



coaliția 2009



coaliția civică pentru alegeri libere și corecte

CIVIC COALITION FOR FREE AND FAIR ELECTIONS – COALITION 2009

PROMO-LEX ASSOCIATION

**FINAL REPORT**

**MONITORING EARLY PARLIAMENTARY ELECTIONS 29 JULY 2009**

Monitored period: June 16 – July 29, 2009

Released on 25 August 2009

## EXECUTIVE SUMMARY

The Promo-LEX Association is a domestic nongovernmental, non-profit and non-partisan organization, which aims at the public benefit and operates in full accordance with the Moldovan law. The Promo-LEX election monitoring effort is aimed at checking the practices of holding elections in Moldova against the international election practices and standards, and the relevant Moldovan legislation. Promo-LEX team members are lawyers and attorneys in the field of human rights with national and international experience. Promo-LEX is a member of the Civic Coalition for Free and Fair Elections „Coalition 2009” – a voluntary union of nongovernmental organizations, which implements projects aimed at improving the electoral process and enhancing the citizens’ confidence in elections.

The Promo-LEX Association monitored, in the period between 16 June and 29 July 2009, the early parliamentary elections of 29 July 2009 – including the pre-electoral period, the legal framework and the Election Day – in the Transnistrian region of Moldova and the neighboring rayons (territorial districts): Floresti, Rezina, Dubasari, Anenii Noi, Causeni, and Stefan Voda. The Promo-LEX monitoring effort deployed observers to 249 polling stations of the total of 1987 polling stations opened across the country. The monitored area is populated by approximately 530 thousand voters, which accounts for approximately 20 percent of the total number of voters in Moldova, and includes the Transnistrian region.

The trends and patterns observed and the conclusions made by the Promo-LEX reflect the situation in the monitored area and may not be indicative of the entire country; however, Promo-LEX recommendations may be relevant for the electoral process at a national level.

The Promo-LEX monitoring effort was pleased to note an increased interest shown by voters from the monitored area for the 29 July 2009 election. At the same time, certain disturbing trends and patterns were noted, which affected the quality of the electoral process in the monitored region.

In the monitored area, the election largely failed to meet the exigencies of a competitive process that would be comparable with the electoral practices in countries with longstanding democratic traditions, due to a tense atmosphere, unlevel field, and violations and discretionary interpretation of procedures by electoral bodies and contestants. Voter lists constitute the basis of properly organized elections. In the monitored area, it was noted that the compilation, verification, use and storage of voter lists constituted a faulty practice, and affected the credibility of the entire process.

The unsystematic application of the relevant electoral legislation by election workers and other actors has failed to ensure a standardized conduct of the election across the monitored area, and ultimately tends to discredit the principle of the rule of law.

A selective accreditation of international observation missions and a systematic harassment of accredited international observers are clear derogations from Moldova’s international commitments, particularly to the OSCE. Intimidation of voters and national observers by the local authorities and electoral bodies leaves an unfavorable mark of suspicion with regard to the transparency of the authorities’ actions. Disrupting the operation of an international observation mission only confirms such suspicions.

Approximately nine percent of the total of Moldovan voters, residents of the Transnistrian region, continued to be isolated from the electoral process in the country. Electoral contestants did not conduct campaigning activities in the breakaway region, and the authorities did not use all the possible means to fully enfranchise this group of voters.

The use of public offices and resources for electoral purposes blurs the line between the activity of the state and that of the ruling party, which is in contradiction with the fundamental norms of democratic rule and violates the principle of equal opportunities. To a lesser extent, the same lack of a clear delimitation between the activities of public authorities and the campaign activities of electoral contestants is noted at a local level.

The Promo-LEX monitoring effort has developed a series of recommendations which envisage the improvement of the electoral process. The recommendations have been formulated in a *bona fide* spirit on the basis of the stated trends.

## **I. INTRODUCTION. PRE-ELECTORAL CONTEXT**

The Republic of Moldova underwent early parliamentary elections on 29 July 2009.

The Moldovan Parliament is elected for a 4-year mandate. On 5 April 2009 regular parliamentary elections were held in Moldova. The Parliament elected on April 5 was set to vote a President of the country. In accordance with Art 78 (1) and (3) of the Constitution, the Parliament elects the President of the Republic of Moldova by secret vote. A candidate must garner three fifths of the votes of the elected members of Parliament to be elected President.

By Decision No. 11-XVII of 13 May 2009, the Parliament set the date for the election of the President of Moldova for 20 May 2009. On May 20, the Parliament convened in a special public sitting to conduct the ordinary election of the President. Neither of the candidates for presidency garnered a sufficient number of votes – three fifths of the votes of elected MPs (61 votes) – to be elected to office. Upon the procedural proposal of the Special Commission for the Election of the President, Parliament passed a Decision No. 15-XVII of 20 May 2009 to conduct a repeat vote on 28 May 2009. The May 28 parliamentary sitting was postponed to June 3. At the repeat vote in Parliament on 3 June 2009, none of the candidates gathered sufficient votes to be elected President. Hence the President of the Republic of Moldova was not elected.

The opposition parties deliberately boycotted the election of a President and thus caused the call of early elections as a means of national reconciliation following accusations of election fraud during the April 5 election and violence that occurred after. The suspicions of the April election fraud further strengthened the need for a comprehensive monitoring of the electoral process in Moldova.

By Moldovan law, if the Parliament fails to elect a President in a repeat vote, the acting President dissolves the Parliament and sets a date for elections for a new Parliament.

