



ENEMO International Election Observation Mission

Presidential Election, 1 November - Moldova 2020

INTERIM REPORT

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The legal framework for elections ensures conditions for holding of democratic elections, despite several, yet to be addressed, shortcomings that leave space for discretion and can be misused. Most aspects of the electoral process are managed efficiently and within the legal deadlines, but concerns can be raised on potential uneven application of rules aimed at protecting public health on election day. ENEMO assesses the overall campaign environment as competitive and calm; however, electoral messages that aim to discredit the opponents, or go beyond the powers of the presidency are visible. Elements of a functionary campaign are also observed, as numerous public officials openly campaign, or support candidates.

Upon invitation from the Central Electoral Commission of the Republic of Moldova, the European Network of Election Monitoring Organizations (ENEMO) deployed an International Election Observation Mission (IEOM) to observe the upcoming Presidential Election, to be held on 1 November. This is the second presidential election held by a direct vote of citizens of Moldova since 2016¹ and the fourth Moldovan elections being observed by ENEMO, which had the opportunity to observe the 2016 Presidential election, and both elections that followed (Parliamentary and Local elections 2019).

In addition to the 8 Core Team members, ENEMO has also accredited 8 Long term observers (LTOs). Due to an increased health risk, as a result of the COVID-19 global pandemic, the IEOM is operating mostly remotely, with only a part of the Core Team being deployed in the country during the most crucial phases of the electoral process². During Election day and potential run-off Election day, the IEOM will deploy up to 52 short-term observers (STOs) in total, to follow the voting, counting, and tabulation of results. The mission is headed by Dritan Taulla.

¹ Between 2000 and 2016 the President was elected by the Parliament.

² Election campaign, election day and potential run-off election day, and following period of potential post-electoral complaints and appeals.

The IEOM's scope is to observe the Presidential Election and not the local by-elections in four municipalities on the same date. However, selected aspects of the process for these local elections will eventually be noted and reported on, in case that they affect the Presidential election. Voting will not be organized in the territories on the left bank of the River Nistru, which are not under the control of the Moldovan authorities; however, 42 polling stations were established for voters residing in this region, in different localities under the territory of the Moldovan authorities.

The mission is monitoring and assessing the overall political and electoral environment, respect for the rights to elect and stand for election, conduct of election management bodies, campaigning, gender equality, voting and tabulation processes, electoral dispute resolutions and other crucial aspects of the process, based on international standards for democratic elections and the legal framework of Moldova. Until 22 October the IEOM has conducted 208 meetings, with election management bodies³, presidential candidates⁴, political parties, state officials⁵, the international community, domestic civil society organizations, and media; in addition to observing 55 campaign activities (meetings or rallies).

The mission will issue its preliminary statement on findings and conclusions after the Election Day and will remain in the country to also follow the potential run-off election and issue the second preliminary statement after the run-off election day. The final report will be issued within sixty days from the certification of results.

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³ Including the Central Electoral Commission.

⁴ The IEOM has reached out to all presidential candidates with a meeting request. Two of them were not met due to their schedule, but meetings with their representatives were held.

⁵ Including the Prime minister.

Executive summary

On 21 May 2020, the Parliament promulgated the date of the Presidential Election for 1 November 2020. The 1 November Presidential Election comes amidst numerous challenges that Moldovan society faces, including low trust in state institutions and the judiciary, persisting high levels of corruption, and a deficient judiciary. The conduct of a credible, inclusive and transparent electoral process, in compliance with international standards for democratic elections, and in respect of the will of the Moldovan voters is a crucial test for democracy and rule of law in Moldova.

The coalition formed in June 2019 between PSRM and ACUM ended immediately after the second round of the 2019 General Local Elections, with the ousting of the Sandu Government in a motion of no-confidence and the appointment of the Chicu Government, with votes from PSRM's and PDM's MPs. The composition of the Parliament ahead of the upcoming Presidential election has changed considerably since the Parliamentary elections, with factions splitting and several MPs changing party affiliation, a frequent phenomenon in Moldovan politics.

The ongoing COVID-19 pandemic challenges the work of the election administration, the outreach of candidates to electors, as well as the activity of observers. The Moldovan authorities are faced with the challenge of finding the balance between protection of public health and respecting the rights of Moldovan citizens to be able to form an opinion and express their will freely.

The legal framework is mostly in line with international standards and good practices. However, the electoral legal framework contains shortcomings and lacks clarity on various matters, which leaves space for different interpretations that can be misused, if not undertaken in good faith. The legal framework has undergone numerous amendments since the 2016 Presidential election, but only a few were made since the last Local elections; not affecting the process significantly.

A draft-bill on amending the Electoral Code and other laws was voted on first reading but was ultimately not adopted and does not affect the Presidential election. While the proposed amendments addressed important and substantial matters, according to a number of interlocutors the legislative procedure lacked inclusiveness, contrary to best practice and previous ENEMO recommendations.

Most aspects of the election are managed in line with legal requirements and deadlines, at the central level. The CEC published the agenda of the upcoming sessions in advance and provided draft decisions before each session. The requirement of posting decisions on the website within 24 hours of their adoption is overall respected. A voter information campaign, including in languages of minorities, is being conducted.

A number of EOM interlocutors have expressed lack of trust in the impartiality of the CEC, especially regarding the decision to establish polling stations abroad, and the interpretation of the Electoral Code limiting the financial support that political parties can provide to presidential candidates nominated by them.

DECs and PEBs were formed within the legal deadline, with the required number of members, as prescribed by law. The CEC established 139 out-of-country polling stations in 36 countries and 42 polling stations for the voters residing on the left bank of the River Nistru.

The State Register of Voters included 3,287,140 voters as of 8 October. Of these 256,203 reside in Transnistria and 232,631 do not have a registered domicile, nor residence. The last two categories will be able to vote on Election Day, either in polling stations designated specifically for them (voters residing in Transnistria) or in any polling station (voters lacking an official domicile or residence) upon presentation of identity documents, and will be included in the supplementary voter list.

The CEC was responsible for managing the online pre-registration for polling stations established abroad and for voters residing in Transnistria, a process that was concluded by 16 September. Allegations of fake pre-registration of voters registering to vote in the polling stations established in the Russian Federation have emerged and investigations are ongoing. Given the sensitivity of the matter and the negative effect it might have on the overall trust of voters in the election process, ENEMO urges the authorities to conduct these investigations swiftly and professionally.

In order to be registered as a candidate, a minimum of 15,000 supporting signatures are needed; at least 600 should be gathered from half of the level 2 territorial-administrative units of the country. A citizen can sign in support of only one candidate, which could be considered a restriction that challenges political pluralism. The required number of signatures is in line with best practice. However, these requirements proved to be burdensome, especially for independent candidates, as three of the four candidates that could not gather the required number of signatures were independent. The only formally independent candidate contesting in this election is the incumbent President, who is widely and openly supported by PSRM.

13 initiative groups were registered with the CEC, of which nine submitted signature lists. The CEC has registered eight candidates and rejected one. The signature lists of two more candidates were challenged, but they were registered after showing that a number of signatures, initially deemed invalid, were instead valid. This has once again brought into attention previous concerns of ENEMO about the signature verification process, showing it to be open to discretion and human error, resulting in possible unjustified prevention of candidates to stand for election.

The Electoral Code prohibits campaigning before a candidate is duly registered with the CEC, as well as before the start of the official campaign. The deadline for the verification of signature lists overlaps with the start of the campaign, which might lead to unequal campaigning opportunities for candidates. If taking into consideration potential complaints and appeals, this is exacerbated. The narrowly defined notion of electoral campaign leaves room for disguised pre-campaigning, especially during the signature collection process.

The campaigning started low-key, but it intensified as election day approaches. Door-to-door activities, some rallies, and a number of billboards became visible in the first days following the official registration of most candidates. A considerable amount of paid campaign ads on online media, especially social media, was noticed since the early stages of the campaign.

Overall, the electoral campaign can be assessed as peaceful and calm, although instances of negative campaign tactics and offensive language were noticed. ENEMO EOM noticed instances of use of the advantages of the incumbency or office, possible pressure on employees to attend campaign events, or ecclesiastical authorities involved in campaigning. Main candidates' messages focused on social and economic issues, the country's geopolitical orientation, infrastructure projects, and corruption. However, many campaign topics do not fall under the direct jurisdiction of the President.

The legal framework on campaign finance underwent significant changes, compared to the 2016 presidential election. The campaign can be financed by individual donations, private entities, as well as loans. The CEC is responsible to oversee campaign finance and does so by examining reports filed by contestants. All campaigning donations and expenses should go through a special electoral account, opened by contestants. Six candidates opened the account on time, whereas two candidates could not, which severely brings into question the transparency of these candidate's campaign finance.

The legal requirements for media coverage of election campaigns include the obligation to provide fair, balanced and impartial coverage, some amount of free airtime for contestants in the national broadcasters, as well as equal conditions for advertising. The conduct of broadcasters is supervised by the Audiovisual Council, which is monitoring the conduct of 15 broadcasters during prime time newscasts and will be submitting bi-weekly reports to the CEC on the findings. ENEMO deems that a bi-weekly schedule, combined with non-dissuasive sanctions provided by the law, and monitoring only of prime-time newscasts considerably curtails the efficacy of the monitoring mechanism, reducing it to a mere formality.

There are no legal provisions ensuring equal representation of both genders at different levels of the election administration and all nine CEC members are men. However, women are well-represented in the lower-level EMBs, including in decision-making positions. Of the eight presidential candidates, two are women. Issues related to gender equality and women's rights remained marginal in the campaign.

Deadlines for solving election related disputes are short, in line with best practice. Complaints must be first submitted for administrative review by a higher-level election management body, after which they can be lodged to a court. Until now, most of the complaints filed with the courts concerned candidate registration and establishment of polling stations, and were dismissed on procedural grounds. Until now, the judicial review has shown to be mostly formal and ineffective, which raises concerns on lack of effective remedy for complaints.

Background

Moldova is a parliamentary republic, with the unicameral 101 seats Parliament invested with the legislative power, the Government exercising the executive power, and the President of the Republic as head of the state and mainly exercising functions in matters of foreign relations and national security. On 21 May, the Parliament promulgated the date of the Presidential Election for 1 November 2020. The November 1 election will be the second Presidential election held by a direct vote of citizens since 2016 following the ruling of the Constitutional Court⁶ of March 2016, that the election of the President by the Parliament was unconstitutional⁷.

Following the 24 February 2019 Parliamentary elections, a governing coalition was not formed for almost three months, despite negotiations between the parties entering the Parliament. On 8 June 2019, one day before the expiration of the three-months deadline stipulated in the Constitution⁸, a governing coalition was formed between the Party of Socialists of the Republic of Moldova (PSRM) and the bloc ACUM⁹, as a result of which the leader of the Party Action and Solidarity (PAS), Maia Sandu was appointed Prime minister and the leader of PSRM, Zinaida Greceanîi, Speaker of the Parliament. The coalition agreement was finalized one day after the Constitutional Court had ruled that the deadline for forming the Government was ninety days after the validation of results of the Parliamentary Elections (thus 7 June), interpreting the three months' deadline in the Constitution as ninety days. Another controversial decision of the Constitutional Court from 9 June, dismissed the President for failing to dissolve the Parliament and appointed the incumbent prime-minister, Pavel Filip, as an acting President; the latter moving swiftly to dissolve the Parliament and call for early elections in September. These developments were followed by social unrest and reactions from the international community calling for restraint, many countries recognizing the newly formed government led by Sandu. Prime minister Pavel Filip stepped down on 14 June, while the Constitutional Court repealed its decisions taken during the period 7-9 June, followed by the “in corpore” resignation of the Constitutional Court judges soon after.

