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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**REPUBLIC**  
**OF MOLDOVA**

**DRAFT LAW (No. 60)**

**ON AMENDING AND SUPPLEMENTING  
SOME LEGISLATIVE ACTS**

**(ELECTORAL SYSTEM FOR THE ELECTION  
OF THE PARLIAMENT)**

**Registered with Parliament on 14 March 2017**

**Permanent Bureau of the Parliament  
of the Republic of Moldova**

Pursuant to art.73 of the Constitution of the Republic of Moldova and according to art.47 of the Parliament's Regulation, draft law on amending and supplementing some legislative acts is presented to the Parliament as legislative initiative.

Annex:

1. Draft law.
2. Information Note.

**Members of the Parliament:**

*Draft*

## LAW

### on Amending and Supplementing Some Legislative Acts

The Parliament adopts this organic law

**Art.I.** – Electoral Code of the Republic of Moldova no.1381-XIII of November 21, 1997 (Official Gazette of the Republic of Moldova, 1997, no 81, art. 667), with subsequent amendments, is amended and supplemented as follows:

1. In article 1, after the term „electoral constituency” the term „uninominal constituency” (*single-member constituency* – tr.n.) is introduced, having the following content:

„*Uninominal constituency* – electoral constituency where elections are organized and carried out for a single mandate of Member of the Parliament, based on majority vote;”

The first line of the notion "electoral candidates" shall read as follows:

"- candidates for the position of the Member of Parliament, nominated by political parties, other social-political organizations and electoral blocs, or independent ones, registered by the electoral councils of the respective constituency - in case of parliamentary elections;"

The terms "revocation" shall read as follows:

„*revocation (mandate withdrawal)* – withdrawal of an elected public official's mandate by a court, as well as withdrawal of the mandate of a Member of Parliament or of a mayor through local referendum.”

2. Article 22 let. t) shall read as follows:

„t) insure the organization of partial elections for the position of the Member of Parliament and of local referenda for revocations of the Member of Parliament under conditions of this code.”

3. In article 26 paragraph (1) let. c) is supplemented, at the end, with the following text: „under conditions of this code.”

4. In article 27 after paragraph (1), the paragraph (1<sup>1</sup>) shall be added, reading as follows:

„(1<sup>1</sup>) Peculiarities of establishing electoral uninominal constituencies, as well as of the corresponding electoral councils, are provided in articles 74 and 75”

5. In article 28, letter g) after the word „candidates”, the words "including those" shall be added.

In the letter h), the text "in local elections" is excluded.

6. In article 29<sup>1</sup>

The paragraph (7) is added with the following content:

„(7) Peculiarities of setting up and functioning of the polling stations abroad in case of parliamentary elections are provided by this code.”

7. In article 38<sup>2</sup> paragraph (1), after the word „candidates”, the words "including those" shall be added.

In paragraph (5) first sentence, the words "Independent candidates" are replaced by words "Candidates for the position of Member of the Parliament, including the independent ones in parliamentary elections, as well as independent candidates"

## 8. In article 39:

paragraph (7) is supplemented at the end with the following text: „In case of parliamentary elections, voting right certificate is issued if the new permanent residence place is on the territory of the same uninominal constituency.”

## 9. In article 41

In paragraph (3) after the words "shall be filed", the word "personally" is added

In letter a), the words "candidates at parliamentary elections and of" are excluded.

letter b) will read as follows:

„b) declarations of candidates for the position of Member of the Parliament, of candidates for the position of mayor and member of the local council in case of local elections shall be filed with electoral councils of the corresponding constituency.”

## 10. In article 42

The title of the article shall read as follows:

"Collection of signatures in support of candidates, including the independent ones, and for initiating a referendum"

paragraphs (1) and (2) shall read as follows:

„(1) Signatures are only collected in support of the candidate, including independent one, or for initiating a referendum. In case of parliamentary and local elections, signatures are only collected in constituencies where the candidates shall run.

(2) Candidates, including independent ones and members of initiative groups, who nominate and/or support these candidates for elections, persons authorized by them, as well as members of the initiative group for initiating a referendum are entitled to collect signatures.”

Paragraph (6) will read as follows:

„(6) The person who collects voters' signatures shall sign every page of the subscription lists. At the end of each page of the subscription list, the collector shall make a note, stating that signatures were collected by him personally and that s/he confirms authenticity of signatories, and the s/he shall sign."

The paragraph (7) is added with the following content:

„(7) Peculiarities of collecting signatures to support candidates in uninominal constituencies abroad in case of parliamentary elections are provided by this code.”

11. In article 44 paragraph (1), after the word „presents” the words „personally by the candidate” are added

In letter a), the text „art. 79” is replaced by „art. 78, 79”

In letter b), the word "independent" is excluded.