Before dissolution, the Parliament amended the electoral legislation. The following amendments to the Electoral Code were made by Law No. 25 of 15 June 2009:

1. A reduction of the threshold for acceding to Parliament for political parties and sociopolitical organizations from 6% to 5%;
2. A reduction of the minimal voter turnout rate for validating elections from 50%+1 to 1/3 of the number of voters included in voter lists;
3. The removal of the minimal voter turnout rate for validating the election in case of repeat elections.

Art 76 l.3 of the Moldovan Elections Code provides that early parliamentary elections shall be held within 45 days after the enactment of the Decree on the dissolution of Parliament. The timetable for regular elections is 60 days. The Central Electoral Commission [CEC], by its Decision No. 2574 of 16 June 2009, approved a Calendar Plan of measures provided by the Elections Code for the organization and conduct of parliamentary elections in Moldova on 29 July 2009.

By Presidential Decree No. 2243 of 15 June 2009, The Parliament of 17<sup>th</sup> legislature was dissolved. The early parliamentary elections were set for a weekday, a first time experience in the history of Moldova. Thus, the vote was set for Wednesday, 29 July 2009. Government Decree No. 389 of 26 June 2009 on the organization of work and leisure time, the date of Wednesday, 29 July 2009, was declared a holiday, and the working time was transferred to a later date to be established.

## **I. PROMO-LEX MONITORING EFFORT**

The Promo-LEX Association is a nongovernmental, not-for-profit and non-partisan organization founded in 2002, which is aimed at the public benefit and which operates in full accordance with the Moldovan law.

The mission of the Promo-LEX Association is to contribute to the development of democracy in Moldova by promoting and defending human rights and by strengthening the civil society in the country.

The Promo-LEX Association is a member of the Civic Coalition for Free and Fair Elections „Coalition-2009”. The Coalition-2009 is a voluntary union of nongovernmental organizations that implements projects for improving the electoral

process and increasing the citizens' confidence in that process. Promo-LEX and other member organizations have conducted election monitoring activities within the Coalition-2009.

The Promo-LEX Association, with the financial support of the Eurasia Foundation, monitored the conduct of parliamentary election on 5 April 2009 in the entire Transnistrian region of Moldova (districts Camenca, Rabnita, Dubasari, Grigoriopol, Slobozia, and in municipalities Bender and Tiraspol), having developed and published four monitoring reports on that activity.

The Promo-LEX Association monitored, in the period between 16 June and 29 July 2009, the early parliamentary elections of 29 July 2009 – including the pre-electoral period, the legislative framework and the Election Day – in the Transnistrian region of Moldova and adjacent districts: Floresti, Rezina, Dubasari, Anenii Noi, Causeni, and Stefan Voda. The Promo-LEX monitoring effort deployed observers to 249 polling stations of the total of 1987 polling stations opened across the country. The monitored area covers approximately 530 thousand resident voters, which accounts for approximately 20 percent of the total number of voters in Moldova, and includes the Transnistrian region.

The Promo-LEX monitoring effort developed and published three pre-election reports, as well as three preliminary and one final preliminary report on Election Day, based on the information collected by the domestic observers in the field, through direct observation, meetings with interlocutors and consulting official documents. On E-Day, the Promo-LEX monitoring effort had deployed 276 national observers, of which 249 were sent to regular polling stations, 11 – to special polling stations for the Transnistrian region, 6 – to District Election Councils in district centers, 4 – to the Promo-LEX Media Center and one – to accompany a mobile team.

The present final post-election report is a document that summarizes all the stated findings, and formulates on their basis the trends and patterns of the electoral process for the 29 July 2009 election in the monitored area. The trends and Promo-LEX conclusions reflect the situation in the monitored area and may not be indicative of the entire country; however the recommendations have been formulated so as to be relevant to the electoral process at a national level.

The Promo-LEX monitoring effort would like to acknowledge the National Endowment for Democracy (NED), the National Democratic Institute for International Affairs (NDI), and the United States Agency for International Development (USAID) for the financial support and technical assistance provided for the good implementation of this effort.

## **II. OBSERVED TRENDS AND PATTERNS**

The trends and patterns have been formulated on the basis of recurrent findings, which occurred repeatedly in time and/or space during the monitoring period and raised the concern of the Promo-LEX monitoring effort.

### **A. LEGAL FRAMEWORK**

The international standards and the European heritage in electoral matters, outlined in Code of Good Practices in Electoral Matters adopted by the Venice Commission (Council of Europe), set clear governing lines with regard to the good management of the electoral process, and provide recommendations on establishing an adequate legal framework for conducting elections.

#### **1. *Ignoring Recommendations from the Civil Society and International Organizations***

The previous elections (in 2005 and 2009) were monitored by numerous local and international organizations that stated certain trends of concern and recommended amendments to the electoral legislation and procedures. The main concerns referred to the improvement and proper enforcement of the legal framework with regard to the quality of voter lists, use of public resources in electoral campaigns and ensuring a level playing field for all electoral contestants and voters. The Moldovan authorities largely ignored or randomly adopted these recommendations.

#### **2. *Absence of a Digital Voter Register***

The Law 248-XVI of 21 July 2006, published in MO131-133 on 18 August 2006 introduces a new notion to the Moldovan Elections Code, the “State Voter Register”. On 15 May 2008, the Parliament passed the Law No. 101-XVI on the Concept of the State Automated Informational System “Alegeri” (Elections) and the procedure of implementation of the State Voter Register. A digital voter register was set to facilitate procedures provided for by law for conducting elections to public elected offices, and referenda, as well as to speed up the vote count after the end of the voting. As a first stage, the register could serve as a source of information for various electoral procedures without replacing the regular circuit of hard copy documents. The State Voter Register was not implemented for the 29 July elections; the reasons for failing to implement it were not made public.

