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COMMENTS

ON

ELECTORAL LISTS AND VOTERS RESIDING DE FACTO ABROAD

CASE-STUDY: MOLDOVA

by

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I. Introduction

1. In accordance with Article 38 para. 2 of the Constitution “The citizens of the Republic of Moldova have the right to vote if they attained the age of 18 by the day of election inclusively, except for the persons banned from voting in order established by law”. The constitutional norm does not make the difference between citizens residing in the country and citizens residing abroad. This interpretation is confirmed by Electoral Code which provide in article 2 par. 3 that “Citizens of the Republic of Moldova which have the domicile out of the country enjoy fully electoral rights in conditions established by present Code. The diplomatic and consular missions have the obligation to provide the conditions which will allow citizens freely enjoy their electoral rights.” Despite the fact that Electoral Code use the term “domicile” the right to vote is recognized to all citizens residing permanently or temporarily abroad. More, citizens enjoy full electoral rights regardless if they are legally or illegally residing abroad. These rights are exercised in accordance with general rules established by Electoral Code or other applicable normative acts, except the case expressly provided. Some special regulations can be found for example in:

- [The Electoral Code](#) (Article 2 para. 3; Article 26.h; Article 29¹, Article 39 para. 6,9; Article 49 para. 3; Article 53 para. 3,e; Article 63 para. 2)
- [Regulation on voting of citizens of the Republic of Moldova, living abroad](#)
- [Regulation on the preliminary registration of Moldovan citizens living abroad](#)

2. The number of the Moldova citizens residing permanently or temporarily abroad is unknown as there is not official statistic. Estimations of different official bodies or nongovernmental organizations vary greatly. But there is unanimity that this number is very high. It seems that about 20 % of the Moldova citizens permanently or temporarily reside out of the country. In these conditions it is rather difficult to ensure a genuine democratic electoral process. Both from the point of view of ensuring the respect of right to vote of a large number of persons residing, often illegally, out of country, and from the point of view of excluding, or at least of diminishing, the possible falsifications due to the fact that a large number of the persons included in the voters lists are out of the country in the voting day. In order to ensure the respect of right to vote and fair elections the electoral legislation of the Republic of Moldova and the practice of bodies implementing this legislation were several times amended. This paper is limited to the presentation of legislation and practice concerning voter registration, opening of the polling stations, voting procedures and nomination and training of the electoral officials.

II. Voters Registration

3. In the Republic of Moldova is implemented the concept of the passive voter registration and all citizens are included in electoral lists automatically without necessity for voters to take any specific actions to be included in the electoral list and without making difference between citizens residing in the country and citizens residing abroad. But in the same time the citizen can be included only in one electoral list. So if he/she is included in the electoral list for a polling station created outside of the Republic of Moldova the voter is excluded from the list of voters for the polling station in the country.

4. In 2014, in the Republic of Moldova has implemented, at the national level, the State Voters' Register (SVR) as part of the Automated Information System (SIAS) "Elections". SVR is an exclusive electronic integrated informational system of keeping records about the voters from the Republic of Moldova (reached the age of 18 years and do not have legal impediments to vote). SVR is based on the State Register of Population. Voters' Lists are generated from the State Voters' Register, for every polling station and include only citizens who have a domicile and/or are residing on the territory of one particular polling station. Persons without

domicile/residence registration are not included in the Voters' Lists and vote on supplementary lists.

5. The implementation of the SVR ensures that: internet displayed lists are used; lists have the same quality of information and format in all polling stations; list have built in security features (such as correct page numbers, number of voters on every sheet, CEC Logo, etc.); repetitions and other errors are detected; data is updated permanently; offers operative and correct data.

6. Possibility of manipulation with data from the State Voters' Register is excluded, because: there is only one responsible institution that keeps and manages the data base of eligible voters – Central Electoral Commission; the permanent update of the personal data of the voters is made continuously and automatically through data import module from the State Register of Population and they can't be changed by anyone; the persons responsible for recordings can change only the status of the voter (dead (is indicated the number of the death certificate)/voter (the data from register are correct) or Court decision (person is declared incapable or doesn't have the right to vote, based on the information provided by the Ministry of Justice yearly); any intervention in the SVR is automatically registered and can be visualized by the other operators; voters can verify their personal data not only inside the polling station but also on-line.

