

STATEMENT

on the Amendment of the Voting System of the Members of Parliament

Promo-LEX Association regrets the amendment of the electoral system and adoption on July 20, 2017[1] of the draft law No 60 of 14.03.2017 on the switch from the proportional electoral system to a mixed system for electing the MPs of the Republic of Moldova. On the same day, the Law was promulgated by the President of the Republic Moldova and it entered into force on 21 July 2017 by publication of the Law No 154[2] in the Official Gazette. In this context, we would like to recall that Promo-LEX Association, as well as other non-governmental organizations, have requested the Parliament of the Republic of Moldova to adopt any amendments to the electoral system in view of its implementation at the parliamentary elections of 2022, i.e. over one ordinary electoral cycle[3].

At the same time, **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[4].** Moreover, the Venice Commission has reiterated and drawn the attention in its opinion that as yearly 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[5].

A conclusion similar to the one stated in the opinion of the Venice Commission was formulated in the 'Electoral System Design in Moldova' study[6] drafted by Promo-LEX. We would like to recall that according to the above study, the most appropriate option for the Republic of Moldova would have been the implementation of a proportional electoral system with multi-member constituencies and open lists of candidates. In this context, **Promo-LEX Association reaffirms its support for switching back to the proportional electoral system by setting up multi-member constituencies and open lists of candidates, but it is guided by the rule of law.**

Although the Law No 422 on the 'Amendment of the Electoral System' contains certain provisions promoted by the Promo-LEX Association inclusively, such as the mandatory setting up of constituencies for the Transnistrian region and for the citizens living abroad, granting technical and financial incentives to ensure gender equality by the political parties, increasing the number of ballot papers for polling stations abroad, etc., **Promo-LEX Association believes that the said Law still contains a series of important deficiencies** such as:

- Empower a political body, namely the Government, which is subordinated to the parliamentary majority, to set up permanent single-member constituencies, as well as failure to include the boundaries of the single-member constituencies in the Electoral Code;
- Deny the provisions of Article 60 of the Constitution establishing that the Parliament is the supreme representative body and the election of the MPs in a single round of election will ensure a lower representativeness compared to the election of the President of the country and the mayors, which take place in two rounds, specifically to increase the representativeness;
- Establish the preconditions for violation of the principle of equal votes, as the minimum threshold to enter the Parliament on the basis of the list of candidates submitted by the political parties in the nationwide constituency will be higher than that to be recorded in certain single-member constituencies (for example, in case of 50 percent participation of the voters and a minimum electoral score of 6 percent or about 84,000 votes obtained by a political party, the latter could delegate only 3 members to the Parliament, i.e. about 28,000 votes for a member, while in the single-member constituency at the same participation rate a member could be elected with about 3-5 thousand votes or even less);

- Ignore the recommendation of the Venice Commission on the lowering of the electoral threshold, or de facto double increase of the threshold. Compared to the previous proportional system, when a political party with popular support of 6% could delegate at least 6 MPs, according to the new electoral system, the same political party with similar popular support at the national level will be able to delegate at least 3 MPs, i.e. two times less;
- The Law No 422 does not provide for a clear voting mechanism for about 158 thousand voters^[7], who have neither domicile nor residence;
- The lack of a mechanism for exercising the right to vote on the basis of the voting right certificate at least in the nationwide constituency by the voters who will not be on the territory of the single-member district on the election day;
- Diversify the electoral accountability mechanism for certain election candidates registered in the single-member districts, who will be obliged to submit the documents required for registration to the constituency councils, and the financial reporting documents to CEC, while the latter can cope with both challenges where the optimal working conditions are ensured;
- The permission, granted by the law to the candidates on the national list of the political parties, to be at the same time independent candidates in the single-member districts, creates opportunities for indirect, unequal and unfair funding of the election campaigns of the parties admitting such situations;
- The lack of a clear legal mechanism through which the constituency councils for the management of the electoral process within single-member districts shall be established (on the basis of the communities from several level-two administrative-territorial units).

In addition to the above-mentioned deficiencies, **the mixed voting system may lead to a continuous series of partial elections in the single-member districts, it will increase the costs for organizing the parliamentary elections and election campaigns, the risk of corrupting the voters, especially in the single-member districts, the risk of “corrupting” the MPs by “selective allocation” of the financial resources from public money to fulfill their election promises** on the territory of the single-member district of which they were elected, as well as the risk of excessive fragmentation of the electorate, and the emergence of social and ethnic conflicts. In the context of the aforesaid, **Promo-LEX Association believes that the recently adopted mixed electoral system has several disadvantages compared to the proportional system, especially the proportional system with multi-member constituencies and open lists of candidates.**

In conclusion, Promo-LEX Association, as a political organization, has reported and will continuously report the deficiencies observed in the proposed drafts, as well as in the already adopted laws and regulations relating to the administration and management of the electoral process. At the same time, **Promo-LEX expresses its willingness to help to eliminate or minimize the negative effects and deficiencies observed or found in the Electoral Code and other regulatory acts.** Promo-LEX Association will continue to monitor the exercising of the right to vote and to be elected irrespective of the implemented voting system.

[1] Legally performed duty on the basis of Article 72(1) and Article 72(3)a) of the Constitution

[2] <http://monitorul.md/index/viewpdf/id/1982/lang/1/>

[3] <https://promolex.md/8021-mai-multe-organizatii-neguvernementale-solicita-parlamentului-sa-urgenteze-procedurile-de-modificare-a-legislatiei-electorale-in-stricta-conformitate-cu-adresele-curtii-constitutionale-si-recomandaril/>

[4] [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)012-e_pct.15](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)012-e_pct.15)

[5] [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)012-e_pct.34](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)012-e_pct.34)

[6] https://promolex.md/wp-content/uploads/2017/05/sistem_electoral_RO_web.pdf

[7] <http://cec.md/index.php?pag=news&id=1042&rid=19677&l=ro>