### ***3. Establishment of Electoral Bodies in Violation of Law***

In accordance with Art 4 of the Law No. 764 on the territorial-administrative organization of Moldova, the country is organized based on a two-level local public administration system: villages (communes), sectors and towns/cities (municipalities) are level-one territorial-administrative units; districts [raions] are units of level two. The Law No. 186 on the local public administration defines level-two authorities of local public administration as bodies established at the level of districts, the Chisinau municipality, autonomous territorial units with special status, and localities that enjoy special forms and conditions of autonomy. By law, the CEC may constitute electoral circumscriptions only in level two units in the 32 districts of Moldova, the municipality of Chisinau, the autonomous region of Gagauzia and the Transnistrian region (therefore a maximum total of 35 electoral circumscriptions).

On 18 June 2009 the CEC passed a Decree No. 2583 establishing the creation of 37 electoral circumscriptions. The CEC ruled to establish circumscriptions 2 and 3 in Balti and Bender that are not level-two territorial-administrative units. The creation of these electoral circumscriptions does not have any legal coverage.

### ***4. Violation of Regulations Regarding the Storage of Voter Lists***

According to Art 62/1 of the Elections Code, the CEC must keep all electoral documents. Art 62/2 describes the procedure of transmitting and storing electoral documentation. It is a customary practice however that voter lists are stored in judicial courts. The effects of this violation on the electoral process may not be assessed.

### ***5. Complaints and appeals process***

In accordance with Art 65/1 of the Elections Code, voters and electoral contestants may contest the actions (or lack thereof) or decisions of the electoral bureaus or councils in other electoral bodies, following the hierarchy of the electoral administration, and in courts. Therefore the legislators established the procedure of contesting an electoral act in accordance with the hierarchy which is as follows:

- Electoral Bureaus of the Polling Station (PEBS);
- District Electoral Councils (DECs);
- Central Electoral Commission (CEC);
- Courts of Justice.

However Art 66/2 of the Elections Code provides that complaints against the actions and decisions of the PEBS and DECs shall be submitted to a court of justice. Thus according to the cited provision, respecting the hierarchy of the electoral administration is unnecessary, which is in contradiction with the letter of the previous article of the law.

In reality, these legal provisions create impediments in exerting the right to contest actions or decisions of the electoral bodies. No clear administrative or judicial practice is in place to address this issue.

With regard to misdemeanors that prevented Promo-LEX observers from conducting their activities, as were the cases of the observers in Dubasari, in village Piscaresti, Rezina, and in village Festelita, Stefan Voda, that included intimidation, threats with physical revenge, and impediments to performing their observation mission, the following must be mentioned. Art 71 of the Elections Code provides for administrative sanctions for 14 listed misdemeanors, but this blank norm refers to the Code of Administrative Contraventions for details on the penalties. However the newly enacted Code of Administrative Contraventions defines and provides sanctions for only 11 out of the 14 misdemeanors enumerated in Art 71 of the Elections Code. Thus the voters and/or electoral contestants who were inflicted misdemeanors listed in Art 71 of the Elections Code, but also the proper conduct of the election in a whole, may not be protected by clear and specific norms that

provide for sanctions for eventual violations.

## **B. VOTER LISTS**

According to the Code of Good Practice in Electoral Matters approved by the European Commission for Democracy Through Law (The Venice Commission) in 2002, „[t]he proper maintenance of electoral registers is vital in guaranteeing universal suffrage.” The document also reads that „electoral registers must be permanent; there must be regular up-dates, at least once a year; electoral registers must be published; there should be an administrative procedure - subject to judicial control - or a judicial procedure, allowing for the registration of a voter who was not registered; the registration should not take place at the polling station on election day; a similar procedure should allow voters to have incorrect inscriptions amended; a supplementary register may be a means of giving the vote to persons who have moved or reached statutory voting age since final publication of the register.”

The Moldovan legal framework establishes the procedures for compiling, verifying and using voter lists in Articles 22, 28, 30, and 39 of the Elections Code, and in the CEC-issued Regulations. Voter lists are compiled by mayoralties; electoral bodies are entitled to verify the lists and post them for public display to allow citizens to verify the lists, and to use the final voter lists on E-Day.

### ***1. Compilation of Incomplete and/or Poor Quality Voter Lists by the Local Public Authorities***

Art 39/4 of the Elections Code provides that “voters shall be included in voter lists by indicating the voter’s name and surname, year of birth, domicile, and the serial number of their identification document”. Voter lists included incomplete voter identification data that lacked the ID serial number at polling stations No. 9/1 and 9/2 in the town of Causeni – 84 persons (of a total of 5624 voters included in voter lists), polling station No. 9/42 in Taraclia (Causeni) – 1419 persons (of a total of 1429), polling station No. 14/9 in Molovata (Dubasari) – 20 persons (of total 1813). Voter lists contained wrong ID information for voters at polling station No. 14/9 in Molovata (Dubasari), polling station 17/17 in Ion Voda (Floresti), and polling station No. 36/3 in Telita (Anenii Noi).

### ***2. Inclusion of Deceased Persons into the Voter Lists***

Observers stated 32 cases of deceased persons in the voter lists; these cases were registered in most of the observed districts (i. e. Causeni, Rezina, Anenii Noi).

### ***3. Reduction of Voters Included in Voter Lists***

The Moldovan authorities failed to form voter lists for the voters residing in the Transnistrian region. According to the Ministry of Information Development, approximately 220 thousand Moldovan voters reside in the region. These voters have not been counted into the total number of voters. At the same time, the minimal voter turnout rate is calculated based on the total number of voters included in voter lists.

