR and Moldova 1- provided sign language interpretation of the electoral debates.

⁸ The number of incidents on the day of the parliamentary elections decreased insignificantly compared to presidential elections of autumn 2020 (Round I by (-22) and Round II by (-40) incidents).

⁹ Similar to CEC Decision No 4390 of 20 October 2020 on certain aspects related to the organised transportation of voters to polling stations on the day of the Presidential Elections of 1 November 2020

www.alegeliber.md – **The Civic Coalition for Free and Fair Elections** is a permanent, voluntary entity, comprised of 36 civil society organizations from the Republic of Moldova, whose aim is to contribute to the development of democracy in Moldova, through advocacy and implementation of free and fair elections according to the standards of ODIHR (OSCE), the European Council and its specialized affiliated institutions.