The text after letter e) is supplemented with letter e<sup>1</sup>) that reads as follows: „e<sup>1</sup>) the integrity record of the candidate issued under the law”

12. In Article 45, the paragraph (3) shall read as follows:

„(3) Central Electoral Commission registers trustees of the candidates in elections for the position of the President of the Republic of Moldova. In case of elections of members of the Parliament and for the position of mayor and local councillor, the candidates' trustees are registered by the electoral councils of the corresponding constituency."

13. In article 46 paragraph (6), the text „articles 79 and” is replaced with the word „article”.

14. Article 48 paragraph (1) shall read as follows:

„(1) The model and the text of the ballot for the election of the President of the Republic of Moldova or for the organization of a republican referendum are approved through a decision by the Central Electoral Commission. The model ballot for the election of members of the Parliament or local elections is established by Central Electoral Commission, and the text is approved by a decision of the electoral council of the corresponding constituency."

15. Article 53:

In paragraph (2), the letter a) shall read as follows:

„a) voters who showed up at the polling station with certificate for voting right in case of presidential elections and republican referenda. In case of parliamentary elections, local elections or local referenda only certificates for voting right issued on the territory of the corresponding constituency shall be

accepted. The voting right certificate shall remain in the polling station's bureau and shall be attached to the additional list;"

16. In Article 60, the paragraph (2) shall read as follows:

„(2) Central Electoral Commission shall endorse the tabulation results of voting for the entire country in minutes, which shall be signed by members of the commission, and a report shall be prepared regarding the results of elections, in case of presidential elections and republican referenda. In case of parliamentary elections, Central Electoral Commission shall endorse the tabulation results of voting for each uninominal constituency based on tabulation minutes issued by electoral councils of corresponding constituency. Copies of electoral tabulation minutes shall be submitted to representatives of electoral candidates and observers, upon their request."

17. Article 64<sup>1</sup>:

In paragraph (3) the word "parliamentary" is excluded. In second sentence, after the word "elections" is preceded by the word "parliamentary".

In paragraph (4) and (5) the word "parliamentary" is excluded.

18. In article 65 paragraph (6) the first sentence shall read as follows: „Complaints regarding funding of electoral campaigns shall be submitted to Central Electoral Commission, in case of political parties, electoral blocs and independent candidates in presidential elections, or to electoral councils of constituencies, in case of parliamentary elections and independent candidates in local elections."

19. In article 66 paragraph (2), the word "elections" shall be preceded by words "and parliamentary".

20. In article 69 paragraph (4) the words „local elections" are replaced by „parliamentary and local elections".

In paragraph (5) the words "parliamentary and" are excluded, and the words "local elections" are replaced by "parliamentary and local elections".

21. Title III shall read as follows:

### **"TITLE III**

#### **PARLIAMENTARY ELECTIONS**

**Article 72.** Application of this title

Provisions of the present title (art.72 – art.94<sup>1</sup>) shall be applicable only in case of parliamentary elections.

**Article 73.** Parliamentary elections

(1) Parliament shall be elected by universal, equal, direct, secret and freely expressed vote, for a four-year term.

(2) Members of the Parliament shall be elected in 101 uninominal constituencies, one from each constituency, based on the majority vote system.

**Article 74. Uninominal Constituencies**

(1) For election of members of the Parliament, Central Electoral Commission shall set up 101 permanent uninominal constituencies that cover the whole territory of the Republic of Moldova, including polling stations abroad and for localities on the left bank of the Nistru.

(2) Uninominal constituencies shall be set up following the territorial-demographic principle in one or more neighbouring localities, based on similar number of voters in each electoral constituency. The calculation basis for setting up uninominal constituencies is the number of voters entered on the electoral lists at each polling station during the last national elections.

(3) Uninominal constituency shall be formed of localities of one administrative-territorial unit of second level, or, for the sake of optimum organization, of different units.

(4) If the number of voters in a locality is higher than the average calculated for a uninominal electoral constituency, then in this locality several uninominal electoral constituencies shall be established.

(5) Uninominal constituencies abroad, shall be set up following, in particular the criteria laid down in art. 29<sup>1</sup> par. (3) which shall be applied accordingly.

(6) The borders of uninominal constituencies may be revised not later than 90 days before the ordinary election.

(7) The list of uninominal constituencies, showing the numbers and borders, shall be published in the Official Gazette of the Republic of Moldova.

**Article 75. Polling stations. Electoral councils of constituencies and electoral bureaus of polling stations.**

(1) In order to organize and carry out elections, Central Electoral Commission shall establish, at least within 55 days before the election day, electoral councils of constituencies under conditions of art.27, which applies accordingly. The duties of constituency electoral councils are the ones stipulated in art.28, the provisions of which shall be applied accordingly.