### ***4. Attempts to Exclude Persons that Are Abroad from the Voter Lists***

Art 39/1 of the Elections Code provides that “electoral lists [...] shall include all citizens with the right to vote who have their domicile in the respective areas at the moment of compilation of the lists.” The Central Elections Commission ruled that the persons currently abroad not be excluded from the main voter lists. In at least two polling stations, the local authorities tried to take off the voter lists the persons that had gone abroad: polling station 13/9 in Ustia (Dubasari), and polling station 3/17 in Floresti.

### ***5. Accepting Incomplete or Poor Quality Voter Lists on Behalf of the CEC***

Art 22/D of the Elections Code provides that the CEC “...exerts control over the timely verification of voter lists”.

At the polling stations where Promo-LEX observers were allowed access to the voter lists, they identified persons residing in

the area covered by the respective electoral precinct who were not included in the voter lists, wrong names or lacking ID information for at least 104 persons (polling stations No. 1, 2 in the town of Causeni; village Molovata, district Dubasari; village Taraclia, district Causeni). Voter lists lacking the serial number of ID documents were found at: polling stations No. 9/1 and 9/2 in Causeni – 84 persons, polling station No. 9/42 in Taraclia (Causeni) – 1419 persons, polling station No. 14/9 in Molovata (Dubasari) – 20 persons. Voter lists containing incorrect ID information for voters were found at: polling station No. 14/9 in Molovata (Dubasari), polling station 17/17 in Ion Voda (Floresti), polling station No. 36/3 in Telita (Anenii Noi). Three polling stations had voter lists that contained 32 deceased persons as voters (polling station No. 1/9 in Causeni – 26 deceased persons, polling station 1/25 in Rezina – 3 deceased persons (all on the same sheet), polling station No. 2/3 in Anenii Noi – 3 deceased persons).

It is in that condition that voter lists were used to organize the 29 July election. National procedures do not provide for efficient ways to access voter lists after the elections. This fact does not permit observers to properly verify the effect of such violations on the results of the election.

#### ***6. Delayed Posting or Non-Posting of Voter Lists for Public Display***

The general rule provides that voter lists be posted at polling stations 20 days before the E-Day. For the early 29 July election, this period was reduced proportionally to 14 days before E-day. Voter lists were displayed in public with a delay in 44 polling stations (of the total 51 polling stations) from the district of Causeni, 5 polling stations (of 43) from the district of Anenii Noi, 70 polling stations (of 74) from the district of Floresti, 3 polling stations (of 13) from district Dubasari, and 6 polling stations from district Rezina. Voter lists haven't been displayed at all in 2 polling stations from Anenii Noi, 6 polling stations (of 42) from Rezina, 1 polling station in Causeni, and 24 polling stations in Floresti.

#### ***7. Unstamped and Unsigned Voter Lists (Lack of Authentication of Lists on Each Sheet)***

Observers noted at all polling stations covered by this monitoring effort that voter lists were authenticated by stamp and signature applied only on the last sheet, thus creating conditions for possible replacement of sheets from the respective voter list packages after they have been legally acknowledged as final. In at least one polling station a sheet from the voter list, with signatures of voters that had cast their vote, has disappeared. At another polling station, an attempt was made to change certain sheets from the voter list package on Election Day.

#### ***8. Providing Insufficient Voting Ballots to Polling Stations***

Forty-nine polling stations in 6 districts received a total of 1,179 ballots less than there were voters included in their main voter lists (6 polling stations in district Anenii Noi were short of 50 ballots; 11 polling stations in district Causeni were short of 180 ballots; 6 polling stations in Dubasari were short of 45 ballots; 13 polling stations in Floresti were short of 468 ballots; 12 polling stations in district Rezina were short of 439 ballots; one polling station in Stefan Voda was short of 34 ballots). This discrepancy leaves room for ill-intended manipulation of the voting process on E-Day.

### **C. IMPEDIMENTS TO OBSERVATION**

According to the Moldovan law, Moldova's OSCE commitments, the European legal customs and other international standards for organizing and holding democratic elections, the Moldovan authorities are obliged to ensure the widest possibilities for monitoring the electoral process both to local and international observers. At the same time, the Code of Best Practices in Electoral Matters of the Venice Commission provides that: „Observation should focus particularly on the authorities' regard for their duty of neutrality.”

#### ***1. Intimidation of Observers***

There were two cases of intimidation of observers by members of electoral bureaus of the polling stations (Piscaresti, district Rezina; Festelita, district Stefan Voda), two cases of intimidation of observers by the members of the local and central public authorities (Cosnita and Parata, district Dubasari), two cases of observers' intimidation by representatives of the police (Grigorievca, district Causeni; Vadul lui Voda, Chisinau)

## ***2. Disrupting the ENEMO International Monitoring Mission***

Art 63/3 of the Elections Code provides that “The Central Electoral Commission shall accredit representatives of international organizations, of the governments of foreign states and of foreign nongovernmental organizations as international observers in elections.” At the same time, Art 4/4 and 4/5 of the Police Law No. 416 of 18 December 1990 provides that “police may not interfere in the rights and liberties of citizens unless it cannot perform its duties otherwise. No limitations to the citizens’ rights and liberties are admitted except on the basis and in the way established by law.”

Following actions by the Moldovan authorities, the ENEMO (European Network of Election Monitoring Organizations) international monitoring mission, composed of 140 persons invited by the Central Electoral Commission to observe the 29 July 2009 election in Moldova, stated on July 28 its „refusal to monitor Moldovan elections [...] because [...] the conditions created by the authorities do not allow for a comprehensive observation of the elections, and [...] the security of the observers, including the accredited ones, may not be guaranteed”.