Both partners of the governing coalition called their partnership a temporary one, aiming to “de-oligarchize” the country and fight corruption. However, the coalition was short-lived and immediately after the second round of the 2019 Local Elections, on 12 November 2019, the Sandu Government was ousted in a motion of no-confidence, initiated by the PSRM and supported by the parliamentary faction of the Democratic Party of Moldova (PDM)¹⁰. On 14 November 2019, Ion Chicu was appointed as Prime minister, with the support of 62 votes from PSRM's and PDM's MPs. In March 2020 the PSRM and the PDM signed an official coalition

⁶ Constitutional Court of the Republic of Moldova. [Judgment No. 7 on constitutional review of certain provisions of the Law no. 1115-XIV of 5 July 2000 amending the Constitution of the Republic of Moldova \(modality of electing the President\)](#) (Complaint no. 48b/2015.), 4 March 2016.

⁷ The president has been elected by a direct vote of citizens from 1991 to 2000, then by 3/5th of the Parliament from 2000 to 2016. Following a complaint submitted to the Constitutional Court on 12 November 2015 by 18 MPs of the Parliamentary faction of the Liberal Democratic Party of Moldova on the constitutionality of the election of the President by the Parliament, on 4 March 2016 the Constitutional Court ruled that this was unconstitutional, reintroducing the election by a direct vote, and reviving the provisions repealed in 2000.

⁸ Article 85, paragraph 1.

⁹ Composed of the Party of Action and Solidarity (PAS) and the Party Dignity and Truth (DA).

¹⁰ The motion of no confidence was held immediately after the Parliament rejected the draft law on amending the Law on Public Prosecutor's Office.

agreement, following which PDM received five posts in the Government.

However, the composition of the Parliament ahead of the upcoming Presidential election has changed considerably since Parliamentary elections, with the ACUM faction splitting into the factions of PAS and that of DA; the faction of the PDM being split in two, after the former speaker of the Parliament, Andrian Candu, and six other MPs created the Pro Moldova parliamentary group; and several MPs changing party affiliation. The current governing coalition is composed of the parliamentary factions of PSRM (37 seats) and PDM (11 seats), supposedly supported by several non-affiliated MPs to maintain a slim majority.

The 1 November 2020 Presidential Election comes amidst numerous challenges that Moldovan society faces, including low trust in state institutions and the judiciary, persisting high levels of corruption and oligarchic structures, and a deficient judiciary. The conduct of a credible, inclusive and transparent electoral process, in compliance with international standards for democratic elections, and in respect of the will of the Moldovan voters has been considered a crucial test for democracy and rule of law by international partners of Moldova¹¹.

It is important to mention that the November 1 Presidential Election will be held under strict health safety measures, aimed at protecting the health of voters, PEBs, and other electoral stakeholders, due to the ongoing COVID-19 global pandemic. Moldova has a high number of infections and deaths¹² and the pandemic has had a devastating effect on the economy of the country thus far. The pandemic further complicates the work of the election administration, the outreach of candidates to electors, as well as the activity of observers. The Moldovan authorities are faced with the challenge of finding the balance between protecting the public health and respecting the rights of Moldovan citizens to be able to form an opinion and express their will freely.

Legal framework and electoral system

The Republic of Moldova is party to key international treaties and conventions.¹³ The Constitution establishes that the will of the people, expressed by free elections through universal, equal, direct, secret and freely expressed ballot, shall constitute the basis of the State power¹⁴. The legal framework on elections is constituted by the Electoral Code¹⁵ and regulations adopted by the Central Electoral Commission (CEC), as well a series of other laws which are used to regulate selected aspects of the process.

¹¹ See, e.g. the [Remarks by the High Representative/Vice-President Josep Borrell at the EP plenary on the implementation of the EU Association Agreement](#), on 20 October 2020; [Remarks of the Under Secretary for Political Affairs of the US State Department, David Hale](#) in meetings with the incumbent President Dodon and former Premier, Sandu on 13 October; and the [Statement of the European Commission's Spokesperson](#) on 30 September. Also, the Statement by 19 EU countries, on 1 November.

¹² At the time of writing, Moldova ranks 31st among 217 world countries and territories in terms of total cases per 1 million population and 21st in terms of deaths per 1 million population.

¹³ Inter alia, the Republic of Moldova adheres to the European Convention on Human Rights; International Covenant on Civil and Political Rights (ICCPR); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); Convention on the Political Rights of Women; International Covenant on the Elimination of all Forms of Racial Discrimination (CERD); Convention on the Rights of Persons with Disabilities (CRPD), etc.

¹⁴ Constitution of the Republic of Moldova, Art. 38.

¹⁵ Parliament of the Republic of Moldova, Law No. 1381, dated 08/12/1997, amended, "Electoral Code of the Republic of Moldova"

The Presidential election in the Republic of Moldova is regulated mainly by the Electoral Code and bylaws approved by the Central Electoral Commission, which is the primary institution in charge of implementing the electoral process¹⁶. The President of the Republic of Moldova is elected through a two round majoritarian system, in one nationwide constituency. The President's term in office is for four years; the President is an apolitical figure¹⁷ and a neutral institution¹⁸. A citizen of Moldova with voting rights, with a residence in Moldova for at least 10 years, over 40 years of age and with proficiency in the state language¹⁹ is eligible to register as a candidate.

The minimum age to be eligible to register as a candidate is relatively high in comparison with other models and the Moldovan residence condition is limiting for individuals living abroad. At the same time, it remains unclear whether and how the language proficiency check is performed²⁰.

For the election to be valid in the first round, the participation of at least one third of the total registered voters is required. In case this legal requirement is not achieved, the first election attempt will be declared null by the CEC and the election will be repeated within two weeks²¹. If the one third of voters' requirement is met in the first round of the election, one candidate must secure more than half of valid votes cast of voters who have participated in the election, in order to win. If no candidate wins more than half of valid votes cast in the first round, a second round of election is held in two weeks, among the two candidates with the highest number of votes, whereas this second round of election is valid regardless of the total voters' turnout and the winner candidate is the one who achieves a larger number of votes.

The election related legal framework is in line with most international standards and good practices. However, the electoral legal framework on specific matters lacks legal definitions²², has procedural vacuum²³, or unclarity regulating different matters²⁴ and activities in the electoral process. Many electoral matters and procedures, either don't have a specific and effective regulation²⁵ or lack regulation at all²⁶.

The legislative framework of Moldova in continuity undergoes amendments, caused not only by the legislative activity of the Parliament, but also by the judicial reviews of the Constitutional Court. This characteristic of the legal framework in general has been reflected into the electoral legal framework too.

¹⁶ Parliament of the Republic of Moldova, Law No. 1381, dated 08/12/1997, amended, "Electoral Code of the Republic of Moldova", Art. 22, Central Electoral Commission General Duties.

¹⁷ Constitutional Court of the Republic of Moldova, [Decision](#) No. 35, dated 12/12/2017.

¹⁸ Constitutional Court of the Republic of Moldova, [Decision](#) No. 24, dated 27/07/2017.

¹⁹ Parliament of the Republic of Moldova, Law No. 1381, dated 08/12/1997, amended, "Electoral Code of the Republic of Moldova", Art. 110, Special Conditions set for Candidates for the position of President of the Republic of Moldova.

²⁰ European Commission for Democracy through Law, [Opinion](#) No. 848/2016, "Joint Opinion on the draft law on changes to the electoral code", dated on 13/05/2016.

²¹ Parliament of the Republic of Moldova, Law No. 1381, dated 08/12/1997, amended, "Electoral Code of the Republic of Moldova", Art. 120. The Second Round of Elections. Special Provisions, para. 4.

²² Such as electoral advertisement.

²³ E.g. the starting of the electoral campaign.

²⁴ E.g. the establishment of polling stations abroad, the scrutiny procedure of the supporting signatures, political and electoral finance, effective judicial remedies for the contestants.

²⁵ E.g. the use and misuse of public resources during the electoral campaign.

²⁶ E.g. social and online media coverage of the electoral campaign, governmental activity interfering with the electoral campaign.

In this context, in the year prior to the Election, the amendments of the legal framework were small in number and not radical. The electoral legal framework during the year preceding the election underwent amendments to the Electoral Code, Law on Political Parties, and CEC regulations. The Electoral Code was amended three times since the 2019 Local Elections: the two amendments from February 2020 were minor and very technical, as they addressed the obligations of the Central Electoral Commission²⁷ and the duties of the CEC Chairperson²⁸; the July 2020 amendments to the Electoral Code made changes to the process of establishing polling stations and the composition of the PEBs abroad²⁹.

Prior to the Presidential Election, there was an important legal initiative concerning elections³⁰, that was promoted initially by different non-governmental organizations. While the draft-law addressed important and substantial matters, on which ENEMO had previously recommended to be addressed, some shortcomings were still noted. Moreover, according to a number of interlocutors this legislative procedure lacked inclusiveness, contrary to best practice and to ENEMO recommendations. The Venice Commission drafted an urgent opinion on the draft-law³¹. The legal amendments were, however, not adopted and do not affect the Presidential Election.

During 2020, Law “On political parties” was changed³² regarding the requirements for registration of political parties, caused by the Constitutional Court’s decision³³ that declared unconstitutional the imposed minimum number of supporters to constitute a political party.

For this electoral process, the CEC has approved new regulations and/or amendments to several existing regulations: the activities of observers³⁴, media coverage³⁵, DEC’s³⁶ and PEB’s³⁷ activity, candidate registration³⁸. Also, in preparation for this electoral process, the CEC approved a specific decision on the additional responsibilities of administrative authorities of central public administration authorities, local public, and institutions³⁹.

²⁷ Parliament of the Republic of Moldova, [Law](#) no. 38, dated on 28/02/2020, “For the modification of some normative acts”.

²⁸ Parliament of the Republic of Moldova, [Law](#) no. 6, dated on 06/02/2020, “For the modification of some normative acts”.

²⁹ Parliament of the Republic of Moldova, [Law](#) no. 162, dated on 20/07/2020, “For the modification of some normative acts”.

³⁰ Parliament of the Republic of Moldova, [Draft Law](#) No.263, registered on 19/06/2020, “The draft law for amending some normative acts”.

³¹ European Commission for Democracy through Law, [Opinion](#) No. 996, dated on 08/10/2020, “Urgent joint opinion on Draft Law No. 263 amending the Electoral Code, the Contravention Code and the Code of Audiovisual Media Services”.