(2) For polling stations abroad, the Central Electoral Commission shall set up a distinct electoral council that will function in the range of Chisinau municipality and will insure organization of electoral processes for uninominal constituencies established abroad.

(3) Uninominal constituencies shall be divided into polling stations under conditions of art.29 and art.29<sup>1</sup>, which shall be applied accordingly.

(4) Electoral bureaus shall be established in polling stations, and the way of establishing them, as well as their duties are stipulated in art.29, art.29<sup>1</sup> and art.30, which shall be applied accordingly.

**Article 76.** Candidates for the position of Member of the Parliament

Candidates for the position of Member of the Parliament may be the person with voting right, who already turned 18 years of age, including on the election day, are citizens of the Republic of Moldova, do not fall under provisions of art.2 para. (6<sup>1</sup>) of the Law on the Status of Member of the Parliament and meets other requirements stipulated in this code.

**Article 77.** Setting the Date of Elections

(1) Election of members of the Parliament shall be carried out not later than in 3 months from the expiry of the term of office or from the dissolution of previous Parliament.

(2) The date of parliamentary elections is set by a decision of the Parliament at least 60 days before the election day.

(3) If the Parliament is dissolved, then the same decree of the President of the Republic of Moldova sets the date when the new Parliament shall be elected. Early elections shall be held at least within 60 days after the dissolution of the Parliament, and not later than 3 months after this.

**Article 78.** Nomination and registration of candidates

(1) Candidates for the position of Member of the Parliament in each uninominal constituency shall be nominated in compliance with statutory provisions of parties and/or electoral blocs.

(2) Candidates nominated by parties, as well as independent candidates, may run only in one uninominal constituency.

(3) Candidates for the position of Member of the Parliament shall be registered by the constituency electoral councils.

(4) In order to be registered, the candidates for the position of Member of the Parliament shall submit the documents stipulated in art.44, which applies accordingly, as well as subscription lists under art.79.

(5) Candidates for the position of Member of the Parliament in uninominal constituencies abroad shall be registered at the constituency electoral council responsible for organising elections abroad, which shall operate in the range of Chisinau municipality.

**Article 79.** Special Conditions for Subscription Lists

(1) In order to be registered by the constituency electoral council, the candidate shall present, under art.42 and art.43, subscription lists that contain signatures of at least 1000 and maximum 2000 supporters with voting right from the uninominal constituency where s/he is going to run for elections.



(2) If the verification of subscription lists carried out by constituency electoral council finds false signatures or repetitive signatures in several lists, as well as signatures applied in violation of art.42 and 43, then such signatures shall be excluded.

(3) If the verification finds that the number of submitted signatures is not sufficient or, as a result of excluding non-valid signatures, their number dropped below the required minimum threshold stipulated in para.(1), then the candidate is not registered and informed of the respective decision within 24 hours since its adoption.

(4) No additional subscription lists shall be accepted, once the constituency electoral council received and registered in the register the set of documents stipulated in art.44.

(5) Signatures in support of candidates for uninominal constituencies abroad may come from any of such constituencies.

**Article 80.** Initiative Groups for supporting candidates to the position of Member of the Parliament

(1) If the initiative to support candidates for the position of Member of the Parliament comes from citizens, then an initiative group of at least 20 and maximum 100 persons with voting right shall be set up to support the candidate. The initiative group is constituted as a result of a meeting, where the candidate for the position of Member of the Parliament is present and supported, the group leader is elected and the list of members of the initiative group, showing their identity data, is approved. An initiative group may support only one candidate to the position of Member of the Parliament. Members of an initiative group may not be simultaneously members of another initiative group.

(2) In case of political parties and electoral blocs, the initiative groups may be set up by the party body, which, according to the statutory provisions, is entitled to nominate candidates for the position of Member of the Parliament.

(3) The list of initiative group members, showing the leader of this group, is submitted to the constituency local council within 50 days before the election day personally by the proposed candidate for the position of Member of the Parliament. This list shall indicate the first and last name, year of birth and domicile of initiative group members.

(4) If these conditions are met, then constituency electoral council shall register the initiative group and issue ID cards to its members within 3 days from the date of filing the list of members.

**Article 81.** Withdrawal of a candidate

(1) A candidate has the right to withdraw himself, but not later than 7 days before the election day.

(2) The decision on withdrawal shall be taken by the candidate and shall be filed with the constituency electoral council, which immediately makes it public.

(3) If in the uninominal constituency only one candidate was registered and that person withdrew or did not run for elections for other reasons, then new partial elections shall be organized under conditions of this Code.

**Article 82. Electoral lists**

Electoral lists for parliamentary elections are compiled under conditions of chapter 5 (art.39 and art.40), which shall be applied accordingly.

