

OPINION of the Promo-LEX Association

The fact that the application for registration of the Initiative Group for conducting a legislative referendum was rejected, puts in doubt the citizens' right to directly exercise sovereignty

Promo-LEX Association is alarmed by the trends that take shape in the society – when certain important national public authorities limit the citizens' right to initiate a referendum, as well as to freely express their opinions in a democratic exercise. We think that such tendencies do not pursue a legitimate aim and are unnecessary in a democratic society. We are concerned that these positions could lead to certain discretionary restrictions of this right. We refer to the fact of compromising the citizens' right to initiate a republican legislative referendum itself – aspects mentioned by the CEC in the body of its decision (Decision No 1344 of 12.01.2018), as well as to the findings of the Constitutional Court in its Decision No 24 of 27.07.2017, which make the citizens' right to initiate any kinds of legislative referenda seem to be expressly limited.

Promo-LEX Association disapproves of the decision of the Central Electoral Commission to reject the registration of the Initiative Group for conducting a republican legislative referendum on repealing Law No 154 of 20 July 2017, which changed the electoral system into the mixed one. We think that the right to organise a referendum is a guaranteed right of the citizens of the Republic of Moldova, naturally fitting in the concept of the rule of law and national sovereignty as the existential foundations of a democracy.

We regret that in this situation (in comparison with other similar or comparable cases) the citizen-serving public authority took a stand of insisting on emphasising exclusively the letter of the law, while totally and groundlessly ignoring its spirit. **The Association considers that the procedural grounds** invoked by the CEC are of **minor legal relevance** and are unable to put in question the legality and lawfulness of the created initiative group, as well as of the citizens' right to freely express their opinion in such a democratic exercise as referendum.

At the same time, note that when the amendments to the electoral legislation were approved, Promo-LEX Association identified and pinpointed several legal gaps and issues in the implementation of the mixed-member electoral system, which, as Promo-LEX believes, must be tackled immediately. These include: reduced representativeness of the Parliament, if the MPs are elected in single-member constituencies in one single round; necessity to clarify the situation of a candidate from the national list of the party, who is, at the same time, an independent candidate in a single-member district; legal aspects of student voting; interpretability of and failure to observe the demographic criterion for distribution used for the establishment of constituencies, etc. **We wish to stress that despite the obligation of the Government of the Republic of Moldova (by virtue of final provisions of Law No 154 of 20 July 2017) to make suggestions on amendment and adjustment of the legal framework till 20 October 2017, none of the aforesaid issues was examined.**

For other important details on this subject, please see the [Opinions of Promo-LEX Association](#).

Contacts: Emil Gaitur, Promo-LEX Communicator – email: emil.gaitur@promolex.md, tel.: +37369172642.

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