³² Parliament of the Republic of Moldova, [Law](#) no. 162, dated on 20/07/2020, “For the modification of some normative acts”.

³³ Constitutional Court, [Decision](#) No. 5, dated 25/02/2020, “Regarding the unconstitutionality of some provisions of article 8 par. (1) lit. d) of Law no. 294 of December 21, 2007 on political parties”.

³⁴ Central Electoral Commission, Decision No. 4261, dated 17/09/2020, “For the amendment of point 9 of the Regulation on the status of observers and their accreditation procedure, approved by the decision of the Central Electoral Commission no. 332/2006”.

³⁵ Central Electoral Commission, Decision No. 4151, dated 01/09/2020, “For the approval of the Regulation on the coverage of the electoral campaign in the presidential elections of November 1, 2020 in the mass media of the Republic of Moldova”.

³⁶ Central Electoral Commission, Decision No. 4122, dated 19/08/2020, “For the modification of the Regulation regarding the activity of the constituency electoral council, approved by the decision of the Central Electoral Commission no. 1702/2018”.

³⁷ Central Electoral Commission, Decision No. 4123, dated 19/08/2020, “For the modification of the Regulation regarding the activity of the electoral bureaus of the polling stations, approved by the decision of the Central Electoral Commission no. 1734/2018”.

³⁸ Central Electoral Commission, Decision No. 4212, dated 19/08/2020, “For the amendment of the Regulation on the particularities of designation and registration of candidates in the elections for the position of President of the Republic of Moldova, approved by the decision of the Central Electoral Commission no. 113/2016”.

³⁹ Central Electoral Commission, Decision No 4214, dated 25/08/2020, “On the additional responsibilities of administrative authorities of central public administration authorities Local Public and institutions, related to ensuring the smooth conduct under the Presidential election of November 1, 2020”.

COVID-19 pandemic: restrictions and measures influencing elections

In the Republic of Moldova, The National Extraordinary Commission for Public Health (NECPH) is a cross-institutional public entity empowered with the right to adopt decisions on the state of emergency in public health and *inter alia* its decisions are compulsory for the central and local public administration authorities⁴⁰.

At the end of September, NECPH ruled⁴¹ that a state of emergency in public health was again established from 1 October 2020 and a “Red Code” alert degree was announced in 26 territorial units. This decision was more limiting than its previous one, especially for the red zones, making the conduct of election campaigns even harder. Following the further escalation of the number of citizens infected with coronavirus, this body adopted another decision on 13 October 2020, increasing the number of Red Zones to 35 territorial units⁴².

In this regard, NECPH initially established a series of limitations and requirements for the conduct of elections, in August 2020⁴³, containing measures with regard to the protection of all participants in the electoral process, preventing and combating infection spread during the electoral campaign and Election Day.

Regarding the Election Day, the NECPH’s decision allowed voters who show symptoms of acute respiratory infection for mobile voting with voters’ written or verbal requests⁴⁴. Otherwise, the Electoral Code regulates that the requests of voters can only be submitted in writing, until Election day⁴⁵. A discrepancy between the law and the referred decision leaves space for possible malpractice⁴⁶, taking into consideration an expected high number of mobile voting requests due to the pandemic.

NECPH adopted another decision in October, which further regulated the conduct of elections. It established the use of respiratory protection masks in electoral premises on election day. To guarantee its enforcement on Election Day, CEC approved the budget to secure that voters shall be provided with a free of charge protective mask at the entrance to the polling station on Election

⁴⁰ Government of the Republic of Moldova, [Decision](#) No. 820, dated on 14/12/2009, “Regarding the Extraordinary National Public Health Commission”.

⁴¹ National Extraordinary Commission for Public Health, [Decision](#) No. 33, dated 28/09/2020.

⁴² National Extraordinary Commission for Public Health, [Decision](#) No. 34, dated 13/10/2020.

⁴³ National Extraordinary Commission for Public Health, [Decision](#) No. 24, dated 12/08/2020.

⁴⁴ National Extraordinary Commission for Public Health, [Decision](#) No. 24, dated 12/08/2020, “(...) 3.10. *Voters who show symptoms of acute respiratory infection will be able to exercise the right to vote at the location, by submitting a request to the electoral office of the polling station where the voter has his registration at home / residence. Applications may be submitted in writing or orally, starting 2 weeks before voting day and until 18:00 on the day before voting. On voting day, applications can be made until 15:00.*”

⁴⁵ Parliament of the Republic of Moldova, Law No. 1381, dated 08/12/1997, amended, “Electoral Code of the Republic of Moldova”, amended, Art. 60, “(4) *If, for health or other ground reasons, the voter is unable to come to the polling station, upon the person’s written request, the Precinct Electoral Bureau shall designate no less than two bureau members to go to the voter’s accommodation place to conduct the voting, bringing with them a mobile ballot box and all the materials necessary for voting. The requests may be submitted in writing within 2 weeks prior to the Election Day and until 18:00 of the day preceding the elections.*”

⁴⁶ European Commission for Democracy through Law, [Opinion](#) No. 190/2002, “Code of good practice in electoral matters”, “40. *The use of mobile ballot boxes is undesirable because of the attendant serious risk of fraud. Should they nonetheless be used, strict conditions should be imposed to prevent fraud, including the attendance of several members of the polling station election commission representing different political groupings.*”, dated 30/10/2002.

day in order to exercise their right to vote safely⁴⁷. Additionally, NECPH established protective measures for observers and other persons involved in the electoral process.

Election Administration

The Presidential Election will be managed by three levels of election administration: the Central Electoral Commission (CEC), 36⁴⁸ District Electoral Councils (DECs) and 2,143 Precinct Electoral Bureaus (PEBs)⁴⁹ in total. The CEC supervises the activities of DECs and PEBs⁵⁰, and is responsible for registering candidates, compiling and distributing voter lists, aggregating election results, overseeing the campaign financing and conducting other duties.

Central Electoral Commission (CEC)

The CEC is a nine-member permanent body that serves a five-year term. One member is appointed by the President of Moldova and the other eight by the Parliament, with proportional representation of the majority and the opposition. The chairperson, deputy chairperson, and the secretary of the CEC are elected from among the members of the Commission with the majority of votes of the total number of its members⁵¹. In June 2019, the CEC composition was changed, and the new Chairman, Vice-Chairman and Secretary started their duties. These will be the second elections for the current composition of the CEC, after the 2019 General Local elections. ENEMO notes that no women are included in the current composition of the CEC.

The CEC conducts the overall management of the election process and organizes the work of lower level EMBs. It also develops and approves election regulations and guidelines that aim at improving the election process⁵², ensures verification and compilation of voters' lists, keeps control over the State Voter Registry and updates it, supervises the implementation of fair campaigning, implements regulations for the facilitation of campaign financing, organizes the coordination of Election Day, collects and discloses election results, and reviews election related appeals on the work of the lower level EMBs.

As the COVID pandemic has forced EMBs to change and adapt their operations, national election authorities held meetings partly online. The CEC sessions are broadcasted live on its website and the official Facebook page. The CEC published the agenda of the upcoming sessions in advance and provided draft decisions before each session. CEC decisions should be posted on its website less than 24 hours according to the law. ENEMO EOM notes that this requirement is overall respected.

⁴⁷ Central Electoral Commission, [Decision](#) No. 4375, dated 17/10/2020, "On ensuring protection measures in the voting process in the presidential elections of 1 November 2020".

⁴⁸ The numbering of the DECs goes up to 37, but only 36 of them were established. DEC no. 3, designated for the PEBs to be established in Bender was not established. DEC 37 is covering the PSs established for the voters residing on the left bank of the River Nistru.

⁴⁹ In the last nationwide (Parliamentary) elections held in 2019, there were 2,141 PEBs, in the last Presidential election held in 2016 – 2,081.

⁵⁰ Art. 108 of the Electoral Code.

⁵¹ Art. 16-17 of the Electoral Code.

⁵² Art. 22 of the Electoral Code.

The CEC website contains information in the state language, while some information is also provided in Russian/English languages. The website features resizable text and other adjustable formats, to enhance readability for persons with visual impairments. With regards to social media activity of the CEC in these elections, only its Facebook account is updated regularly.

Most aspects of the election are managed in line with legal requirements and deadlines, at the central level. Until now, the CEC did not provide any recommendations to mitigate public health risks during specific activities required to conduct the election, as the instructions on the organization and carrying out of elections in the context of COVID-19 pandemic were issued by the NECPH.

However, some measures of the NECPH are not fully in line with the electoral legislation, they lack clarity and unduly complicate certain aspects of the process. The particularly concerning are the powers vested in the PEB chairman and the fact that the PEB Chairman has the sole authority to replace other PEB members and even SAIS-E operators at any given moment, if they show symptoms of the virus, what may affect the overall voting process, especially if not conducted in good faith. At the same time, the current NECPH decision states that voting will start at 8:00h, whereas the law prescribes that PSs open at 7:00h. The CEC did not show a proactive approach to clarify these inconsistencies together with the NECPH.

Many ENEMO EOM interlocutors expressed their concerns regarding several CEC decisions allegedly being politically motivated, especially the Decision regarding the forming of PSs abroad and the CEC Circular. On the other hand, the CEC Decision on limiting the transportation of voters from Transnistria by political parties / electoral contestants⁵³ is a step forward to restrict possible voter influence and vote buying.

The CEC and its Centre for Continuous Electoral Training (CCET) are conducting nationwide voter information and education campaigns, undertake a series of training programs for election stakeholders, and publish information related to the electoral process on their website and in social media platforms. Additionally, to educate voters, the CCET released podcasts and short videos.

District Electoral Councils (DECs)

A total of 36⁵⁴ District Electoral Councils (DECs) are established for this election. According to the Law, DECs are consisted of an odd number of members, between 7 and 11⁵⁵ nominated by local courts and councils, as well as parliamentary parties. At all levels, political party representation in election commissions should be proportional to their representation in the Parliament. Within three days from their establishment, the DECs shall elect by secret ballot a chairperson, deputy chairperson and secretary among their members, communicating the results of these elections to the CEC without delay⁵⁶.

⁵³ That was in line with the Judgment of the Constitutional Court of Moldova adopted on 13 December 2016, <http://www.constcourt.md/libview.php?l=en&idc=7&id=926&t=/Media/News/Results-of-Presidential-Election-Confirmed-by-the-Constitutional-Court-of-Moldova>

⁵⁴ The numbering of the DECs goes up to 37, but only 36 of them were established. DEC 3, designated for the PEBs to be established in Bender, was not established. DEC 37 is covering the PSs established for the voters residing on the left bank of the River Nistru.

⁵⁵ According to current compositions, apart from DEC No.1 that has 11 members, all other DECs have 9 members.

⁵⁶ Art. 28 of the Electoral Code.

Among others, the main responsibilities of DEC's are establishment of PEBs, providing them with all necessary methodological and logistical support, handling eventual complaints against the PEBs activities, and tabulation of election results from PEBs under their jurisdiction.