On 27 July 2009, at 22.10, the Chisinau municipal police showed up allegedly to conduct a document check at a hotel in Vadul lui Voda, where the 53 accredited ENEMO international observers were lodged. At 22.30 police arrested the coordinator of the ENEMO mission, Serghei Tcacenco, and another member of the mission, Edil Baisalov. They were taken by private cars to an unknown location; the other members of the mission and their lawyer were not informed on where they will be held. Serghei Tcacenco was interrogated for over 3 hours by the police without a lawyer, without an explanation for the reasons for his detention, and without a proper introduction and rank presentation of the interrogators. On 28 July 2009, at 02.00 AM he was abandoned on a street in Chisinau, and the police warned him that he must leave Moldova within 24 hours.

The other ENEMO monitoring mission team member, Edil Baisalov, was kept in police custody for over 12 hours void of any written document regarding his detention. Baisalov’s whereabouts were unknown to the rest of team and authorities refused to admit he had been detained; later the police demanded that he leaves the country and deported him shortly after.

On the same date of 28 July 2009, at 14.00, approximately 50 police officers surrounded the venue in Vadul lui Voda demanding that accredited observers and other team members leave Moldova before midnight that day. The operation was coordinated by Jacob Gumenita, Vice Commissar of the Chisinau General Police Commissariat. The police continued to harass the ENEMO observers even after learning they would leave Moldova by 29 July 2009. The police followed ENEMO observers and team members until 29 July 2009.

According to the ENEMO press statement, the Moldovan authorities have committed other abuses against the members of the mission in other parts of the country (in Soroca 5 observers were expelled and forced to take a ferry boat to Ukraine; 11 observers were detained and expelled at the Chisinau airport).

A selective accreditation of international observation missions and the systematic harassment by the authorities of accredited international observers does not contribute to increasing the transparency of the electoral process in Moldova.

## ***3. Violation of Observers’ Rights***

Art 63/5 of the Elections Code provides that “...accredited observers have the right to be present in all electoral activities, at all meetings of electoral bodies, including on the Election Day, without interfering with the electoral process and in other electoral activities, and to inform the chairperson of the electoral body about the observed wrongdoings.” On E-Day multiple cases were registered of limiting the observers’ access to electoral process in the monitored area, as follows: ballot boxes were stamped prior to the time provided by law, in the absence of observers; the mobile ballot box was taken to the voters in the absence of observers; observers were prohibited to use the phone, were not allowed to walk inside the polling station or were prevented from accessing electoral documents.

## **D. UNDUE INFLUENCE AND INTIMIDATION OF VOTERS**

International standards, the Constitution of the Republic of Moldova, as well as Moldova’s other international commitments reiterate the importance of a free expression of one’s voting option. The Venice Commission’s Code of Good Practices in

Electoral Matters provides that “state authorities must observe their duty of neutrality” and that „Sanctions must be imposed in the case of breaches of duty of neutrality and voters' freedom to form an opinion.” Article 2 (2) of the Moldovan Elections Code states that: „The participation in elections is free (voluntary). No one has the right to exert pressure on the voter to force him to cast his vote or to influence the free expression of his will.”

### ***1. Forcing State Employees to Attend Electoral Meetings During Work Hours***

Persons holding jobs in the public sector (doctors, teachers, social assistants, mayoralty employees) were forced to participate at electoral meetings with representatives of the PCRM. The heads of the respective institutions also attended those meetings. Such incidents were registered in the districts of Anenii Noi, Dubasari, Floresti, and Stefan Voda.

### ***2. Use of Public Office to Blackmail or Exert Undue Influence on Voters***

At electoral meetings, persons holding a public office threatened, intimidated and blackmailed citizens by statements that their agricultural land plots will remain un-worked, that pensions will not be paid, by threatening to sack those asking uncomfortable questions, and by limiting the citizens' right to address questions to an electoral contestant. Such events were registered in districts Anenii Noi, Causeni, Dubasari, Floresti, and Stefan Voda during the pre-election period.

### ***3. Prevention of Citizens Residing in the Transnistrian Region from Exerting their Right to Vote***

As in the previous elections (2007, April 2009), voters assigned to the polling station in village Corjova were unable to vote at the respective station. On 29 July 2009, time 06.30, the access to the polling station in village Corjova, district Dubasari, was blocked by approximately 200 persons (including Cossacks wearing uniform or civil clothes). Shortly after the blockade of the polling station, the peacekeepers arrived. At time 10.00, the electoral authorities decided that voters registered in Corjova will vote at polling stations in neighboring villages Cocieri and Ustia, district Dubasari.

### ***4. Presence of Unauthorized Persons Outside the Polling Stations***

On the E-Day, representatives of the local public administration (in village Lunga, district Floresti; village Festelita, district Stefan Voda) and police officers (village Berezchi, district Anenii Noi; village Grigorievca, district Causeni; town of Ghindesti, district Floresti; villages Ciobanovca and Merenii Noi, district Anenii Noi) stood at a distance smaller 100 m away from the respective polling stations. The chairs of the electoral bureaus of the polling stations failed to intervene in all those registered and reported cases. The presence of unauthorized persons in the vicinity of polling stations is a violation of the Elections Code and may affect the electoral option of the undecided voters.

### ***5. Presence of Unauthorized Persons Inside the Polling Station***

On E-Day, representatives of the local public authorities (village Molovata Noua, district Dubasari; town of Marculesti, district Floresti; village Gordinesti, district Rezina; village Festelita, district Stefan Voda; village Tintareni, district Anenii Noi) spent more time inside the polling station than needed to exert their right to vote. Chairs of the polling stations did not intervene in any of these reported cases.

