

Promo-LEX Report: neither potential election candidates, nor voters are on equal footing

The Promo-LEX Observation Mission launched today the Second Report of the Observation Mission for the Elections of the President of the Republic of Moldova on 1 November 2020. This report contains the findings, conclusions and recommendations of the Mission, collected by observers from 26 August to 15 September 2020. The parties' funding was observed during 2-11 September 2020, while the aspects of pre-registration were observed until the end of the procedure. Key observations include the uneven increase in the number of voters, unequal opportunities for potential election candidates and for categories of voters, unreported expenses amounting to at least MDL 735,021, and contestants taking credit for activities funded from public money.

Pre-registration completion affected by neglecting the registration made after 11 September 2020

The pre-registration of voters for voting in polling stations abroad and in the Transnistrian region ended on 16 September 2020. The total number of registrations (2018-2020) at the end of the procedure was 60,035, out of which 35,910 in the context of the presidential election. Most requests for prior registration during 2020 concerned: Italy - 12,067, Great Britain - 9,478, Germany - 6,423 and Russian Federation - 6,202.

With regard to the number of 202 PSs proposed by the CEC to be established abroad, Promo-LEX treats with suspicion the authority's initiative to increase their number, compared to 150 PSs planned under the CEC budget. This position is explained by the fact that the CEC already had preliminary information on the possible refusal of some states to open PSs outside the locations of diplomatic missions.

According to the law, pre-registration is one of the three criteria on the basis of which the polling stations are to be established. However, on 11 September 2020 already, five days before the pre-registration deadline, CEC sent to the Ministry of Foreign Affairs and European Integration proposals on the establishment of polling stations abroad. Despite the legal provisions on decision-making transparency and the renewed calls of the Civic Coalition for Free and Fair Elections, the public consultation of CEC proposals was not launched. The fact that a decision was made on the establishment of polling stations before the legal deadline and without taking into account all pre-registration applications could weaken the public trust in this procedure and arouse suspicions that the decision was politicised.

Unequal Opportunities for Election Candidates

The view of Promo-LEX is that the existing legal framework does not contain precise and sufficient provisions to ensure equal opportunities for all contenders in the presidential election, especially as the incumbent president is running too for another term in office.

In contradiction with the unfounded and exaggerated interpretations of CEC, Promo-LEX believes that political parties, other socio-political organisations and electoral blocs that nominated candidates for the presidential elections also have the status of election candidate. We also believe that due to the lack of express legal provisions, political parties as legal entities may transfer on the 'Electoral Fund' account funds up to 12 average salaries per economy in 2020. We also believe that the interpretations made by CEC at the previous elections, on the basis of which donations above the ceiling set for legal entities were accepted from political parties could be used for the Presidential elections as well. Otherwise, suspicious of inconsistent behavior of the institution could be raised. In this context, we reiterate the need for a strict and interpretation-free regulation of the status of a political party in terms of funding the election candidate nominated by the party.

Independent Candidates Supported by Political Parties

By the time this report was published, 13 candidates were nominated, two of whom were registered: Renato Usatii (PN) and Andrei Nastase (PPPDA).

Promo-LEX emphasises that with regards to at least two nominated independent candidates – Igor Dodon and Alexandr Kalinin – the observers reported activities supported by political parties.

Taking Credit for Activities Funded from Public Money

According to Promo-LEX Observers, during this period the initiative groups (IGs) carried out at least 158 signature collection activities.

The observers reported at least eight cases of taking credit for activities funded from public money. PSRM was concerned in four cases out of the eight, and PPS – in the other four.

Observers also spotted two cases where the image of foreign officials was used in association with the nominated candidates Maia Sandu (PAS) and Igor Dodon (IC).

Observation results also put the spotlight on the risk of using administrative resources by the head of state, who is also running in the presidential race.

Unreported Expenses Amounting to at Least MDL 735, 021 for Signature Collection

The revenues and expenses reported to CEC between 2 and 11 September 2020 by the registered IGs amount to MDL 1,341,255. Donations in commodities and services (75%) were the main source of funding.

According to Promo-LEX observation, no IG reported expenses for signature collectors. What is more, nine IGs did not report all of the expenses incurred during this period, which amounted to at least MDL 735,021. The following nine IGs reported lower expenses than estimated by Promo-LEX OM: Violeta Ivanov IG (PPS) – MDL 261,758, Andrei Nastase IG (PPPDA) – MDL 172,196, Igor Dodon IG (IC) – MDL 168,819, Renato Usatii IG (PN) – MDL 52,123, Octavian Ticu IG (PUN) – MDL 34,266, Maia Sandu IG (PAS) – MDL 18,978, Andrian Candu IG (PRO-MOLDOVA) – MDL 14,269, Tudor Deliu IG (PLDM) – MDL 7,499, Dorin Chirtoaca IG (UNIREA Electoral Bloc) – MDL 5,113.

Complaints and appeals

At least two electoral appeals were filed against CEC decisions in the Chisinau Court of Appeal during the reference period. Five notifications and petitions were submitted to CEC, three of them – by a party/electoral bloc and two – by a citizen. The issues tackled in the notifications included: signature collection amidst the pandemic; alleged use of administrative resources (for 2 actions); electioneering against legal provisions and handing-out of electoral advertising materials without dates.

According to the published information, three out of five notifications were either resolved or answered to. As for other two notifications, we find their resolution to be delayed, as no decision had been published within at least six days.

We remind that the Constitutional Court found in its Decision No 34 of 13.12.2016:

- both electoral authorities and courts rejected a large number of complaints as outside their remit;
- faulty understanding by stakeholders of the process of electoral dispute resolution and failure to understand that both electoral bodies and courts should have reviewed the notified violations rather than reject them as outside their remit;
- due to the faulty enforcement of law by common law courts, the electoral stakeholders were literally deprived of an efficient judiciary control, and the Constitutional Court did not have the possibility to operate with the documents confirming the violations.

We thus draw the attention of the electoral authority and of courts on the need for and importance of efficient resolution of electoral disputes, avoiding superficial resolution or failures to resolve the notified violations. In addition, we draw the attention on the legal obligation of CEC to analyse electoral frauds, including the alleged ones, and to take preventive measures.

Failure of LPAs to Ensure a Transparent and Correct Electoral Process

According to observers, only 41% of the 103 visited LPAs approved a decision on electoral posters and only 39% - a decision on offering premises for meetings with voters.

Election campaign with cases of hate speech and discrimination

As reported by monitors, at least two cases were identified where election candidates conveyed discriminatory messages or engaged in other forms of intolerance in the public area. All cases involve Renato Usatii (PN).

At least 9 cases were also reported of nominated candidates affected by hate speeches or incitement to discrimination. Thus, Igor Dodon (IC) was targeted in 4 such cases, Maia Sandu (PAS) - in 3 cases, and (PPPDA) and Renato Usatii (PN) - in one case each.

Hate and discriminatory messages built on the following criteria: disability, sex/gender, health status, age, professional activity and political affiliation.

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Find the full report **here**.

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