7. For the polling stations created outside of the Republic of Moldova, the lists of voters are created based on the data collected by the diplomatic missions and consular offices on the territory of the respective states. At the beginning of the electoral period, the mentioned institutions publicly announce and update the lists of voters 25 days prior to the date of elections. The updated lists are then sent to the Central Electoral Commission. The lists are based on diplomatic and consular registration. This registration supposes the registration of the citizens of the Republic of Moldova residing permanently or temporary abroad to diplomatic missions or consular offices. The diplomatic and consular registration is made at the request of citizens for informative purposes only and therefore the registration or lack of registration has not legal consequences. Therefore these lists usually include a relatively small number of persons.

8. For the Parliament Elections from 2014, from 73311 persons who voted abroad – 73293 voted on the Supplementary Lists.

9. In 2014, CEC has approved a new Regulation regarding the pre-registration of citizens of the Republic of Moldova leaving abroad. Voters from abroad were able to register in advance on-line in special application on www.alegator.md, for the parliamentary elections. The procedure started 6 months before Elections Day and finished 40 days prior to elections. Also, the voter was offered the possibility to cancel his/her registration 26 days prior to Elections Day.

10. The application for pre-registration is compatible with State Voters' Register (SVR), thus allowing making changes in the Voters' List automatically. Moldovan citizen that used pre-registration was automatically removed from the basic list corresponding to his place of residence in the country, with their enrollment in the basic voter lists from the polling station from abroad, only for one particular election. So, this application was used like a supplementary tool to the consular registration, to help CEC to create Basic Voters Lists for voting abroad. Also it helped to ensure that the voter is included only in one Voters' List, only in one polling station, according to the requirements from the Electoral Code.

11. In order to avoid the data manipulation and the misuse of the application, all registrations were monitored according to the Internet Protocol (IP) of the user, prohibiting the IPs from the Republic of Moldova and permitting only the personal registration, using individual personal data of the voters.

12. The lists of voters are printed and sent by the Central Electoral Commission to diplomatic missions or consular offices the latest 22 days before the day of elections, in 3 official copies. Two copies of the lists are sent immediately to the elections bureau, whilst one copy is kept at the diplomatic mission or consular office.

13. Pre-registration is not mandatory, it is only a tool to establish the major concentrations of voters abroad and is valid only for one electoral event. Voters, who don't have consular registration or didn't require pre-registration, can vote anyway, but on the Supplementary List, at any polling station opened abroad.

14. Moldovan citizens residing abroad that are not included in any Voters' List and did not request the pre-registration, but during the E-Day are in the country, are allowed to vote on the Supplementary List.

15. Even if the application was quite useful, it didn't gave the expected results, the number of voters who applied for pre-registration is still very low – for the 2014 parliamentary elections, have been registered about 1740 persons.

III. Opening of polling stations

16. The Ministry of Foreign Affairs and European Integration (MAEIE), including diplomatic missions and consular offices are obliged to create conditions for Moldovan citizens from abroad to freely vote. All polling stations from abroad are under the jurisdiction of the Chisinau District Electoral Council.

17. The biggest challenges are connected to the opening of a sufficient number of polling stations and printing and sending the necessary amount of ballot papers and other documentation. Some polling stations are not very accessible (too small, or don't have conditions for people with disabilities), so during the Elections Day they are overcrowded. Some of them, especially extraterritorial polling stations (polling stations opened outside diplomatic missions or consular offices) are opened only few days before elections, when they receive the electoral documentation. Also the polling stations are not equipped properly with needed goods. All this facts have a bad impact on the participation rate and elections results credibility.