ENEMO observers reported that, in general, DEC's operated effectively and in a timely manner to organize the election. However, in some instances, observers noted that DEC's were late in making their decisions publicly available. ENEMO notes that a dedicated section on DEC's decision-making at the CEC webpage, which was the practice in the last two elections, is not in place for this election. ENEMO considers this a step back in terms of transparency and information provided to the public. The representation of women at DEC level is high, as 212 DEC members are women, while men constitute 114 members of these bodies.

Precinct Electoral Bureaus (PEBs)

According to Article 30 of the Electoral Code, polling stations are established by DEC's at least 35 days prior to the Election Day in localities based on recommendations made by respective Mayors. The polling stations shall have between 30 and 3,000 voters, although this ceiling can be exceeded with up to 10 percent, again at the proposal of respective Mayors. As a rule, polling stations are established in public property premises and are equipped in such a way as to facilitate the access of the elderly and of people with disabilities. Special polling stations may also be established in hospitals, health resorts, maternity hospitals, asylums and homes for the elderly. Such polling stations shall have at least 30 voters.

Precinct Electoral Bureaus shall be established by DEC's at least 25 days prior to elections and ending on 6 October, all PEBs were constituted by respective DEC's, in fulfillment of requirements of the law of having at least 5 and maximum 11 members. PEBs are established for each election⁵⁷ and PEB members are nominated by local councils and parliamentary parties.

Training for PEB commission members was organized ahead of the election. ENEMO observed that commission members seemed overall satisfied with the content and quality of the online training, apart from PEBs formed for voters from Transnistria, where training of some of the PEBs was not conducted at the observed period. Nonetheless, lack of emphasis on Election day procedures with a special emphasis on precautions to guarantee safe voting with regards to COVID pandemic was also noted, which could result in an uneven level of preparedness and implementation of voting on Election day.

The CEC, in cooperation with the Ministry of Foreign Affairs and European Integration has established 139 polling stations abroad, in 36 countries, as of 26 September 2020⁵⁸. Numerous

⁵⁷ Art. 30 of the Electoral Code.

⁵⁸ According to the CEC decision no. 4300 and its annex, https://a.cec.md/ro/cu-privire-la-constituirea-sectiilor-de-votare-in-strainatate-pentru-2751_97799.html, 30 PSs were established in Italy (as opposed to 25 for 2016 Presidential election, or 29 for 2019 Parliamentary elections); 17 in the Russian Federation (as opposed to 8 for 2016 Presidential election, or 11 for 2019 Parliamentary elections); 13 in Romania (as opposed to 11 for 2016 Presidential election, or 12 for 2019 Parliamentary elections); 12 in the United States of America (as opposed to 7 for 2016 Presidential election, or 12 for 2019 Parliamentary elections); 8 in France (as opposed to 6 for 2016 Presidential election, or 7 for 2019 Parliamentary elections); 7 in the United Kingdom (as opposed to 2 for 2016 Presidential election, or 4 for 2019 Parliamentary elections); 6 for Germany (as opposed to 2 for 2016 Presidential election and for 2019 Parliamentary elections), and 4 in Ireland (as opposed to 1 for 2016 Presidential election and 2 for 2019

ENEMO interlocutors, both from amongst political candidates as well as civil society representatives, expressed concerns regarding this decision, especially the accuracy of the methodology and data CEC used to establish the number and locations of PSs abroad. According to the CEC's decision no. 4300, the following 3 criteria were used to determine the number and location of PSs abroad: 1) number of voters who participated in previous elections and held in the national constituency; 2) information about the number of pre-registered voters residing abroad; and 3) the information obtained from by the Ministry of Foreign Affairs and European Integration from the competent authorities of the countries of residence of the citizens of the Republic of Moldova, regarding their number and place of residence.

According to CEC aggregated data, in 2016⁵⁹ Presidential election – 138,281 people voted abroad, whereas in 2019⁶⁰ Parliamentary elections – 74,376 for uninominal and 76,121 for proportional segments of elections.

The named interlocutors made allegations towards the pre-registration process being intentionally fraudulent in the Russian Federation, with an outcome of artificially increasing the number of pre-registered voters in order to have the basis to increase the number of PSs for the 2020 Presidential election in this country. According to CEC's press release from 16 September 2020⁶¹ more than 5,800 voters have pre-registered in the Russian Federation for the upcoming 2020 Presidential election. In the next CEC press release on the same topic from 17 September⁶², only the total number of 60,030 pre-registrations was announced.

Out-of-country voting may also be the subject of change, depending on the wake of COVID 19 pandemic. There is no guarantee that all foreseen PSs will be able to organize the voting and/or remain open for voting in the face of increased pandemic-related restrictions in host countries. Up to 5,000 ballot papers are issued per one PS abroad.

In the context of the Presidential election of November 1st 2020, 42 PSs were established for voters from the left bank of river Nistru. Voters from the Transnistrian region were attributed to DEC 37. The number of PSs for the Transnistrian region increased from 30 PSs in Presidential election 2016 to 42 this year, while a total of 47 PSs were established for the 2019 parliamentary elections. The total number of valid votes cast by citizens residing in Transnistria during the 2019 Parliamentary elections was 35,416 for uninominal and 33,029 proportional, according to CEC⁶³.

Parliamentary elections); 3 for Portugal (as opposed to 4 for 2016 Presidential election and 5 for 2019 Parliamentary elections). The rest of the 2020 Presidential election PSs abroad numbers are similar with the ones opened in 2016 and 2019.

⁵⁹ https://a.cec.md/ro/rezultate-alegeri-prezidentiale-turul-ii-excel-3223_90359.html

⁶⁰ The total number of valid votes expressed by citizens abroad, during the parliamentary elections in 2019 is as follows: DEC 49 (Proportional system) – 7606/DEC 49 (Uninominal system) – 7352; DEC 50 (Proportional system) – 62273/DEC 50 (Uninominal system) – 61840; DEC 51 (Proportional system) – 4242/DEC 51 (Uninominal system) – 4497. The total number amounting to 74376 for proportional and 76121 for uninominal segment. <https://a.cec.md/ro/harta-rezultatelor-pestehotarele-republicii-moldova-4297.html>

⁶¹ https://a.cec.md/ro/astazi-se-incheie-perioada-de-inregistrare-prealabila-2781_97702.html

⁶² https://a.cec.md/ro/peste-60-de-mii-de-cetateni-ai-republicii-moldova-2781_97708.html

⁶³ DEC 47 Transnistria 1 (Proportional system) – 16010 / DEC 47 Transnistria 1 (Uninominal system) – 16729; DEC 48 Transnistria – Tiraspol (Proportional system) – 17019/DEC 48 Transnistria – Tiraspol (Uninominal) – 18687. The total amounts are 35416 (uninominal) and 33029 (proportional).

In 2016 during presidential election of 30 October 6,964 citizens from Transnistria voted in the 1st round, and 16,728 in the 2nd round, on 13 November 2016⁶⁴.

The establishment of polling stations in Transnistria was the object of a formal complaint from an electoral contestant, who raised concerns on the criteria followed by the CEC in establishing these polling stations and the transparency of the process conducted. The courts rejected the complaint on procedural grounds and left in force the CEC decisions on the matter. At the same time, ENEMO EOM notes that in some of the localities⁶⁵ designated to PSs for voters residing in Transnistria, the local authorities resisted hosting the polling stations, citing concerns about public health and the possibility of pressuring tensions within their communities.

Voter registration

Moldova has a passive voter registration system. Citizens of at least 18 years old by Election Day are eligible to vote, except for those legally deprived of this right by a final court decision.

Voters who for health reasons or any other justified case (patients staying at home, elderly, etc.) are unable to vote directly at the polling station, have the possibility to submit a request and vote at their place of stay. Mobile voting is also provided for voters who are homebound or in hospitals, due to COVID circumstances.

Mobile voting shall also be provided for voters who will exhibit or be suspected of having most common COVID symptoms during temperature checks before 15:00h on Election day. After 15:00h those voters with visible symptoms will be allowed to vote, using a “priority passage”.⁶⁶

Voter Lists

Voter lists (VLs) are compiled based on information in the State Register of Voters, which is extracted from the State Population Register, maintained by the Public Service Agency. VLs include all voters who have a domicile or residence in a given precinct. The data and information contained by the State Register of Voters are designed exclusively for election processes and are accessible on the CEC website, each voter having access to her/his private data only. Representatives of candidates also have the right to verify the correctness of electoral lists⁶⁷ and to contest them.

According to the CEC, the State Register of Voters included 3,287,140 voters for the upcoming election, on 8 October.⁶⁸ From the total number of voters:

⁶⁴ CEC report regarding the election results for the position of President of the Republic of Moldova from October 30 2016, approved by CEC decision no. 572 from 18.11.2016. https://a.cec.md/ro/privind-aprobarea-raportului-cu-privire-la-rezultatele-alegerilor-pentru-functia-2751_85873.html

⁶⁵ Hagimus, Causeni rayon, Gura Bicului.

⁶⁶ Decision of the National Extraordinary Public Health Commission No 34 of 13 October 2020.

⁶⁷ Art. 45, para 2 of the Electoral Code.

⁶⁸ https://a.cec.md/ro/numarul-total-de-alegatori-inscrisi-in-registrul-de-stat-2781_97882.html

- 2,798,306 are assigned to administrative-territorial units of level II in the country, they are voters with registered residence or a domicile⁶⁹.
- 256,203 voters from Transnistria.
- 232,631 voters who do not have nor a registered domicile or residence, including those who have emigrated abroad.

Voters from Transnistria and those without a registered address are not included in the main voters list and will be recorded in the supplementary voters lists on Election day.

VLs are displayed at the premises of PEBs, as well as on the website of the CEC⁷⁰ and voters can check their data until 31 October. Citizens may submit a complaint, or a correction request in case they notice discrepancies or mistakes in their personal data (or if they are not included in the VLs). The last day for requesting corrections is the day preceding the Election day. Requests for corrections to the list of voters should be examined within 24 hours by the relevant EMB, and its decision can be appealed in the court, if the request is rejected.

The CEC generates VLs through its State Automated Information System “Elections” (SAIS-E). PEBs use the SAIS-E to identify voters and check against multiple voting⁷¹.

By Law, voters should be notified at least 20 days before Election day about the location of the PS where they are assigned to vote⁷². At the same time, according to Article 55 of the EC, PEBs shall disclose the time and place of voting no later than 10 days before the Election day. ENEMO observers reported that many EMBs across the country did not provide voters with the necessary information through individual invitations. This aspect is especially important since the electoral administration needed to change locations of more than 200 polling stations, removing them from kindergartens and educational facilities, in line with NECPH recommendations.

Voters abroad are eligible to vote in PSs established in diplomatic representations abroad, as well as additional locations proposed by the authorities of the host country. However, it remains an issue whether the PEBs will be able to inform the voters abroad in time about the PS location, due to COVID 19 pandemic restraints in many countries.

Candidate registration

Any citizen of Moldova, that is eligible to vote, of at least 40 years of age, who has resided in Moldova for a minimum of ten years and possesses a proficiency in the state language is eligible to stand for the Presidency. The legislation does not elaborate how, if at all, a candidate’s command of the state⁷³ language is assessed. Also, such a long residency requirement constitutes a restrictive

⁶⁹ According to law, these voters can request an absentee voting certificate to vote in a different locality than their residence up to the day before Election day.