## **E. ELECTORAL CONTESTANTS**

The Code of Good Practices in Electoral Matters of the Venice Commission underlines that “...a fair level playing field must be ensured to political parties and electoral candidates. Equality of opportunity must be guaranteed for parties and candidates alike. This entails a neutral attitude by state authorities, in particular with regard to: the election campaign; coverage by the media, in particular by the publicly owned media; public funding of parties and campaigns.” At the same time, the Moldovan Elections Code prescribes equal conditions of participation to all electoral contestants, as Article 46 (1) reads: „Electoral contestants participate, on equal basis, in the electoral campaign, enjoy equal rights in the use of mass media outlets, including the radio and television funded from the public budget”.

### ***1. Unequal Treatment of Electoral Contestants by the Representatives of the Local Public Authorities***

In the electoral period, observers stated that representatives of the local public administration treated electoral contestants unequally by selectively prohibiting the posting of electoral materials and interfering with the organization of electoral meetings with voters. Such events were registered in districts Anenii Noi, Dubasari, and Floresti during the pre-election period.

## ***2. Impeding Campaign Activities by Representatives of the Law Enforcement***

Representatives of the law enforcement impeded supporters of opposition political parties from conducting campaign activities by threatening and intimidating them (village Holercani, district Dubasari; town of Floresti).

## ***3. Presence of Electoral Posters on E-Day and the Silence Day Before***

Campaign posters of various electoral contestants had not been removed on E-Day or the day before in village Dumitreni, district Floresti; city of Bender; villages Olanesti, Palanca and Talmaza, district Stefan Voda.

## ***4. Offering Gifts in the Electoral Campaign***

Persons holding public office offered electoral gifts to public institutions (the lyceum in the village Chircaiestim district Causeni; The Culture Hall in village Stefanesti, district Stefan Voda; the daycare center in village Hagimus, district Causeni; the school in Telita, district Anenii Noi; the daycare center in village Tanatari, district Causeni) and to citizens (graduates from the 12<sup>th</sup> grade of the school in Holercani, district Dubasari; village Izvoare, district Floresti; village Cobusca Noua, district Anenii Noi).

## ***5. Electoral Billposting in Unauthorized Locations***

Unauthorized electoral billposting was observed in 12 localities in the monitored districts, including on the door of the polling station No. 23/17 in village Unchitesti-Niculaeni, district Floresti.

## ***6. Absence or Inadequate Preparation of Informative Panels for Posting Electoral Materials***

In many cases, the local public administration did not prepare informative panels for those purposes; in other cases the prepared panels were smaller than prescribed by the CEC requirements.

## **F. USE OF PUBLIC RESOURCES FOR ELECTORAL PURPOSES**

The Venice Commission's Code Good Practices in Electoral Matters prescribes a strict equality in the use of public means for electoral purposes by the election contestants: „“Strict” equality means that the political parties are treated without regard to their present strength in parliament or among the electorate. It must apply to the use of public facilities for electioneering purposes (for example bill posting, postal services and similar, public demonstrations, public meeting rooms).”

### ***1. Involvement of companies with state capital in the electoral campaign***

Art 46/2 of the Elections Code provides that: „All electoral contestants shall be provided equal opportunities for technical-material and financial support of the electoral campaign.” In the monitoring period, the Promo-LEX monitoring effort noted at least two cases of inequitable use of public resources in a favor of the electoral contestant PCRM. A representative of „Moldova-Gaz”, branch office Causeni, was making statement in favor of the PCRM; employees of the state company “Posta Moldovei” distributed an advertising booklet marked “CHOOSE No. 1” in all the monitored electoral circumscriptions, presenting it as an advertisement for the company, while in fact the booklet may suggest voting for the electoral contestant No. 1 on the voting ballot (PCRM).

### ***2. Conducting Public Infrastructure Works During the Campaign on Behalf of an Electoral Contestant***

It was noted that representatives of the public administration presented public infrastructure repair works conducted in certain localities (in daycare centers, schools, public roads and bridges) as achievements of an electoral contestant. Such

events erase the delimitation between the work of the public authorities and that of electoral contestants.

### ***3. Use of Public Resources by Persons Non-Suspended from Public Office***

In the monitoring period, persons holding public offices, and not suspended from the office for the duration of the campaign, used for electoral purposes their official cars (RM G 001, RM A 300, FL CR 602), escort cars (SP 050 and MAI 0335), and had an increased number of traffic police manage the traffic in the areas where they conducted electoral activities.

## **G. PERFORMANCE OF ELECTIONS ADMINISTRATION**

In Moldova elections are organized, conducted and monitored by a system of electoral bodies, which includes: a permanent Central Electoral Commission [CEC], District Election Councils [DECs] that refer to the respective level two territorial-administrative units, and Electoral Bureaus of the Polling Stations [PEBs]. The electoral administration is obliged to remain independent and nonpartisan, and to treat all electoral contestants equally. The electoral administration is responsible for the good conduct of elections.

### ***1. CEC Involvement in Opening Polling Stations for the Transnistrian Region***

In accordance with the provisions of the Elections Code, the DECs are responsible for opening polling stations in their area. The CEC created DEC No. 37 to cover the Transnistrian region. At the same time, the CEC did not appoint a bureau of the DEC to establish where polling stations would be opened, but ruled itself where to establish polling stations for the region's voters. Thus, the CEC decreed to open 11 polling stations for this category of voters.

### ***2. Delayed Opening of Polling Stations***

On the E-Day the voting takes place between the hours 07:00 and 21:00. Observers noted several isolated cases when the polling stations opened with a delay of 15 to 30 minutes, and without clear reasons.

### ***3. Non-Application of the Stamp „29.07.2009 ALEGERI”***

The stamp “29.07.2009 ALEGERI” was introduced as a measure to prevent multiple voting. Observers noted cases when members of the electoral bureaus did not apply the stamp “29.07.2009 ALEGERI” onto the ID card annex of the voters. Other cases were noted when voters, especially Transnistrian residents, refused to have their ID card annexes stamped and were therefore not allowed to vote.