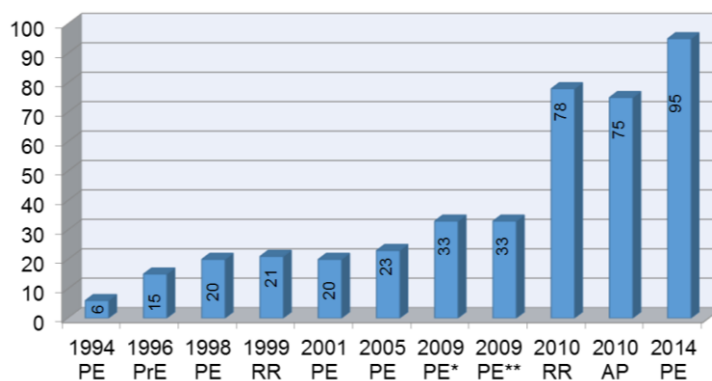
18. Till 2009, the electoral legislation expressly provided that polling stations can be opened only within the diplomatic missions and consular offices of the Republic of Moldova, thus, around 33 polling stations were opened (valid number of Moldova diplomatic mission in 2009). Of course this number was insufficient, it didn't cover all voters and the polling stations were too far from their domicile. Also, if we don't have a wright estimation of persons leaving abroad, it's very difficult to estimate the right number of the polling stations and the amount of electoral documentation (especially ballot papers).

19. In 2010, the Electoral Code was changed and it allowed establishing polling stations outside the diplomatic missions. The extraterritorial polling stations are opened with the consent of the government of the respective country. The organization of these polling stations is carried out by the Central Election Commission (CEC), at the proposal of the Government, in cooperation with the Ministry of Foreign Affairs and European Integration and with other authorities of central public administration.

20. As it was mentioned, pre-registration was used to open extraterritorial polling stations and have a better electoral logistics. According to legislation, a polling station can be opened for a minimum of 30 voters and a maximum of 3000. For the last parliamentary elections from 2014, was created the biggest number of polling stations abroad, since our country become independent - 95 (38 polling stations within the premises of diplomatic and consular missions and 57 extraterritorial polling stations).

Dynamic of opening the polling stations abroad

(number of polling stations)



* Parliamentary Elections 5 April 2009.

**Early Parliamentary Elections 29 July 2009

IV. Voting procedure

21. In order to facilitate the voting of Moldovan citizens from abroad, the CEC adopted a *Regulation on the organization and conduct of Parliamentary Elections in the polling stations outside the country*. Based on it, any Moldovan citizen abroad can vote at any polling station established abroad, regardless of their status in host country and regardless if he/she is included or not in the voter list of the respective polling station. Moldovan citizens are allowed to vote on the basis of passport, even if the validity is expired or Sailors' ID. The possibility to vote on the bases of the passport with the expired term of validity was introduced because a large number of Moldovan citizens residing abroad, for various reasons have not valid national passports (for example due to long absence in the country or because they are not using currently national passport due to the fact that they are holders of another valid document for passing the boarder (for ex. an European union member state ID). To be mentioned that according to legislation, Moldovan citizen can have up to two valid passports. In these conditions arise a lot of challenges for guaranteeing free and fair elections and avoiding multiple voting. In consideration is necessary to take also the fact that the voters from abroad are not usually excluded from the Voters' List in the country, and the possibility for any person to vote at any polling station abroad.

22. The provision of the Electoral Code that polling station member, applies the special security stamp in the voters' ID before he receives the ballot, seems not to be enough, as their exist the possibility to vote at several polling stations from abroad with different passports and also in the polling station from the country, at the place of residence, with the national ID.

23. In order to exclude the multiple vote, for the Parliamentary Elections from 2014, Central Electoral Commission, has implemented at a national level (including in the polling stations from abroad) on-line verification of the identity of voters in the State Voters Register and registration of voters' participation in elections, by SIAS "Elections" operators. According to the procedure, Operator introduces the 13 digits personal identification number from the voters' ID in the on-line application. The check-in request is sent, through internet connection, to the CEC server in order to check if respective voters voted or not. In the polling stations from inside the country the system gives also the information if the voter is from this polling station or he has to vote in another polling station.

24. This tool had also an important impact on the elections transparency because it indicated the participation rate in real time. Also, after the tabulation of results by the Precinct Electoral Bureaus, operators introduce the data from the PEB protocol in the system. Information could be visualized in on-line regime on the CEC official web site.