⁷⁰ <http://liste.cec.md>

⁷¹ Additionally, voters who are included in the supplementary VL will be required to sign a self-declaration document against multiple voting, whose template was adopted by the CEC Decision 4374 of 17 October 2020.

⁷² Art. 45 of the Electoral Code.

⁷³ Art. 13 of the Constitution declares that “*The State language of the Republic of Moldova is the Moldovan language based on the Latin alphabet*”.

candidacy requirement, which is not in line with international standards for democratic elections as well as international good practice⁷⁴.

Candidate nominations take place from 60 to 30 days before Election day. Prospective candidates are put forward through self-nomination, by a political party or a party bloc. To be registered as a contestant, every eligible candidate must submit to the Central Electoral Commission a list of supporting signatures⁷⁵. As it is stated in different international conventions, “*if a candidate is required to have a minimum number of supporters for nomination, this requirement should be reasonable and not act as a barrier to candidacy*”⁷⁶.

In Moldova, a voter can only support one candidate, which is a restriction that challenges the political pluralism⁷⁷. The legal requirement⁷⁸ that a citizen can sign in support of only one candidate could be considered a restriction challenging political pluralism⁷⁹. The required number of supporting signatures is relatively low in comparison to other practices⁸⁰. However, each candidate is required to submit between 15,000 and 25,000 voter signatures from at least 18 level two administrative units, with at least 600 signatures from each given unit.

Supporters’ signature lists submitted to CEC by candidates for contestants undergo various checks, including for fake and repeated supporting signatures. After the removal of “invalid” signatures, if the total number of signatures drops under the legal requirement, the candidate will not be registered⁸¹.

The process of collection of signatures proved to be burdensome for the upcoming election, being even more challenging due to the COVID pandemic. Five candidates submitted complaints with regards to candidate registration to the Chisinau Court of Appeals and only one of them went to the Supreme Court. Even after the judicial review, none of the complaining candidates was registered as a contestant. These complaints mostly referred to problems in signature collection that candidates faced due to the ongoing pandemic.

13 initiative groups, representing as many possible candidates, have initially registered with the CEC. However, the signature collection proved to be burdensome, especially for independent

⁷⁴ Paragraph 24 of the 1990 OSCE Copenhagen Document, section I.1.1.1.d.iii. of the Code of Good Practices.

⁷⁵ Parliament of the Republic of Moldova, Law No. 667, dated 08/12/1997, amended, “Electoral Code of the Republic of Moldova”, amended, Art. 113, Special Conditions for Signatures collecting lists, “(1) *To be registered by the Central Electoral Commission, all candidates for the position of President of the Republic of Moldova shall lodge signatures collecting lists, containing the signatures of at least 15000 and not more than 25000 voters from at least half of the second-level administrative-territorial units of the Republic of Moldova and comply with other provisions of this Code. (2) The second-level administrative-territorial units of the Republic of Moldova in which at least 600 signatures were collected are considered to be in line with paragraph (1).*”

⁷⁶ UN (CCPR): General Comment No. 25: The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service (Article 25), para. 17.

⁷⁷ Paragraph 3 of the 1990 OSCE Copenhagen Documents states that participating States “*recognize the importance of pluralism with regard to political organizations*”.

⁷⁸ Parliament of the Republic of Moldova, Law No. 667, dated on 08/12/1997, amended, “Electoral Code of the Republic of Moldova”, amended, Art. 42, para. 5.

⁷⁹ European Commission for Democracy through Law, [Opinion](#) No. 848, “Joint Opinion on the draft law on changes to the electoral code”, dated on 13/05/2016.

⁸⁰ European Commission for Democracy through Law, [Opinion](#) No. 848, “Joint Opinion on the draft law on changes to the electoral code”, dated on 13/05/2016.

⁸¹ Parliament of the Republic of Moldova, Law No. 667, dated on 08/12/1997, amended, “The Electoral Code of the Republic of Moldova”, Art. 113, “Special conditions for signatures collecting lists”.

candidates, as three of the four candidates that could not gather the required number of signatures were independent. The only formally independent candidate contesting in this election is the incumbent President, who is widely and openly supported by PSRM.

The signature lists of two candidates were challenged, but they were registered after showing that a number of signatures, initially deemed invalid were instead valid. This has uncovered flaws in the signature verification process, which is open to discretion and human error, and it can be used in a discretionary manner, resulting in possible unjustified prevention of candidates to stand for election. Following the examination of documents and collected signatures, eight candidates were registered by the CEC, including two women.

Electoral Campaign and Campaign Finance

Equality of opportunity must be guaranteed for parties and candidates alike during the electoral campaign. This consists in a neutral attitude by central and local institutions during their institutional activities⁸². In this regard, the Electoral Code offers certain safeguards prohibiting the use of public resources with an electoral aim⁸³.

As the electoral law regulates⁸⁴, contestants can officially start campaigning only upon registration by the Central Election Commission. Following registration, the right to campaign is granted to parties and electoral blocks, candidates and their authorized representatives, socio-political organizations and to citizens of the Republic of Moldova⁸⁵.

The campaign started on 2 October and will end on 30 October, when the electoral silence starts. The Electoral Code prohibits campaigning between the deadline for registering candidates and the start of the official campaign. However, as the deadline for submitting signature lists is one day before the start of the campaign, a potential late registration of a candidate (due to the time it takes the CEC to verify signatures or potential appeals in case the CEC does not register a candidate), it is possible that one or more candidates start their campaign later than the other contestants, which brings them into an unequal position. This is contrary to best practice⁸⁶ and such exact situation happened in this election to two candidates⁸⁷. The process of signatures' verification that didn't finish before the official start of the campaign caused the situation where not all candidates are given equal chances to campaign. ENEMO notes that such practice doesn't offer equal opportunities for contestants to convey their positions to citizens and compete for votes⁸⁸.

⁸² European Commission for Democracy through Law, [Opinion](#) No. 190/2002, "Code of good practice in electoral matters".

⁸³ Parliament of the Republic of Moldova, Law No. 1381, dated 08/12/1997, amended, "Electoral Code of the Republic of Moldova", Art. 52, para. 7.

⁸⁴Parliament of the Republic of Moldova, Law No. 1381, dated 08/12/1997, amended, "Electoral Code of the Republic of Moldova", Art. 52, para. 4, "*Electoral campaigning shall be allowed only after the candidate was registered by the electoral body.*"

⁸⁵ Article 52, paragraph 1 of Electoral Code

⁸⁶ The Venice Commission Code of Good Practice in Electoral Matters, I.1.3.v.

⁸⁷ Octavian Ticu and Dorin Chirtoaca were registered on 5 October. <https://a.cec.md/ro/candidati-inregistrati-7618.html>

⁸⁸ Venice Commission, CDL-AD(2016)021-e, Republic of Moldova, "Joint Opinion on the draft law on changes to the electoral code", adopted by the Council of Democratic Elections at its 55th meeting (Venice, 9 June 2016) and by the Venice Commission at its 107th Plenary session (Venice, 10-11 June 2016)

ENEMO observed that candidates overall respected the principle of starting their campaigns following their official registration. However, the narrowly defined notion of a campaigning leaves room for disguised pre-campaigning, when messages presented to citizens do not directly invite them to vote⁸⁹ for a particular candidate. According to several interlocutors, candidates used the signature collection period to promote themselves to voters, before their formal registration.

In the beginning, the campaigning was rather low-key, but intensified as the Election day approaches. Door-to-door activities, some rallies and a number of billboards became visible in the first days following the official registration of candidates. A considerable amount of paid campaign ads on social media, namely Facebook and YouTube was also noticed in the early stages of the campaign.

Overall, the electoral campaign can be assessed as peaceful and calm, although instances of the use of offensive language or negative campaign⁹⁰ tactics are used by contestants to discredit their opponents. Main candidates' messages focused on social and economic issues, the country's geopolitical orientation, infrastructure projects and corruption. However, many campaign topics do not actually fall under the direct jurisdiction of the President.

Electoral code contains provisions against the abuse of office, or administrative resources during an election period⁹¹, and no officially reported cases occurred so far where this law has been acted upon⁹². ENEMO EOM noticed instances of use of the advantages of the incumbency or office⁹³, possible pressure on employees to attend campaign events⁹⁴, ecclesiastical authorities supporting a candidate⁹⁵ and similar.

The COVID-19 pandemic and public health concerns significantly altered the style and methods of campaigning. Restrictions⁹⁶ caused the campaigns to be redirected more to the media (both traditional and online, especially social networks). Many interlocutors pointed out that restricted face-to-face campaigning due to pandemic made it difficult to reach voters, stressing out that their political rights (right to campaign) are thus significantly limited.

ENEMO raises concerns about the fact that regulations and measures issued by the NECPH and other public authorities regarding safety conditions for campaigning are not followed, as it is noticeable that in many cases, pre-election rallies are held without respecting the prescribed

⁸⁹ Article 1, chapter 1 of Electoral Code

⁹⁰ Usatii's rally in Cantemir (3/10/2020) and Glodeni (4/10/2020), the use of inflammatory and offensive language against Dodon and the use of such language in at least 3 public campaigning events; Opponents are being called "mentally disabled" "incapable", "liars" etc. Also negative campaigning at Sandu's rally in Cantemir (4/10/2020), against Igor Dodon and others.

⁹¹ Article 52, paragraph 7

⁹² However, one complaint against the abuse of office was filed to the Central Electoral Commission, [Complaint](#) No. 10, dated on 21/10/20202, from Octavian Țicu, a candidate nominated by PUN, vs. Igor Dodon, which is still being processed.

⁹³ Irina Vlah, Governor of Gagauzia supporting the incumbent President; Taking credit for increased pensions and many infrastructural works is noticeable by the incumbent President on several occasions. Also, Dodon allegedly misused administrative resources during his three meetings during working hours at state-owned enterprises Red-Nord, CET-Nord and Balti-Gaz, etc.

⁹⁴ Multiple cases of reported pressures on public sector employees and those of large companies to attend campaign events (Vulcanesti, Comrat, Balti, Chisinau) etc. in favor of Igor Dodon.

⁹⁵ Examples include: Dodon's rally in Vulcanesti (6/10/2020), where local priest thanked Dodon for supporting the Orthodox church and giving state money for building new church in Vulcanesti, as well as a rally on 11/10/2020 from the same candidate where a priest participated in the meeting in Comrat.

⁹⁶ Restrictions to campaigning include a ban on political rallies gathering over 50 people in open public places and 3 people in closed places.

measures (either by contestants, or participants of rallies, or both), and that the number of participants significantly exceeds the allowed number.⁹⁷

During the electoral process for the President, the legal framework does not prescribe a refraining period to the central and local governments. In this period, central and local governments normally continue their activities without any form of limitation. Such lack of limitations permits institutional activities and decisions of the central and local governments, which may affect the electoral campaign for the President. In this context, different interlocutors raised the concern of central and local governments' bias towards certain candidates and their open and public support to them.