**Article 83. Election Campaign for Parliamentary Elections**

Election campaign for parliamentary elections begins not earlier than in 30 days before the election day and is carried out in compliance with chapter 7 (art. 45 - art.47), which shall be applied accordingly.

**Article 84. Voting ballots**

(1) Voting ballots are compiled according to chapter 8 (art. 48 and art.49), which shall be applied accordingly.

(2) Independent candidate is entered into the voting ballot in a separate box, which shows the first and last name and the text "Independent candidate".

**Article 85. Voting. Special conditions of the voting right.**

(1) Voting in parliamentary elections is carried out according to chapter 9 (art.50 – art.55), which shall be applied accordingly.

(2) The voters who do not reside in corresponding uninominal constituency do not participate in parliamentary elections.

(3) Citizens of the Republic of Moldova who have pre-registered and are included in electoral lists corresponding to polling stations of the constituencies in question may vote in uninominal constituencies set up abroad.

**Article 86. Counting the Votes and Tabulating the Election Results**

Counting the votes and tabulation of parliamentary elections results shall be carried out according to chapter 10 (art.56 – art.60), which shall be applied accordingly.

**Article 87. Election of Member of the Parliament**

(1) Candidate for the position of Member of the Parliament is considered elected if s/he got the majority of valid votes.

(2) If several candidates have accumulated an equal number of votes, the electoral council of the constituency shall determine the winner by lot and mention this in its minutes.

**Article 88. Attribution of Mandates**

(1) Having received all minutes of electoral bureaus of polling stations of a uninominal constituency, which show the results of counted votes, the electoral council of the constituency shall make the total of valid votes for each candidate in order to establish who was elected.

(2) Central Electoral Commission attributes mandates to candidates elected in uninominal electoral constituencies.

**Article 89.** Confirmation of Election Results and Validation of Mandates by Constitutional Court

(1) Central Electoral Commission, within 48 hours after tabulation of election result, shall submit to the Constitutional Court the documents mentioned in art.60, as well as the lists of elected members of Parliament.

(2) Within 10 days after receipt of documents from the Central Electoral Commission, but not before the final decision of court regarding the complaints filed according to the procedures established by law, the Constitutional Court shall conform or rule out, through an opinion, the legality of elections. At the same time, the Constitutional Court shall validate the mandates of elected members of the Parliament.

(3) Constitutional Court rules out election results also if, after partial elections, there haven't been elected at least 2/3 of the total number of mandates.

**Article 90.** Attestation of Elections Results by Central Electoral Commission

(1) The minutes with election results, accompanied by the opinion of the Constitutional Court that confirms the legality of elections and the decision on validation of at least 2/3 of mandates of members of the Parliament, shall be submitted by Constitutional Court to the Parliament within 2 days from its adoption. Copies of these documents shall also be sent to Central Electoral Commission.

(2) If the Constitutional Court confirms legality of elections in at least 2/3 of uninominal constituencies, then Central Electoral Commission issues ID cards to the elected members of the Parliament.

(3) Central Electoral Commissions takes the decision on publishing the final results of elections within 24 hours after receiving the documents from the Constitutional Court.

**Article 91.** Invalid Elections

If Constitutional Court establishes that during elections and/or during the process of counting the votes there were violations of this code that influenced voting results and attribution of mandates, the elections in corresponding constituencies shall be declared invalid.

**Article 92.** Partial Elections

(1) If as a result of parliamentary elections, no Member of Parliament was elected in uninominal constituency, including the case stipulated in art.81 para.(3), or the MP position became vacant, then Central Electoral Commission shall set, within 2 weeks, the date of partial elections in unoccupied uninominal constituency.

(2) The term of office of elected Member of Parliament shall last until the expiry of the general term of office of the Parliament.

(3) If vacancy of MP position appears during the last year before the expiry of Parliament's term of office, then new elections in unoccupied uninominal constituencies shall not be organized.

### **Article 93.** Repeated Voting

(1) If the elections are declared invalid, then Central Electoral Commission shall organize, within 2 weeks, repeated voting in the corresponding constituencies.

(2) Repeated elections shall be organized based on the same electoral lists, with the same electoral bodies and with participation of the same candidates.

(3) Electoral candidates guilty of violating the provisions of this code shall be sanctioned or excluded from the voting ballot based on a final court decision, and the electoral councils and bureaus that committed such violations shall be replaced.

### **Article 94.** New Parliamentary Elections

(1) If after repeated voting the elections are still declared null, the Central Electoral Commission shall set the date of new elections that will take place at least in 60 days from the date of elections that were declared null.

(2) Provisions of para.(1) also apply if after partial elections the mandates of at least 2/3 of members of Parliament elected in uninominal constituencies were not validated.