### ***4. Widespread Misinterpretation and Misapplication of Legal Provisions by Members of Election Bodies***

Members of some electoral bureaus have misinterpreted the legislative provisions regarding the time for sealing the ballot boxes and mobile boxes, the voting on the basis of permanent/temporary residence, public display and access to voter lists, and the procedure of calculating the results of the voting. These violations have occurred massively; the examples cited in the present report, as well as in the interim pre-election and E-Day reports, describe some of those cases.

### ***5. Voting With Doubtful ID or Without an ID***

Observers stated several isolated cases when citizens voted using doubtful F-9 forms, or when citizens were issued voter certificates on the basis of invalid or inexistent ID documents.

### ***6. Involvement of Observers in Electoral Activities on E-Day***

Some observers, and especially representatives of electoral contestants, were actively involved in the electoral process and activities, and were not stopped from doing so by the members or chairs of their PEBs. Promo-LEX observers reported a massive number of such cases.

## **7. *Tensions and Conflicts between Members of PEBs.***

Tensions and even open conflicts between members of PEBs were registered at several polling stations, mostly because they had been appointed to the PEB by various electoral contestants. Such occurrences raise suspicions that the electoral workers were not independent and could be accused of political bias.

## **H. THE TRANSNISTRIAN REGION**

### **1. *Discrimination of Voters from the Transnistrian Region***

The local public administration in Transnistrian region is not subordinated to the Moldovan constitutional authorities; therefore the opening of polling stations and the conduct of campaign activities and of the election process in general are generally problematic. Transnistrian voters still do not enjoy equal conditions in their electoral involvement, information and education. The Moldovan constitutional authorities have not made visible efforts at a national and international level to ensure minimal conditions for participation in the electoral process for the voters residing in the Transnistrian region.

### **2. *Continued Practice of Opening Mixed Polling Stations for Voters from the Residence Villages and Voters from Transnistria***

Voters from Transnistria vote in localities that are controlled by the Moldovan legal authorities. The polling stations in those localities are opened with deviations and violations of the elections law. (Opening only 11 polling stations for the residents of the Transnistrian region is a clear violation of Art 29 of the Elections Code that provides that polling stations are created for a number of voters of at least 30 and at most 3,000 persons. According to the data from the Ministry of Information Development of 27 February 2009, there were 223,580 Moldovan citizens with the right to vote in Transnistria, thus each of the 11 polling stations was assigned for an average of 22,000 voters.) The Moldovan electoral bodies implemented Promo-LEX's earlier recommendations only in part, assigning two additional separate polling stations only for Transnistrian voters (in Sanatauca and Rezina). The polling stations in Cocieri, Dorotcaia, Ustia, Hagimus, Copanca, Farladeni and Rascaieti accommodated both voters from Transnistria and residents of the respective villages; at these stations Transnistrian voters had to cast their votes into "special ballot boxes". The ballots cast into these "special boxes" was numbered and summarized in separate protocols, with the exception of the polling station No. 14/14 in Cocieri, Dubasari, where the number of ballots cast in the special ballot box was included in the general protocol of the polling station.

### **3. *Inability to Open DEC's in Election Districts No. 3 (Bender) and 37 (Transnistrian region)***

The CEC created Election District No. 37 for the localities on the left bank of Nistru, and Election District No. 3 for the Bender municipality, but failed to create DEC's for these two election districts.

In the early parliamentary elections on 29 July 2009, voters from the Transnistrian region could vote only at 11 polling stations located in Moldovan-controlled villages adjacent to the region. Of them, only 4 polling stations (Nos. 40 and 41 Varnita, No. 74 in Sanatauca and No. 42 in Rezina) were opened exclusively for this category of voters; the other polling stations were designated primarily for the residents of the respective villages (No. 14 in Cocieri, No. 13 in Ustia, No. 6 in Dorotcaia, No. 27 in Firladeni, No. 23 in Copanca, No. 33 in Hagimus and No. 23 in Rascaieti).

### **4. *Absence of Voter Lists and Impossibility to Vote at Home in the Transnistrian Region***

Voters from the Transnistrian region were not included in voter lists, and no efforts have been registered to correct that situation. Therefore the Transnistrian voters were unable to vote at any other location than the 11 polling stations opened for that purpose by the CEC.

The Moldovan voters from the Transnistrian region are not included in voter lists, thus some of their rights are violated (they may not obtain a voter certificate to vote elsewhere, they may not vote at home using the mobile ballot box, they are not involved in election activities and are not informed about the electoral process, including the date and place of the voting, thus to a great extent they cannot make an informed choice, etc.).

### **5. *Absence of Efforts on Behalf of the Moldovan Authorities to Ensure a Non-Discriminatory Access to Their***

### ***Rights to the Voters from the Transnistrian Region***

The Moldovan legal authorities hold no control over the Transnistrian region (Transnistria) since 1992. In this period, there were no significant, consistent and efficient efforts made to establish non-discriminatory conditions for the voters from the region to participate in the electoral process. The legal authorities, including electoral bodies, have not registered any results or made any persistent efforts at an international level or within the regional format of talks for Transnistrian settlement to resolve this issue.

#### ***6. Ignoring or Non-Application of Legal Provisions against Persons that Impede the Free Exercise of Voter Rights in the Transnistrian Region***

Even if various cases when voters are prevented from freely exerting their electoral rights or the functioning of electoral bodies is hampered (refusal to open polling stations, to conduct information and electoral education activities, seizure of ballot boxes and electoral documents, threats to the life of the voters and members of electoral bodies, damage inflicted to the persons' health, etc.) are registered at every election in the region, the Moldovan legal and law enforcement authorities fail to use legal means against those responsible.