Many interlocutors also raised concerns if Transnistria-based voters have equal access to campaign messages, as candidates and their supporters are not able to campaign in this region, and therefore voters from this region are limited in making an informed choice on Election day.

Campaign finance

Party and campaign financing is regulated by several legal acts including the Election Code, the Law on Political Parties, the Law on Administrative Offences, the Law on the Court of Accounts, the Criminal Code and supplemented by CEC regulations. The nationwide ceiling for the campaign fund of a contestant in the amount of 0.05% of the state budget is established to the total amount of 18 925,50 MDL⁹⁸. Introduction of private donations from abroad⁹⁹ and lowering the ceiling for donations from private and legal entities¹⁰⁰ are all provisions introduced in August 2019 amendments to the Law¹⁰¹.

The transparency and control of financial activities of electoral contestants has gained a special attention of the EU in this electoral process¹⁰². The Electoral Code requires that all financial activities of contestants must be conducted through a specific electoral bank account opened for the electoral campaign¹⁰³. Within 3 days after opening the account “Election Fund” the contestant shall submit the first financial report to the Central Electoral Commission. After the initial report, each contestant must continue to submit weekly reports on the financial means and expenditures incurred during the electoral campaign¹⁰⁴. All campaign financing costs must be shown through this dedicated bank account. Six candidates opened such an account on time, whereas two

⁹⁷ ENEMO observers reported that the number of those present at rallies often exceeded several hundreds. Examples: Igor Dodon’s rallies: in Gagauzia (11/10/2020, 1200 estimated participants), 14/10/2020 (400 participants in Chisinau and 6/10/2020, (450 estimated participants). Maia Sandu’s rally in Leova (4/10/2020), 200 estimated participants. Renato Usatii’s rally in Vulcanesti (4/10/2020), 200 estimated participants, and at least 17 more examples that the number of participants exceeds prescribed limits.

⁹⁸ Established by the CEC decision Nr. 4153 from September 1 https://a.cec.md/ro/cu-privire-la-stabilirea-plafonului-general-al-mijloacelor-financiare-ce-2751_97543.html

⁹⁹ to the maximum amount of three average monthly salaries

¹⁰⁰ to the amount of 6 and 12 average monthly salaries respectively

¹⁰¹ Article 41, paragraph 2 b, of Electoral Code

¹⁰² “Republic of Moldova: Statement by the Spokesperson on the upcoming presidential elections”, dated 30/09/2020, Lead Spokesperson for Foreign Affairs and Security Policy, “(...) *The European Union calls on the authorities of the Republic of Moldova to implement fully and without further delay the recommendations of the Council of Europe Venice Commission and the OSCE/ODIHR to guarantee the transparency of party and campaign financing.*”

¹⁰³ Parliament of the Republic of Moldova, Law No. 667, dated 08/12/1997, amended, “The Electoral Code of the Republic of Moldova”, Art. 41, “Terms and Conditions of Financial Support for Electoral campaigns”.

¹⁰⁴ Law No. 667, dated 08/12/1997, amended, “The Electoral Code of the Republic of Moldova”, Art. 43, “Reports on Electoral campaign Financing”.

candidates could not open an electoral bank account¹⁰⁵ which severely brings into question the transparency of these candidate's¹⁰⁶ campaign finance.

Referring to the information published on the official website of the CEC, 7 first reports are published for the 8 registered contestants. Also, on the official website of CEC there are 7 second week reports published, 6 third week reports, 4 fourth week reports and one report for 5th week and 6th week, in the observed period.

Initiative groups are established to support a candidate for the position of the President of the Republic of Moldova¹⁰⁷. Financing of initiative groups of the electoral competitors, shall comply with the same requirement that all expenses shall be covered out of the "Election Fund" account.¹⁰⁸ According to the CEC website, seven¹⁰⁹ out of thirteen registered initiative groups submitted weekly reports which indicate their financing activities by 25 September, four groups¹¹⁰ didn't report any expenses, while two groups¹¹¹ didn't submit financial reports, nor statements of absence of expenses.

One matter that created a dispute between election contestants and the CEC was the Circular that aimed to regulate donations and expenditures of election contestants. On 15 September, the CEC issued a Circular signed by the Deputy Chairperson¹¹², which limits party financing of campaigns, by pointing out that political parties are not defined in the legal framework as contestants in the Presidential election. This significantly lowered the ceiling for donations by equating and limiting parties' donations to those of other legal entities¹¹³. ENEMO believes that it is not a good practice to adopt such acts in the middle of the election period.

Media

While conduct of media during campaigns is crucial for the electors to be able to form an informed opinion on contestants and their platforms in every election, media takes upon an even more important role as the November 1 Presidential Election is being held under strict measures aimed at protecting public health, that limit the type and size of electoral events candidates can hold. The pandemic is thus curtailing campaigning, while increasing the role of media and their impartiality even more.

The media landscape in Moldova is diverse, with a relatively high number of broadcasters and high internet penetration, while the print media is in decline. Although television remains the

¹⁰⁵ Victoria Bank terminated its contract with candidate Violeta Ivanov. In total, 4 banks declined candidate's requests for account opening whilst other ones did not reply. In the other candidate's case ([https://a.cec.md/storage/ckfinder/files/parties_financial_reports/ALN%20din%2001.11.20/info%20B_UNIREA%2016_10_20.p df](https://a.cec.md/storage/ckfinder/files/parties_financial_reports/ALN%20din%2001.11.20/info%20B_UNIREA%2016_10_20.pdf)) the reason for not opening the account was bureaucratic delay (as reported by the candidate).

¹⁰⁶ Violeta Ivanov and Dorin Chirtoaca

¹⁰⁷ Electoral Code, Article 114, paragraph 1

¹⁰⁸ Electoral Code, Article 41, paragraph 4

¹⁰⁹ Renato Usatii, Andrei Nastase, Maia Sandu, Violeta Ivanov, Octavian Ticu, Igor Dodon, Constantin Oboroc.

¹¹⁰ Tudor Deliu, Andrian Candu, Dorin Chirtoaca and Sergiu Toma

¹¹¹ Costas Ion and Kalinin Alexandr

¹¹² Central Electoral Commission, [Circular No. 2796](#), dated 15/09/2020, "On how to receive donations and make expenditures by electoral contestants in the Presidential election of November 1, 2020".

¹¹³ The ceiling is 98000 MDL

primary source of political information, online media, including social media, provide an increasingly prominent source of news and their use for purposes of electoral campaigns seems to be on the rise, whether as a way of communicating directly with voters or as a platform for targeted political advertising. Concentration of media ownership remains a major concern, as a number of outlets are owned by individuals with supposedly close ties to politicians or political parties.

The legal requirements for media coverage of election campaigns include: the obligation to provide fair, balanced and impartial coverage; a limited amount of free airtime for contestants to present their programs in national broadcasters¹¹⁴; free airtime for advertising in public broadcasters¹¹⁵ and equal conditions for paid advertising, are set out in the Electoral Code¹¹⁶. The conduct of broadcasters is regulated by the Code for Audiovisual Media Services¹¹⁷, while their conduct during election campaigns is regulated by the Electoral Code¹¹⁸ and relevant regulations of the CEC. The CEC adopted the Regulation about media conduct for covering the election campaign for the Presidential Elections on 1 September¹¹⁹.

In light of COVID pandemic, on 26 August, the Audiovisual Council proposed to the CEC that the Regulation on media coverage of the election campaign should not oblige the national media to host public debates, but only for public broadcasters to host them and the rest of the media to have the right to re-broadcast¹²⁰. The proposal was reflected in the Regulation on electoral coverage by the media for the Presidential election¹²¹; however, with an ambiguous wording that leaves it unclear if national broadcasters have the obligation to organize debates or not¹²².

Broadcasters had an obligation to submit to the Audiovisual Council their editorial policies for covering the election campaign¹²³ and types of coverage they would conduct¹²⁴, an obligation most of them complied with, within the deadline¹²⁵. The broadcasters also report to the CCA on the volume of broadcasts about the campaigning on a weekly basis. Besides those self-declaring, the Audiovisual Council is monitoring the conduct of 15 broadcasters¹²⁶ and will be submitting bi-weekly reports to the CEC on the findings of the results¹²⁷. The monitoring is limited to prime-time newscasts. While the submission of bi-weekly reports to the CEC is provided in the Electoral Code, this does not prevent the Audiovisual Council to have a more frequent period of examination

¹¹⁴ 5 minutes on TV and 10 minutes in radio, Article 70, paragraph 4 of the Electoral Code.

¹¹⁵ 1 minute per day, Article 70, paragraph 5 of the Electoral Code

¹¹⁶ Articles 69 and 70.

¹¹⁷ [Code for Audiovisual Media Services](#), adopted by Law 174, dated 8 November 2018 and entered into force on 1 January 2019.

¹¹⁸ Articles 69 and 70.

¹¹⁹ [“Regulation for the coverage of the electoral campaign for the November 1st presidential elections in mass media of the Republic of Moldova”](#), adopted by [Decision 4151](#) of the CEC on 1 September 2020

¹²⁰ [Decision 20/124](#) of the Audiovisual Council, dated 26.08.2020.

¹²¹ CEC, [Regulation on electoral coverage in mass media for the presidential elections of 1 November 2020](#), cit.

¹²² While the wording of paragraph 41 of the [Regulation on media electoral coverage of the presidential elections of 1 November 2020](#) acknowledges the obligation of broadcasters with national coverage to organize debates, in line with the third paragraph of Article 70 of the Electoral Code, the rest of it acknowledges their right to rebroadcast live debates organized by the public broadcaster, but not forbidding them from organizing their own. It is thus unclear if the national broadcasters have the obligation to host their own debates or if this obligation is fulfilled by re-broadcasting the ones hosted by the public television.

¹²³ Art. 70, para. 2 of the Electoral Code.

¹²⁴ E.g., debates, coverage of campaign activities, advertising.

¹²⁵ In total 52 TV channels and 52 radio stations expressed their intention to cover the campaign. Eight broadcasters (five TV channels and three radio stations that failed to submit the documentation in time will not cover the campaign).

¹²⁶ Moldova-1, Publika TV, Prime, Primul în Moldova, TVR Moldova, CANAL 2, CANAL 3, TV8, NTV Moldova, Jurnal TV, Radio Moldova, PRO TV CHIȘINĂU, BTV, RTR Moldova, and Televiziunea Centrală.

¹²⁷ [Decision no. 25/161](#) of the Audiovisual Council, 1 October 2020.

of monitoring reports, as to be able to apply swift sanctions to broadcasters that violate the legal framework.

ENEMO deems that a bi-weekly schedule, combined with non-dissuasive sanctions provided by the law, and monitoring only of prime-time newscasts considerably curtails the efficacy of the monitoring mechanism, reducing it to a mere formality.

On 26 October, the Audiovisual Council was presented with findings of the monitoring for the period 2-15 October 2020. According to findings, slight bias could be observed for some of the monitored broadcasters, but nothing substantial. This stands in stark contrast to findings from domestic CSOs that monitor broadcasters. The report and related decisions are yet to be published on the webpage of the Audiovisual Council.