(3) New elections shall be held under conditions of this code.

### **Article 94<sup>1</sup>.** Revocation (*mandate withdrawal*) of a Member of Parliament

Member of Parliament may be revoked through local referendum under conditions of this code.

22. In article 175, second sentence, after the word "Revocation" the words "of the Member of Parliament," are added

23. In article 176, the paragraph (5) is added, which reads as follows:

„(5) Local referendum for revocation of a Member of Parliament may be initiated after expiry of a year after s/he took the office or from the date of previous local referendum for revocation of the same Member of Parliament.

Revocation of a Member of Parliament may not be initiated during the last year before the expiry of the term of office."

24. In article 177, the paragraph (3) is added, which reads as follows:

„(3) Revocation of a Member of Parliament may be initiated if s/he does not observe the interests of the community in the constituency, does not exercise properly the duties of a Member of Parliament stipulated by law, violates moral and ethical norms, that is factually and properly confirmed.”

25. In article 178 letter g), after the words „recalling a”, the words „Member of Parliament,” shall be added

26. Article 179 shall be supplemented with a sentence that reads as follows:

"In case of local referendum for revocation of a Member of Parliament, the date is set by Central Electoral Commission based on decision of appropriate court."

27. In article 180, the letter e) is added, which reads as follows:

„ e) by 1/3 of the number of citizens with voting right who reside on the territory of the corresponding administrative-territorial unit or uninominal constituency in case of revocation of mayor or Member of the Parliament. Revocation of the Member of Parliament shall be initiated only by citizens who have their domicile in the uninominal constituency where s/he has been elected."

28. In article 181 para.(1) after the words „administrative-territorial unit”, the words „or uninominal constituency” shall be added.

In paragraph (2) in the second sentence after the word „revocation” the words „of the Member of Parliament or” shall be added.

29. In article 182, the paragraph (4) is added, which reads as follows.

„(4) To carry out local referendum to revoke Member of the Parliament or the mayor, it is necessary to collect signature of at least 1/3 of the number of citizens with the right to vote who have their domicile in the corresponding uninominal consistency or administrative-territorial unit.”

30. In article 185 para.(1) in the second sentence, after the word "revocation" the words "of the Member of Parliament or" shall be added

31. In article 186, the paragraph (3) is added, which reads as follows:

„(3) The decision to carry out local referendum to revoke Member of the Parliament is adopted by a decision taken by a court in the range of the corresponding uninominal constituency. The decision shall cover:

- a) Verification of subscription lists;
- b) Reasons for revocation of Member of the Parliament;

c) Proposal with regard to the date of referendum, which may be carried out at least in a month and not later than in 45 days from the day when the decision was adopted;"

32. In article 187, the paragraph (6) is added, which reads as follows:

„(6) Referendum for revocation of Member of the Parliament shall be carried out in the uninominal constituency where s/he was elected under conditions of this code.”

33. In article 189 the word "parliamentary" is excluded.

34. In article 197, the paragraph (4) is added, which reads as follows.

„(4) In case of referendum for revocation of the Member of Parliament, Central Electoral Commission and Constitutional Court shall make the counting and confirmation of the results under conditions of art. 88, 89 and 91 which shall be applied accordingly.”

35. In article 198 para.(1) the second sentence shall read as follows: „The decision to revoke a Member of the Parliament or mayor is considered adopted through local referendum if at least half of voters from the corresponding constituency voted for it, but not less than the number of voters who voted when electing the Member of the Parliament or the mayor.”

Paragraph (2) will read as follows:

„(2) If Member of Parliament or mayor is revoked through referendum, Central Electoral Commission shall set the date of new elections according to provisions of title III (art. 72-94) and V (art.118-140), which shall be applied accordingly.”

36. Article 199 is excluded.

**Art.II.** – Law on the status of Member of the Parliament no.39-XIII of April 07, 1994 (Republished in the Official Gazette of the Republic of Moldova, 2005, no.59-61, art.201), with subsequent amendments, is amended and supplemented as follows:

Article 2:

In paragraph (6<sup>1</sup>) after the words „in case of” the following words are introduced „recall by referendum under the Election Code, and in case of”

paragraphs (10) and (11) shall read as follows:

„(10) In case of vacancy of MP mandate, upon notification from Parliament or ex officio, the Central Electoral Commission shall organize partial elections.

(11) The Member of Parliament elected as a result of partial elections shall begin exercise of his/her mandate once it is validated by the Constitutional Court and shall exercise his/her duties during term of office of the Parliament.”

**Art.III.** – (1) This law shall enter into force on the date of its publication.

(2) Within 6 months from the date of publication of this law, the Government shall submit to the Parliament proposals for updating the legislation in force in compliance with this law.

