



MOLDOVA POLICY ALERT

Moldova's Presidential Elections under a New Electoral Code

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On October 20, 2024, the Republic of Moldova will hold presidential elections together with a Constitutional Referendum. This is the second electoral exercise that will be held under a new Electoral Code in force from January 1, 2023. The new electoral law has addressed multiple gaps, consolidated existing electoral practices, and aligned them with international standards. Nonetheless, some areas shall be closely scrutinized in the upcoming elections, given persisting concerns regarding the use of illegal funding of electoral campaigns by Russian-backed political actors, the risk of potential limitations of the right to elect and be elected, and freedom of information. Adding to the complexity of the upcoming electoral exercise is the new law on voting by mail, a first for Moldova, to be partially tested during the presidential election and referendum. With these many legal updates and innovations, the Moldovan Central Electoral Commission (CEC) will be under increased pressure to carefully mitigate the associated risks to ensure a free and fair electoral process.

Reforming the Electoral Code: Key Changes and Impacts

The upgrade to the electoral law was warranted by the need to address various deficiencies highlighted over the years by the Constitutional Court, the need to eliminate contradictions and inconsistencies between the electoral code and other laws, and additionally to implement the recommendations of international organizations and election monitoring missions. Most importantly, the new electoral code reformed the central electoral body, thus enhancing the professionalism of CEC and District Electoral Councils (DEC) members, updated campaign financing regulations, and brought a number of changes, such as multiple day voting, aimed at securing citizens' right to vote.

One of the major improvements in the new electoral law is the revision of the **CEC establishment algorithm**, its **composition** as well as the **status** of CEC members and DEC chairs. In an effort to enhance CEC independence, a new formula was adopted for the appointment of its members. According to the new code, CEC members will not be appointed only by parliamentary parties, but by a broader range of state bodies including the president, the Superior Council of Magistracy, the Ministry of Interior, and parliament who will appoint representatives of the majority and opposition parties proportionally, as well as a representative of the civil society. Once the five-year mandate of the current non-permanent nine CEC members expires in 2026, the new CEC will be composed of seven members with a mandate of six years, employed permanently. These are positive changes, resonating with OSCE/ODIHR recommendations, and will help increase the efficiency of the electoral administration in the long run. Similarly, the chairs of the level two District Electoral Councils (DEC) are now permanent CEC employees, as opposed to being hired only during electoral periods. This is aimed at strengthening CEC's local presence and oversight between electoral cycles. During this period the DEC chairs will play an important role in monitoring party expenses, maintaining voter lists, and supporting voter education efforts. Besides the positive effects, these changes may also present certain risks for the main electoral body. The CEC will have to deal with the additional burden of consolidating the capacities of the DEC chairs, and effectively coordinate their inclusion in CEC activities between the electoral cycles.

Campaign Financing: Strengthened Oversight and New Regulations

In accordance with prior recommendations of international organizations, the new electoral code substantially strengthened the provisions on **campaign financing and oversight**. The main changes include a decrease of the donation ceilings for private persons including for cash donations; stricter reporting requirements for financing initiative groups and electoral campaigns along with enhanced financial oversight powers for the CEC; as well as tougher penalties for parties failing to submit financial

reports or comply with CEC financial monitoring and reporting requirements. In the context of the remaining risk of voter bribing by certain political parties, the new code includes additional provisions making it illegal for the political actors involved in the elections or their support groups to offer voters cash, humanitarian aid, or other goods or services aimed at manipulating the voters' behavior. Complementary, additional amendments have been made to the Law on Political Parties and the Criminal Code strengthening the oversight of political financing and criminalizing the electoral and political corruption.

Enhancing Voter Participation: New Voting Provisions

Next, the new electoral code includes a number of provisions meant to facilitate voter participation in elections and secure citizens' right to vote, especially in the diaspora. One such novelty is providing for **elections to be held over two days** in certain precincts, at home or abroad, in special circumstances as decided by the CEC at least 25 days before the polls. This is a solution that may help prevent previous cases, particularly at polling stations abroad, when due to long waiting lines or insufficient number of ballots, many voters were unable to express their vote. This provision aligns with international standards, ensuring the universality of the vote, however, the opposition has voiced concerns with regard to ensuring the security of the ballots and voter privacy. In this regard the CEC has approved a detailed regulation with the procedures of voting over two days, providing additional details about the necessary safeguards for the safe storage of electoral materials and the vote counting procedure. In order to be able to put this provision in practice on time, the CEC will have to ensure adequate information among the Moldovan diaspora and encourage pre-registration of voters residing abroad.

Similarly, the new code eliminates some restrictions with regard to which **identity documents** are used in-country and abroad for voting. Thus, the new electoral law allows Moldovans to vote either in the country or abroad by using their identity card, provisional identity card, or their national passport including an expired one. This aims to ensure the right to vote for certain groups in the diaspora, reduce some administrative burden for the electoral staff, and increase inclusiveness and voter participation. While the use of expired documents does not pose a direct fraud risk, it could still cast doubt on the credibility and legitimacy of the electoral process due to issues related to using outdated IDs.

Media Coverage and Disinformation: Addressing Hybrid Threats

In the context of permanent hybrid threats facing Moldovan society, the new electoral code includes clearer **provisions for media coverage during the electoral periods**, with an extensive list of electoral audiovisual programs, as well as more

frequent monitoring reporting by the Audiovisual Council. Additional details are outlined in the new CEC Regulation on the coverage of elections by media institutions, as well as the updated Audiovisual Media Services Code, including stricter definitions of disinformation as well as tougher penalties for violations of the electoral and media legislation. It has been noted that the CEC Regulation has an imbalance between the responsibilities attributed to the audiovisual media outlets and the online and print media. This may in part reflect the limited capacities available to monitor online media, as most of the monitoring and oversight is focused on the higher-impact audiovisual media. Still, these provisions ensure the integrity of the electoral process by promoting transparency and countering disinformation, equidistant electoral coverage, and equal access for all candidates to public media platforms. Implementing these regulations and ensuring compliance may be challenging for the Moldovan authorities, in the context of insufficient capacities to counter the Russian-fueled online disinformation efforts.