#### ***7. Transnistrian media coverage of the campaign***

In the period between 6 and 31 July 2009, the media outlets monitored within this effort produced approximately 170 news reports with an electoral impact. The largest number of news was produced by the Regnum news agency and Lenta PMR web portal. Among the news mentioned, there were three opinion pieces and no materials of electoral education. The Transnistrian media did not take into account the public's need to learn more relevant information about the electoral contestants or to stimulate voters to participate in the election. None of the media outlets provided equal access to all the parties involved in the electoral campaign, providing an apathetic and unilateral coverage of the election-related events. Such media behavior demonstrates severe issues with the journalist's ethics code, and a clear political partisanship of these media outlets. The language used by the media is primarily conflict-driven, which is unacceptable for a media that should adopt a neutral stance given the political conflict in place between the Republic of Moldova and its Transnistrian region.

## LIST OF RECOMMENDATIONS

1. The CEC should create a mechanism of reception and analysis of monitoring reports produced by election observation missions, which would establish the CEC's obligation to respond to these reports and to comment on the recommendations formulated by their authors.
2. Further efforts should be made to create the "Elections" state informational system and the State Voter Register; the respective feasibility studies should be conducted in advance to estimate the approximate costs, human resources needed. Discussions should be initiated with the central government to include the means needed for the system into the CEC budget for 2010; possibilities should be examined to invite foreign donors to grant financial assistance for the creation of these systems. An extensive public coverage should be ensured for all the activities related to the creation of the State Voter Register.
3. Art 27/1 of the Elections Code should be amended to read: „The CEC, at least 55 days before elections, shall establish electoral circumscriptions, which correspond to the boundaries of the level-two territorial-administrative units of Moldova, of the autonomous territorial units with special status or, by case, of municipalities and localities that enjoy special forms and conditions of autonomy”.
4. Art 27/4 of the Elections Code should be amended to read: „Candidacies of 2 members of the District Electoral Councils shall be suggested by the district court or, by case, by the Court of Appeal which exerts its competence in the autonomous territorial unit with special status, municipality, or locality enjoying a special form or condition of autonomy”.
5. A strict observance of the provisions of Art 62/1 of the Elections Code regarding the way of preserving voter lists in a post-election period at the CEC; establishing a mechanism to pass the voter lists from the DEC to the CEC
6. The responsibility for compiling qualitative voter lists should be clearly defined; this responsibility should be delegated to a single central agency. This agency should have the information on the population that has reached the voting age, and their geographic localization, including voters from the Transnistrian region. Local public administration should be excluded from the process of compiling voter lists.
7. Disciplinary and administrative liability should be introduced for those found responsible for compiling and verifying incomplete and poor-quality voter lists (the agency in charge of the lists, the local public authorities, the CEC).
8. The CEC should establish a single procedure of posting voter lists for public display at the office of the local public administration or at the polling station electoral bureau. Sanctions should be introduced for violations of that established procedure.
9. The CEC should establish a single procedure by which citizens may check voter lists, as well as a procedure to certify/register the fact that the citizen has checked the list.
10. A stricter procedure to authenticate voter lists should be introduced to include the following: use of paper with protection marks; introduction of page numbers to the voter list; initialing each sheet of the voter list by applying a stamp and a signature of the body in charge of creating the list.
11. Development of a Regulation to be made public on the conditions and procedure of accrediting international observers, which should contain an exhaustive list of requirements for accreditation. The regulation should not be restrictive in its spirit.
12. The status of national observers should be revised, particularly with regard to their ability to submit complaints when they find it necessary.
13. Intervention of the law enforcement in each alleged case of intimidation of an observer, with a public

presentation of the decisions and, if the responsibility of the state bodies is ruled, with the penalization of those responsible.

14. Arts. 36 and 38 of the Elections Code should be strictly observed by companies, agencies and organizations which are involved in the use of resources in an electoral campaign. All cases of alleged indirect financing of the campaigns of electoral contestants by those companies or agencies should be investigated and sanctioned.
15. The practice of conducting electoral meetings with workers from the public sector during work hours should be stopped.
16. Further diplomatic and other efforts should be made to ensure the opening of polling stations on the left bank of the Nistru River and in the localities of the right bank that are not controlled by the Moldovan legal authorities.
17. Public officials, decision makers and opinion leaders should strictly observe the legal provisions with regard to the time of stay inside or within the range of the polling stations on Election Day.
18. The local authorities should establish and publicly announce what venues are available to conduct electoral meetings with voters, as well as where the electoral billposting boards are located. The authorities should be transparent with regard to the conditions in which the electoral contestants will use the boards and venues.
19. All cases of direct or indirect corruption of the voters should be stopped. All such cases should be investigated, and those found responsible should be penalized.
20. Undeclared use of public resources for electoral purposes should be banned, and persons that admitted such violations should be penalized.
21. The election law should be observed with regard to the procedure by which electoral circumscriptions open polling stations.
22. A viable mechanism of continuous training for members of election bodies should be introduced.
23. The Ministry of Information Development should be transparent with regard to issuing F-9 temporary ID certificates and ID card annexes.
24. A mechanism should be created to ensure a secure, transparent and secret vote for citizens who vote at home, as well as citizens that vote on supplementary voter lists.
25. Citizens from the Transnistrian region that have the right to vote should be included in the voter lists.
26. Amendment of article 66 Electoral Code through specifying the exact and clear hierarchy of the complaints and appeal bodies, not leaving the appeal body at the discretion of any of the parties/authorities.
27. Amendment of the Administrative Code to provide sanctions for the electoral irregularities mentioned in the article 71 of Electoral Code.