(3) Elections of Members of Parliament from uninominal constituencies on left bank of Nistru river, which are temporarily outside constitutional control, will be organized after the restoration of constitutional control from the public authorities of the Republic of Moldova.

(4) Within 6 months from the date of publication of this law, the Central Electoral Commission shall set up permanent uninominal constituencies and shall take necessary measures to prepare the next parliamentary elections, making sure to inform electoral officials, voters and other stakeholder about the new regulations of electoral legislation.

### **SPEAKER OF THE PARLIAMENT**

#### **INFORMATION NOTE**

to draft law on amending and supplementing some legislative acts

Draft law on amending and supplementing some legislative acts contains amendments to Electoral Code of the Republic of Moldova and to the law on status of Member of the Parliament.

This initiative proposes to modify electoral system of the Republic of Moldova regarding its parliamentary elections. The draft law proposes to turn the electoral system with proportional representation based on party lists into a system based on majority vote in uninominal constituencies.

Currently, the Parliament is elected based on party lists in a single national constituency, where 101 MPs are elected.

At the same time, the international practice provides two main electoral systems: majority and proportional, as well as a broad range of mixed electoral systems.

The electoral system based on majority vote is characterized by holding elections in uninominal constituencies, as a rule, a mandate per constituency and the winner is the one who gets most of the votes (relative majority) or at least half plus one of the valid votes (absolute majority).

Such practice is not new for the Republic of Moldova, as it was applied until 1994 for parliamentary elections and it is still applied for election of mayors.

The electoral system based on proportional vote or party lists means that the elections are organized in a single national constituency where all Members of Parliament are elected based on the results obtained by each electoral competitor, taking into account a particular proportion that differs depending on the applied calculation formula.

In international electoral practice, a fully majority electoral system is used for tens of years in such countries with developed democracies as USA, Canada, UK or France. In many countries over the world the upper chamber of legislative branches are also elected based on majority vote.

The electoral system that combines the advantages of each one, also called mixed system, is applied in Germany, Hungary, Lithuania, Japan and other countries.

Having analysed the international practice, we conclude that there is no single model and each country independently selects the electoral model that is the most appropriate for a particular period. Multiple recommendations of the Venice Commission and OSCE also mention that choosing an electoral system is a sovereign decision of each state.

Each electoral system has both advantages and disadvantages. At the same time, the examination of the electoral and political practice of the Republic of Moldova in the last 20 years, taking into account the results of the latest opinion polls and direct requests from citizens (more than 75% of voters), leads to the necessary to improve this system and the optimal way to do so is an electoral system based on majority vote in uninominal constituencies where Members of the Parliament would be elected by citizens directly.

Voting for Members of Parliament based on party lists is no longer justified given the loss of contact between citizens and those elected by them. Very often citizens do not know most of candidates on party lists, except a few party leaders, and there is no way they can influence the composition of those lists, which is exclusive prerogative of the leadership of the political entity.

According to art.68 para.(1) of the Supreme Law, *In exercising their mandate, Members of Parliament serve the people*. In reality this legal norm is not fully developed. Usually, people vote for a political entity, for a leader, for particular political symbols. In this situation, other MPs elected on party lists do not have their own political identity, having moral obligation to vote similarly to their leader or as the party decides.

In this case, in order to insure maximum transparency and to bring MPs closer to their voters, this change is needed, so that the citizens would be able to elect concrete people, who would represent their electoral constituency in the supreme legislative forum.

This could also contribute a lot to greater stability and make MPs more independent in their actions.



In such situation, the need to make the proposed changes is evident. These changes will enable people to have possibility to know the ones they vote for, and the elected MP should be aware that in case s/he does not exercise his/her duties, the people who voted for him/her may replace him/her with a more credible, more competent person.

Thus, this draft law proposes to change the way the Parliament of Moldova is elected. As a result, Members of Parliament shall be elected in 101 uninominal constituencies. This system, which exists in many countries, proved to be efficient and may be taken over in best conditions.

From social point of view, the proposed amendments provides each citizen with greater access to decision-making at legislative level through the elected Member of Parliament, as the latter depends on the vote of each citizen from the localities in the constituency.

At the same time, the responsibility of parties becomes greater, as they remain the key political entities empowered to identify, prepare and promote personnel for political and administrative system of the Republic of Moldova. However, they will have to take into account their competency and credibility of candidates proposed to voters in uninominal constituencies.

Also, in order to insure the right to be elected (art.38 para.(3) of the Supreme Law), there will be more opportunities for every citizen to become independent Member of Parliament, as the total number of needed votes is thus reduced, compared to the current situation when such people run for election in a single national constituency.