25. At the 2014 Parliamentary elections the printed Voters Lists were used in parallel with the electronic ones. They represented a backup for the electronic system, in case if something will go wrong. Also, like a supplementary security measure, before receiving the ballot paper, the voter had to submit a statement for abstention from multiple voting, being informed about criminal liability in case of breaching that obligation and PEB member applied the special stamp in his passport, which indicates that person has already voted.

26. During the Elections Day, SIAS "Elections" has functioned in a normal regime with the exception of app. 3 hours, when it was partially not available/difficult to access. The system servers were not able to process data flow received from operators (number of simultaneous users connected to the system was around 4127 and remained practically the same during the day). In order to solve the problem supplementary servers were brought and installed. During the period of time, when the system was unavailable, voters continued to vote according to the traditional procedure. They were verified on the printed Voters' List or included in the Supplementary Lists. Also, operators had collected manually the personal data of voters and after the system became operational, all this information was introduced in SIAS "Elections".

27. Voting is performed during the elections day between 7.00 and 21.00 o'clock, local hour of the country where the polling station is situated. Because of the big voters turnout during the Parliamentary Elections from 29 July 2009, and given the reduced number and capacity of polling stations, voting was extended by CEC by one hour, in two polling stations from abroad. After that case, by the CEC request, Parliament amended the Electoral Code. The new stipulation states that by the decision of the Chairman of the polling station, the voting program can be extended with a maximum of 2 hours, in case that they have enough ballots.

V. Nomination and training of electoral officials

28. The electoral bureau of the polling station from abroad is formed of a chairperson, appointed by the head of the diplomatic or consular mission or of the staff of other institutions of the diplomatic service, and of 6-10 representatives of political parties and other socio-political organizations represented in the Parliament. Each party or other socio-political organization can nominate one person. The decision regarding the nomination of PEB members is made by Chisinau District Electoral Council. If the number of persons is insufficient, the membership of PEB is completed by the Central Electoral Commission from the Register of election officials, with the consent of Ministry of Foreign Affairs and European Integration. These persons should have a good reputation and be without political affiliation.

29. It is difficult to find the sufficient number of persons in order to create PEBs abroad, especially for the extraterritorial polling stations. Political parties don't have enough non-political candidates to cover all polling stations and the staff of the embassies and consular offices, also is not very big. For the last parliamentary elections from 2014, from 1034 members of Precinct Electoral Bureaus from abroad – around 28 % were nominated by the MFAEI, 45% from the Register of election officials of the CEC and about 27 % - by the political parties and other socio-political organizations represented in the Parliament.

30. In order to solve this problem it is necessary to have a closer cooperation with citizens residing abroad in order to have a sufficient number of potential trained electoral officials.

31. As it is difficult to hold seminars with persons physically present CEC prepared and sent training materials: manuals, training movies and special guide for watching the movie. With the establishment of the Center for Continuous Electoral Training by the Central Electoral Commission (CCET), training process and programs became more divers, qualitative and professional.

32. For the parliamentary elections from 2014, CEC and CCET organized two seminars for 34 representatives of the Ministry of Foreign Affairs and European Integration (MFAEI). The participants were evaluated and certified as national members of the Precinct Electoral Bureaus (PEBs) and included in the CEC Register of Electoral Officials. During the elections, the trained people were nominated as members of the PEBs created abroad or were involved in the organization and coordination activities conducted by MFAE in the country.

33. Also, CCET developed a platform for on-line training, specially tailored for members of the PEB from abroad that contains information about their rights and obligations, electoral procedures and legislation, possible problems and solutions. The platform is interactive, friendly use and contains: models of documents, video spots on holding the elections day, persons can propose for discussions different challenging topics and questions, in order to share experience with other colleagues and to get professional answers from the platform moderators. Also it includes a test that the member has to pass, in order to obtain the certificate of completion.

34. For the 2014 parliamentary elections, PEB members and staff could call to a hot line, organized by CICDE, to obtain professional consultation/support and to solve the problems that appeared during their activity.