The Audiovisual Council is also responsible for hearing and adjudicating on complaints about the conduct of broadcasters during the campaign, while complaints about printed media can be filed with the courts. During the observation period, the Council has ruled on complaints related to media conduct during campaigning on its 22 October meeting. Decisions are yet to be published.

In addition to traditional media and in-person campaigning, the use of social media by candidates and campaign teams continues to increase, both as a means to communicate directly to voters, as well as to place targeted advertising. ENEMO EOM interlocutors have expressed concerns about the transparency of online advertising. As the election nears, publishing of sponsored posts by pages connected to political parties is becoming more frequent. Nearly all ads run by these pages serve electoral campaigning.

Gender Representation

Women's representation in Moldova's politics and decision-making is below the international benchmarks and does not meet the country's international commitments¹²⁸. Women comprised only 25 percent of members of the Parliament at the time of the elections and their numbers in executive positions, including among ministers, remain low. From 8 June 2019, the Speaker of the Parliament is a woman.

There are no legal provisions promoting representation of each gender at different levels of the election administration¹²⁹ and all nine CEC members are men. However, women are well-represented in the lower-level EMBs, including in decision-making positions, where 65%¹³⁰ of DEC members are women. A high representation of women is noticeable at the PEB level too.

¹²⁸ Beijing Declaration and Platform for Action, https://www.unwomen.org/-/media/headquarters/attachments/sections/csw/pfa_e_final_web.pdf?la=en&vs=1203

¹²⁹ And no such data is aggregated by the CEC. Paragraph 40.13 of the 1991 OSCE Moscow Document commits participating States to “ensure the collection and analysis of data to assess adequately, monitor and improve the situation of women”.

¹³⁰ Out of 326 DEC members 212 are women and 114 men.

Two women are candidates registered for the upcoming election. In addition, it seems that electoral contestants do not explicitly tackle gender-based policies in their campaigns. Issues related to gender equality and women's rights remained marginal.

National Minorities

National minorities are defined by Law¹³¹ as persons who reside in the territory of the Republic of Moldova, are its citizens, have ethnic, cultural, linguistic and religious peculiarities distinguishing them from the majority of Moldovans - ethnic origin. The population of Moldova consists of the following nationalities/ ethnic groups; Moldovan (2,068,058), Ukrainian (181,035), Russian (111,726), Gagauz (126,010), Romanian (192,800), Bulgarian (51,867), Roma (9,323) and other ethnicities (13,900), based on the 2014 Census¹³² conducted by the National Statistics Bureau of Moldova.

The law and Moldovan Constitution¹³³ guarantee equality for persons belonging to national minorities, which includes prohibiting any discrimination against them. None of the candidates running in the ongoing election has declared that she/he belongs to one of the national minorities. Language or identity issues did not prominently feature in the campaign, even though national minorities constitute more than 20 % of the population. However, Russian language was used in more than 40% of observed campaign events (rallies, small scale rallies and meetings with citizens). Election materials, including ballots, are printed in the state language and in Russian.

Inclusion of Persons with Disabilities

Moldova has signed and ratified the 2006 UN Convention on the Rights of Persons with Disabilities (CRPD)¹³⁴. By ratifying the Convention, the national Government committed to harmonize domestic legislation and policies with its provisions to secure the rights of persons with disabilities, including electoral rights. In 2012, the Parliament of Moldova adopted the Law No. 60 on the Social Inclusion of Persons with Disabilities and Law No. 121 on Ensuring Equality. These provisions considerably strengthen the legal framework protecting their rights.

In 2018 Moldovan authorities signed the Optional Protocol to the Convention¹³⁵. The document reconfirms internationally Moldova's commitment to further contribute to the protection of the rights of persons with disabilities. To that end, the existing legal framework for access and participation of PwD is overall in line with international commitments.

With regards to the participation of persons with disabilities in the electoral process, the CEC undertook some steps in this direction, such as publishing video materials, where persons with disabilities are encouraged to take part in the election process as voters. However, whether most PSs will be accessible to persons with disabilities, especially due to changes of many PSs due to

¹³¹ Law No. 382 of 19.07.2001, "On the rights of persons belonging to national minorities and on the legal status of their organizations"

¹³² <https://statistica.gov.md/pageview.php?!=ro&idc=479>

¹³³ Article 39

¹³⁴ Convention was adopted on 13 December 2006, signed by Moldova on 30 March 2007 and ratified on 21 September 2010.

¹³⁵ <https://gov.md/en/content/persons-disabilities-moldova-be-able-appeal-un-committee-if-their-rights-are-infringed>

COVID pandemic measures remains a concern and will be a part of ENEMO observers' assessment on Election day.

The CEC takes initiatives to facilitate the participation of voters with disabilities, including training of lower-level commissioners on special procedures for providing assistance to voters with disabilities on Election day. The CEC is planning to equip PSs with magnifying glasses and tactile templates for ballots.

Despite being a population that is particularly at-risk of COVID, persons with disabilities face even greater inequalities in exercising political rights during the pandemic. ENEMO EOM notes that persons with disabilities are not addressed by the Instruction on the organization and carrying out of elections in the context of COVID-19 pandemic, adopted by the NECPH¹³⁶, what is at odds with the UN's CRPD¹³⁷ and the 2020 OHCHR Guidance on COVID-19 and the rights of persons with disabilities¹³⁸.

ENEMO observers report that persons with disabilities are rarely addressed during the election campaigns. There are no provisions obliging public broadcasters to air campaign-related content in an accessible format. There are no similar obligations on election contestants requiring them to provide sign language interpretation during campaigning, or for campaign materials such as leaflets and videos to be adjusted for PwD. To date, the only candidate that produced materials in Braille was Maia Sandu.

Complaints and Appeals

The Constitutional Court in the last Presidential election process addressed the Parliament to clarify the law with regards to the examination of complaints on the organization and conduct of elections¹³⁹. Since then, despite the changes made by the CEC to the regulation on electoral disputes¹⁴⁰, the electoral legal framework itself still does not guarantee an efficient judicial review procedure. On this perspective, previous ENEMO IEOMs have continuously recommended the necessity for a clear electoral complaints and appeals system¹⁴¹. International standards require the complaint and appeal system to be “simple and devoid of formalism, in particular concerning the

¹³⁶ Decisions No. 24 of 12 August 2020, No. 34 of 13 October 2020.

¹³⁷ Art. 29 of the UN Convention on the Rights of Persons with Disabilities (CRPD) requires states to “*guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others*” and that “*voting procedures, facilities and materials [shall be] appropriate, accessible and easy to understand and use*”.

¹³⁸ https://www.ohchr.org/Documents/Issues/Disability/COVID-19_and_The_Rights_of_Persons_with_Disabilities.pdf

¹³⁹ Constitutional Court of the Republic of Moldova, [Decision](#) No. 34, dated 13/12/2016, “(...) *For these reasons, the Court held that due to the poor application of the law by the ordinary law-courts, electoral actors were in fact deprived of an efficient judicial review, hence this rendered it impossible for the Constitutional Court to operate with acts finding violations. Therefore, the Court issued an Address to the Parliament aiming at clarifying the law relating to the examination of complaints on the organization and conduct of elections. In particular, the Court recommended to the Parliament a separate and explicit regulation on the examination procedure of the complaints for various types of elections. In this respect, the Court asked the Parliament to differentiate the procedures of examining the complaints in the event there is a second round of elections, including the complaints from the voting day.*”

¹⁴⁰ Central Electoral Commission, [Decision](#) No. 1176, dated 13/10/2017; Central Electoral Commission, [Decision](#) No. 1821, dated 25/09/2018.

¹⁴¹ ENEMO, Final [Report](#), Election Observation Mission, Presidential Election, dated 24/02/2017, “(...) *The Electoral Code does not provide for a clear procedure of complaints and appeals, with a single hierarchical structure. Subsequently, there was often confusion among stakeholders about the adjudicating body. In many cases, complaints were filed with non-competent bodies or these bodies deemed complaints and appeals outside the scope of their jurisdiction.*”

admissibility of appeals” and to avoid conflicts of jurisdiction, as neither the appellants nor the authorities should be able to choose the appeal body¹⁴².

The complaints and appeals in regard to the electoral process are regulated primarily by the Electoral Code and the CEC regulation¹⁴³. Voters, candidates, contestants and media are eligible to file complaints against actions, inactions and decisions of all levels of election management bodies. Complaints must be first considered in an administrative review by a higher-level election management body, after which they can be lodged to a respective court. As an exception, the complaints on Election Day related to the right to vote and administration of the electoral process may be directly addressed to courts.

The electoral law guarantees that complaints filed to the CEC and Courts have to be reviewed within three days from the day of being submitted, but not longer than Election Day. The complaints against the decisions of actions and decisions of DEC and PEBs shall be considered within 3 calendar days of their submission, but no later than Election Day (apart from complaints related to campaign financing). In case of complaints that require additional verification, the review process can be extended up to 10 days. Whereas on Election Day complaints submitted to Courts should be reviewed immediately.

During the observed period, three types of cases have revealed the main shortcomings of the electoral legal framework in Moldova¹⁴⁴: candidate registration process, establishment of abroad polling stations and financial activity regulations¹⁴⁵.

Three complaints from electoral contestants were submitted to the CEC, two of which were simultaneously submitted to Chisinau Court of Appeal and as such, these cases were suspended as already being reviewed by a higher stance. The third complaint was regarding the intervening of public officials in the electoral campaign and is still being processed.

Chisinau Court of Appeal has reviewed 15 complaints and all of them have been dismissed by this court. The objects of these complaints mostly involved candidate registration and signature collection procedures, the financial activity of candidates and polling stations’ establishment. These complaints were mainly dismissed on formal grounds, without going into the merits of the complaints¹⁴⁶. In two cases the court decisions were not accompanied by the legal reasoning that they were based upon and in two cases the decisions were accompanied by a parallel opinion.

The Supreme Court of Justice has reviewed 12 complaints and 4 of them were approved and sent back to Chisinau Court of Appeal. The main segments of these cases were related to candidate registration procedures, the financial activity of candidates and polling stations’ establishment, and three of the approved cases were referred back to the Chisinau Court of Appeal. The most disputed complaints that have been reviewed twice by these courts were the establishing of polling stations

¹⁴² European Commission for Democracy through Law, [Opinion](#) No. 190/2002, “Code of good practice in electoral matters”..

¹⁴³ Central Electoral Commission, [Decision](#) No. 3353, dated 20/07/2010, “Regulation on the procedure of consideration and adjudication of the complaints by the electoral bodies within the electoral period”, amended.

¹⁴⁴ The referred complaints and appeals are the ones published from the respective institutions and courts.

¹⁴⁵ Central Electoral Commission, CEC Deputy Chairperson, [Circular](#) Letter No. 2796, dated on 15/09/2020.

¹⁴⁶ The grounds for these decisions were procedural like the court considered no jurisdiction on the object of complaint, the contestants were considered not eligible, and the court considered time overdue in submission of the complaints.

for Transnistrian voters and those abroad (primarily in Russia). Another complaint was made regarding the validity of CECs' Circular Letter on the financial activity of electoral contestants.