It's worthwhile mentioning that the issue of modifying the electoral system of the Republic of Moldova has already been subject to expert assessment by the European Commission for Democracy through Law of the Council of Europe (Venice Commission).

By its opinion CDL-AD(2014)003, at its 98th plenary session, the Venice Commission on March 21-22, 2014 approved the opinion on draft law on amendment of the Electoral Code, which to turn the proportional electoral system based on party lists into a mixed system, where some Members of Parliament shall be elected through majority vote in uninominal constituencies.

Key findings of the opinion were the following:

- The choice of electoral system is a sovereign decision of a state;
- In the specific case of the Republic of Moldova, for setting up uninominal constituencies it is necessary to identify viable solutions for adequate representation of citizens from the left bank of Nistru and of those who live abroad;
- Any amendment of such scale must be made leaving sufficient time before the next ordinary elections (at least a year);
- It is preferable to subject such changes to large discussions and debates among the society and to have a relative consensus of electoral entities.

In the context of this opinion, we mention that the vast majority of recommendations made by experts of Venice Commission have been taken into consideration (constituency set up, the right of citizens from the left bank of Nistru and of those who live abroad, etc.) so as to make the draft law in compliance with best practices in electoral issues, taking into consideration the standards of the Council of Europe and OSCE/ODIHR.

Moreover, when identifying solutions to insure voting abroad, the previous expert recommendations (Venice Commission Opinion CDL-AD(2016)021) have been taken into account, as well as the comparative study of voting abroad no.580 of October 6, 2010, made by the Venice Commission (CDL-EL(2010)013rev2).

Modification of the electoral system will bring about a range of benefits, the most important being the following:

- Voters will directly elect Members of Parliament whom they know and trust, who come from the constituency where they live.
- Members of Parliament will be closer to citizens, will equally represent the whole country and all categories of people, including minorities.
- Members of Parliament will be directly responsible towards citizens and can be revoked by these citizens through local referendum. Now it is not possible to revoke a Member of Parliament.
- Citizens who live abroad will be able to elect their own candidates from diaspora and will vote in uninominal constituencies set up abroad created on the basis of clear criteria.

It is obvious that some proposals could raise hot debates, but the authors consider that from conceptual point of view, it is necessary to come up with specific elements related to voting abroad and voting on the left side of the River Nistru.

The procedure of revoking or raising the MP's mandate could raise some discussions, but here it is necessary to come up with some clarifications. In spite of the constitutional principle of nullity of the imperative mandate, art. 69 para. (2) of the Supreme Law provides directly the possibility of termination of the MP's mandate earlier than the set terms, including through the institution of raising the mandate. There is already parliamentary practice, confirmed by the Constitutional Court for raising the MP's mandate for incompatibility.

At the same time, the procedure for raising the mandate is not well developed in the legislation. The assessment of the Constitutional Court is relevant in this context (JCC No.8 of 19.06.2012):

*“53. The Court holds that, as follows from the constitutional rule, regulation of cases of forced termination of the parliamentary mandate is Parliament's prerogative, including the waiving of the parliamentarian's mandate in the case of his/her*

*subterfuge from exercising the duties inherent in the office of Member of Parliament, taking into account the principles and spirit of the Constitution, democratic norms and standards and taking into consideration the practice of other countries in the field*

*“57. In countries where permanent exclusion is possible, the reasons for which this can occur vary quite strongly. In general, they are of three types: disciplinary sanction, loss of eligibility conditions, as well as the pursuit of an activity incompatible with the mandate of lawmaker. There are other reasons for which a member may be expelled from the Parliament, as well as insufficient knowledge of official language, which does not allow for the exercise of the parliamentary mandate, as is the case of Latvia.”*

*“67. Given the lack of legal norms concerning the waiving of the parliamentarian's mandate, this mechanism could be applied only after passing the law in this regard, taking into account the considerations outlined in this decision by the Court, the Court reserved the right to rule on additional issues within an appropriate control of constitutionality.*

*68. In the light of the above, for the purposes of paragraph (2) Article 69 of the Constitution, termination of Member's office by "waiving the mandate" can take place in the conditions envisaged by the Constitution, by the laws governing the organization and functioning of Parliament and defining the status of the parliamentarian.”*

In its Address of 20 January 2015, the Constitutional Court established that until currently the Parliament did not adopt any regulations regarding the cases of raising the mandate and has reminded about the need of such direct regulations in the legislation.

For the purpose of establishing direct regulations related to raising the MP's mandate, this draft law comes up with a complex procedure, which may end with termination of the mandate earlier than set deadline. We consider that this new institution does not contravene the above-mentioned constitutional principles, but if necessary we will come up with legal and constitutional framework developments in this respect in strict compliance with the national and international case-law.