Amendments to the Electoral Code: The Right to be Elected

An important aspect of the upcoming presidential elections to be closely watched is the potential **risk of limitation of the right to be elected** of certain political actors. These concerns are linked to the banning of the Shor Party and the de-registration of its proxy “Chance” Party members on the eve of the 2023 local elections. This was done through a series of amendments to the electoral code later declared unconstitutional by the Constitutional Court. This situation illustrates the struggles Moldovan authorities are going through, having to fight the illegal practices of Russian-backed political actors funded with illegal money, while walking a thin line to maintain their own legitimacy. On the one hand, these political parties have been repeatedly flouting the law using illegal funds for campaigning, bribing voters, and organizing staged protests with paid participants. On the other hand, international observers have expressed their concerns regarding the hasty nature of these maneuvers’ exclusion from the electoral processes without proper due process and recourse avenues. There is a high risk that similar developments can take place again during this year’s presidential elections as well as the high-stakes 2025 parliamentary elections.

The Diaspora Vote: Innovations and Challenges

Finally, one of the sensitive issues in the Moldovan elections has always been the participation of the Moldovan diaspora which according to some estimates is over one million people. To ensure their right to vote, Moldovan authorities have gradually doubled the number of polling stations abroad (150 in 2021 vs 75 in 2010) over the last ten years. Besides being costly and often facing various restrictions in the host countries, this practice however does not fully guarantee Moldovans their right to

vote. During the 2020 Presidential elections, many Moldovans residing in Italy, France, Germany, and the UK have been denied their right to vote due to ballot shortages and long waiting lines at the polling stations.

Addressing this major issue is the newly adopted law on **mail voting**, passed in April 2024, a key element of the upcoming elections. The main goal of the law is to provide adequate conditions allowing for the Moldovan diaspora to freely express their vote in the Moldovan elections. This innovation will be partially put to test during the October 20, 2024 elections and referendum, in a limited number of countries (USA, Canada, Norway, Sweden, Finland, Iceland), with a broader implementation planned for the 2025 parliamentary elections. The pro-Russian opposition has voiced concerns about what they called exclusion of an important Moldovan diaspora residing in Russia and Ukraine. However, the law provides clear criteria regarding which countries are eligible for the mail vote to be applied, and war-torn countries are not included, as well as countries without free and fair elections. If properly implemented, the mail vote will help secure the right to vote for the diaspora. This alternative voting method is of particular importance for the ruling party and President Maia Sandu, who during previous presidential and parliamentary elections respectively have received the overwhelming share of diaspora votes, and have promised to make voting easier for Moldovans abroad.

In order to be able to vote by mail, eligible Moldovans residing in one of the six mentioned countries are obliged to pre-register on the CEC website to receive the ballots. The mail voting procedure might turn out to be slightly cumbersome for some voters due to the necessary security measures in place such as the use of two mail envelopes, a security sticker, and the obligatory signed declaration regarding abstention from multiple voting and confirmation of exercising the right to vote in secret. Another inconvenient aspect is that the mailed ballots have to reach the polling station two days before the E-day, failure to do so results in the invalidation of the ballot, with the voter having the right to vote in person in any nearest polling station. In spite of specific provisions in the law on the mail vote, regarding the secrecy of the vote, there are still concerns about the risk of voter bribing. With only several hundred voters registered so far to vote by mail, this risk may not influence the elections' result but may be used to undermine the legitimacy of the electoral process. To help voters better understand this electoral innovation, the CEC has already published detailed instructions regarding the procedure of voting by mail, filling in the voting ballot, and the pre-registration procedure. For further convenience, these guidelines will also be sent to the voter together with the voting ballot. Additionally, prior to that, the CEC will have to ensure access to a broad amount of information among the Moldovan diaspora in order to increase trust in this new voting modality and reduce potential associated risks.

These much-needed improvements and safeguards will help enhance the integrity and inclusivity of the Moldovan electoral processes. At the same time the mentioned risks will require vigilant oversight and effective implementation of the new electoral law. Ensuring that the Central Electoral Commission, along with all relevant authorities, is fully equipped to manage these complexities will be crucial in maintaining public trust in the democratic process that will determine the immediate political landscape in Moldova.

About the author:

Petru Culeac — co-founder and Executive Director of the Moldova Development Institute, a newly established organization dedicated to improving the social, political, and economic landscape in Moldova. With over 15 years of experience in Moldova's non-profit sector, Petru has an in-depth understanding of the country's context and its development agenda as well as extensive organizational management experience. Until 2023, Petru served as Executive Director of Soros Foundation Moldova, a renowned non-profit foundation, part of the Open Society Foundations network, recognized as a key civil society actor in the Republic of Moldova. Under Petru's leadership, the foundation expanded its portfolio and successfully implemented numerous technical assistance projects, including for Moldovan authorities in areas such as anti-corruption, justice reform, elections, and education, as well as emergency response projects at the onset of the COVID-19 pandemic. Previously, Petru worked in areas of democracy promotion, free and fair elections, local development, citizen engagement, and youth activism, successfully cooperating with local and international organizations, such as USAID, Chemonics, East Europe Foundation, and IFC. Petru's academic background includes degrees in Business Management, and European and International Studies from institutions in Moldova, France, and the United States.

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