Mr. Andrei Năstase, PDA candidate, requested the partial annulment of the CEC decision to establish 42 polling stations for voters in the localities on the left bank of the river Nistru (Transnistria)¹⁴⁷. The contestant argued that the decision-making process of the CEC on the matter lacked transparency and criteria for establishing named PSs. The Court of Appeal in the first review of the complaint decided to reject it as unfounded on procedural grounds. The Court argued that in the perspective of the electoral process the contestant did not evidence the infringed right. Meanwhile, in the perspective of an administrative procedure the complaint should have been filed with the CEC.¹⁴⁸

This decision was overturned by the Supreme Court review, which sent the case back to the Court of Appeal. In this first review the Supreme Court argued that the reasoning of the Court of Appeal was wrong. In its stance, the Supreme Court argued that the Court of Appeal should have reviewed if the referred administrative act was individual or normative, and later should have adjudicated on the admissibility of the case¹⁴⁹. Also, in the second review, the Court of Appeal dismissed the submitted complaint as ungrounded. In the respective decision, without a dispositive, based on the referred legal articles, the Court states the administrative act was not in its jurisdiction. Meanwhile the Supreme Court argued in its second review that the contestant did not submit enough arguments regarding his claim¹⁵⁰.

Another case that was taken to the Court was related to the establishing of polling stations abroad (in Russia)¹⁵¹. The Chisinau Court of Appeal considered the complainant - the Liberal party not an electoral contestant and as such not legitimate¹⁵², a stance that was overturned by the Supreme Court, which reasoned that political parties “contribute to the definition and expression of the political will of citizens and, in accordance with the law, participate in elections” and as such the contestant is legitimate¹⁵³.

Another important complaint had to do with the Circular Letter on the financial activity for the electoral campaign, signed by the Deputy Chairperson of the CEC. PLDM and PL complained about the legality of the act simultaneously to the CEC and Chisinau Court of Appeal. In the first review of the Court of Appeal, the contestants PLDM and PL were considered illegitimate, as they were not considered electoral contestants. According to the Court these contestants could not have pretended to an infringement right¹⁵⁴. In this regard, the Supreme Court overturned this decision and sent the case back to the Court of Appeal. The Supreme Court reasoned that the Circular Letter regulated not only the financial activity of the electoral contestants, but also addressed the political parties¹⁵⁵. In the outset, the mentioned contestants were considered legitimate in their claims.

¹⁴⁷ Central Electoral Commission, [Decision](#) No. 4301, dated on 26/09/2020.

¹⁴⁸ Chisinau Court of Appeal, Mr. Andrei Năstase, File No. 122, dated on 02/10/2020.

¹⁴⁹ Supreme Court of Appeal, Mr. Andrei Năstase, File No. 276, dated on 05/10/2020.

¹⁵⁰ Supreme Court of Appeal, Mr. Andrei Năstase, File No. 1054, dated on 12/10/2020.

¹⁵¹ Central Electoral Commission, [Decision](#) No. 4300, dated on 26/09/2020.

¹⁵² Chisinau Court of Appeal, PL, File No. 112, dated on 22/09/2020.

¹⁵³ Supreme Court of Appeal, PL, File No. 270, dated on 29/09/2020.

¹⁵⁴ Chisinau Court of Appeal, PLDM, PL, File No. 108, dated on 21/09/2020, para 30.

¹⁵⁵ Supreme Court of the Republic of Moldova, PLDM, PL, File No. 261, dated on 25/09/2020.

In the second review, the Court of Appeal, even though accepting the subjects as legitimate, considered the object of the complaint illegitimate. The Court assessed that the Circular Letter was not a binding administrative act as it was signed by the CEC Deputy and as such could not have been the object of the courts' review¹⁵⁶. This reasoning and stance were reaffirmed in the second review by the Supreme Court and the complaint was dismissed¹⁵⁷. Referring to the overall decisions of these two courts in this electoral process, and specifically considering the analyzed cases, the hesitance of the courts to intervene in the decision making of the CEC is apparent. This hesitance is reflected in a decision-making focus on procedural formalities.

During the observed period, the Constitutional Court reviewed one election related case regarding the Law "On non-commercial organizations"¹⁵⁸. The Court partially accepted the submitted request and declared unconstitutional the provisions of the law that banned paid services from non-governmental organizations to electoral contestants during the electoral campaign. Meanwhile, the Court did not remove the ban for free services from non-governmental organizations to electoral contestants during the electoral campaign, considering it as a form of political support.¹⁵⁹

Observers

The legislation of Moldova provides adequate provisions for international and domestic election observers, who have legally prescribed rights, including the right to attend sessions of all election commissions and to receive documents, including results protocols. Citizen observers could be nominated by registered non-governmental organizations engaged in issues related to the election process and its observation.

The CEC also accredits representatives of international organizations as observers, as well as foreign governments or foreign non-government organizations, having registered their interpreters. Moldovan citizens living abroad and representatives of international and foreign non-governmental organizations can be accredited as observers to monitor the election process in polling stations abroad.

Observers can be accredited before the electoral period starts and can perform their activity on the Election Day and also before, during and after elections¹⁶⁰. On 3 September, the Protocol Office of Accredited International Observers was formed by the CEC¹⁶¹.

The CEC accredited 191 international observers, 1,195 national observers, and 133 observers for polling stations abroad¹⁶². The accreditation of citizens, candidates and international observers was inclusive, which contributes to the transparency of the electoral process. ENEMO notes that state institutions other than the CEC are involved in the process of accrediting international observers,

¹⁵⁶ Chisinau Court of Appeal, PLDM, PL, File No. 120, dated on 29/09/2020.

¹⁵⁷ Supreme Court, PLDM, PL, File No. 271, dated on 03/10/2020.

¹⁵⁸ Parliament of the Republic of Moldova, [Law](#) no. 86, dated 11/06/2020, "On non-commercial organizations", Art. 6, para. 5.

¹⁵⁹ Constitutional Court of the Republic of Moldova, [Decision](#) No. 24, dated on 08/10/2020.

¹⁶⁰ CEC Decision No. 332 of 24 October 2006.

¹⁶¹ The composition and working principles of this Office are defined by the CEC Decision No. 4180 of 3 September 2020.

¹⁶² Data for 21 October 2020.

which is at odds with international best practices¹⁶³. ENEMO also notes that due to the COVID pandemic and associated travel and health restrictions, several international missions decided to limit their missions, or use different observation methods.

Moldova has a vibrant civil society, and many of the domestic organizations are engaged in activities that aim to improve the integrity of the electoral process. These play a crucial role in the strengthening of democracy and rule of law. Domestic civil society organizations are one of the key interlocutors of ENEMO EOM. ENEMO, as a network of non-governmental civil society organizations, among others, strives to promote the role of civil society organizations' involvement in election monitoring. ENEMO has noted with concern attacks on civil society organizations during the electoral period; attacks that aim to undermine their credibility. ENEMO strongly believes that strong and credible civil society organizations are essential for a healthy and functioning democracy and that attacks on them hinder the development of the country towards democratization and rule of law.

¹⁶³ The 2005 UN Declaration of Principles for International Election Observation states that the country holding the election should take the following actions: “Guarantees full, country-wide accreditation (that is, the issuing of any identification or document required to conduct election observation) for all persons selected to be observers or other participants by the international election observation mission as long as the mission complies with clearly defined, reasonable and non-discriminatory requirements for accreditation” (point 12, g.) and “Guarantees that no governmental, security or electoral authority will interfere in the activities of the international election observation mission” (point 12, h.).

About ENEMO

The European Network of Election Monitoring Organizations (ENEMO) is an international nongovernmental organization that represents a network of national nongovernmental civic organizations founded in September 2001. It consists of 21 leading domestic monitoring organizations from 17 countries of Central and Eastern Europe and Central Asia, including two European Union countries.

ENEMO seeks to support the international community's interest in promoting democracy in the region by assessing electoral processes and the political environment and offering accurate and impartial observation reports. ENEMO's international observation missions use international benchmarks and standards for democratic elections to evaluate the electoral process and the host country's legal framework. ENEMO and all its member organizations have endorsed the 2005 Declaration of Principles for International Election Observation and the Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations. Each ENEMO observer signed the Code of Conduct for International Election Observers. ENEMO member organizations have monitored more than 250 national elections and trained more than 240,000 observers.

To date, ENEMO has organized 33 international election observation missions to eight countries, Ukraine 2020, Local Elections; Montenegro 2020, Parliamentary Elections; Serbia 2020, Parliamentary Elections; Moldova 2019, Local Elections; Ukraine 2019, Early Parliamentary Elections; Ukraine 2019, Presidential Elections; Moldova 2018-19, Parliamentary Elections; Armenia 2018, Early Parliamentary Elections; Moldova 2016, Presidential Elections; Ukraine 2015, Regular Local elections; Ukraine 2014, Parliamentary elections; Ukraine 2014, Presidential elections; Ukraine 2013 – re-run of Parliamentary elections 2012 in 5 MECs; Kosovo 2013, Local elections, first round; Ukraine 2012, Parliamentary elections; Kosovo 2011, Re – run of Parliamentary elections; Kosovo 2010, Parliamentary elections; Kyrgyzstan 2010, Parliamentary elections; Ukraine 2010, Presidential elections, second round; Ukraine 2010, Presidential elections, first round; Kosovo 2009, Local elections; Moldova 2009, Parliamentary elections; Georgia 2008, Presidential elections; Kyrgyzstan 2007, Parliamentary elections; Ukraine 2007, Parliamentary elections; Ukraine 2006, Local elections in Poltava, Kirovograd and Chernihiv; Ukraine 2006, Parliamentary elections; Kazakhstan 2005, Presidential elections; Albania 2005, Parliamentary elections; Kyrgyzstan 2005, Presidential elections; Kyrgyzstan 2005, Parliamentary elections; Ukraine 2004, Presidential elections, second round re-run; Ukraine 2004, Presidential elections.

ENEMO member organizations are: Center for Civic Initiatives CCI, Bosnia and Herzegovina; Center for Democratic Transition – CDT, Montenegro; Centre for Monitoring and Research – CeMI, Montenegro; Center for Free Elections and Democracy – CeSID, Serbia; In Defense of Voters' Rights 'GOLOS', Russia; GONG, Croatia; International Society for Fair Elections and Democracy – ISFED, Georgia; KRIIK Association, Albania; Citizens Association MOST, Macedonia; Promo- LEX, Moldova; OPORA, Ukraine; Society for Democratic Culture SDC, Albania; Transparency International Anti-Corruption Center (TIAC), Armenia; Election Monitoring and Democratic Studies Center (EMDS), Azerbaijan; Belarussian Helsinki Committee (BHC), Belarus; FSCI, Kazakhstan; Kosovo Democratic Institute (KDI), Kosovo; Coalition for Democracy and Civil Society, Kyrgyzstan; Center for Research, Transparency and Accountability (CRTA), Serbia; Obcianske OKO (OKO), Slovakia; Committee of Voters of Ukraine (CVU), Ukraine.