Here below are the most important modifications for the Electoral Code:

1. The concepts of uninominal constituency (*single-member constituency* – tr.n.) and revocation of Member of the Parliament are introduced.
2. Candidates for the position of Member of the Parliament will manage independently an electoral fund and will submit financial reports.
3. Certificate of the voting right will be used only in the range of uninominal constituency.

4. Candidates for the position of Member of the Parliament will file all documents required for registration with the constituency electoral councils, which will verify and register the candidates.
5. Complaints will be filed with constituency electoral councils, and litigations will be reviewed by the constituency courts.
6. Members of the Parliament shall be elected in 101 uninominal constituencies by universal, direct, secret, equal and freely expressed vote. One MP per constituency, based on majority vote system.
7. Uninominal constituencies will be created by CEC. The calculation basis for setting up uninominal constituencies is the territorial-demographic principle and the number of voters entered on the electoral lists in each polling station at the last national elections.
8. Distinct uninominal constituencies will be set up abroad and the same number in localities on the left bank of Nistru.  
Outside the country the constituencies will be created, including based of the criteria set for the establishment of the polling stations abroad, according to previous recommendations of the Venice Commission.
9. The borders of uninominal constituencies may be revised no later than in 90 days before the day of ordinary elections.
10. Central Electoral Commission will set up constituency electoral councils not later than 55 days before the elections. For polling stations abroad Central Electoral Commission shall set up a distinct electoral council that will operate in the range of Chisinau municipality.
11. Candidates for the position of Member of the Parliament may be the person with voting right, who already turned 18 years of age, including on the election day, are citizens of the Republic of Moldova, do not fall under provisions of art.2 para. (6<sup>1</sup>) of the Law on the Status of Member of the Parliament and meets other requirements stipulated in this code.
12. Candidates nominated by parties, as well as independent one can only run for election in one uninominal constituency.
13. Candidates for the position of Member of the Parliament in uninominal constituencies abroad shall be registered in the constituency electoral council responsible for organising the elections abroad, which will operate in Chisinau municipality and will be set up exclusively for organising elections outside the country's borders.
14. Signatures for candidates will be collected only in constituencies where they run. Abroad, it will be possible to collect signatures in any constituency set up

abroad. In order to be registered, the candidate will submit subscription lists that contain signatures of at least 1000 and maximum 2000 supporters with voting right from the uninominal constituency where s/he is going to run for elections. The lists no longer needs to be authenticated by mayors.

15. The electoral campaign begins not earlier than 30 days before the elections.

16. Only voters residing in the corresponding uninominal constituency can participate in parliamentary elections.

17. Candidate for the position of Member of the Parliament is considered elected if s/he got the majority of valid votes.

18. Election validation threshold is removed.

19. Central Electoral Commission will aggregate election results and the Constitutional Court will confirm and validate them. At least 2/3 of the mandates must be validated to constitute the Parliament legally.

20. If, as a result of parliamentary elections, in a uninominal constituency a Member of the Parliament was not elected or the position of the Member of Parliament became vacant, the Central Electoral Commission shall set, within 2 weeks, the date of partial elections in the unoccupied uninominal constituency. The term of office of the elected Member of the Parliament shall last until the expiry of the general term of office of the Parliament.

21. If vacancy of MP position appears during the last year before the expiry of Parliament's term of office, then new elections in unoccupied uninominal constituencies shall not be organized.

22. It will be possible to revoke (to withdrawal the mandate) a Member of Parliament by means of local referendum.

23. Local referendum for revocation of a Member of Parliament may be initiated after expiry of a year after s/he took the office or from the date of previous local referendum for revocation of the same Member of Parliament. Revocation of a Member of Parliament may not be initiated during the last year before the expiry of the term of office.

24. Revocation of a Member of Parliament may be initiated if s/he does not observe the interests of the community in the constituency, does not exercise properly the duties of a Member of Parliament stipulated by law, violates moral and ethical norms, that is factually and properly confirmed.

25. In case of local referendum for revocation of a Member of Parliament, the date is set by Central Electoral Commission.

26. The threshold of participation in local referendum is removed.

27. The decision to revoke a Member of the Parliament is considered adopted through local referendum if at least half of voters from the corresponding

constituency voted for it, but not less than the number of voters who voted when electing the Member of the Parliament.

Given these changes in the electoral system, it is necessary to amend also the Law on the status of Member of the Parliament concerning the term of office the MP elected in uninominal constituencies.

Within 6 months from the entry into force of this law, the Central Electoral Commission will have to set up permanent uninominal constituencies.

In this context, this draft law is proposed for examination and adoption by the Parliament. Enforcement of these amendments and additions do not require additional financial expenditures and should be ensured by the next parliamentary elections.

**Members of the Parliament**