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Observation of the early parliamentary elections in Moldova (28 November 2010)

Election observation report
Ad hoc Committee of the Bureau
Rapporteur: Mr Indrek SAAR, Estonia, Socialist Group

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1. Introduction

1. Further to the invitation from the Chairperson of the Central Electoral Commission (CEC) of Moldova dated 29 September 2010, the Bureau of the Parliamentary Assembly agreed, at its meeting on 4 October 2010, to set up a 30-member ad hoc committee to observe the early parliamentary elections scheduled for 28 November 2010. The Bureau also authorised a pre-electoral visit by a delegation of five members of the ad hoc committee – one from each political group. On 8 October 2010, the Bureau appointed Mr Indrek Saar (Estonia, SOC) chair of the ad hoc committee.

2. In accordance with Article 15 of the co-operation agreement signed on 4 October 2004 between the Parliamentary Assembly and the European Commission for Democracy through Law (Venice Commission), an expert from the Venice Commission was invited to join the ad hoc committee as an adviser.

3. Based on the proposals from the Assembly's political groups, the ad hoc committee was composed as follows:

– Indrek SAAR, Head of delegation (Estonia, SOC)

– Group of the European People's Party (EPP/CD):

- Viorel Riceard BADEA, Romania
- Andres HERKEL*, Estonia

- Denis JACQUAT, France
- Václav KUBATA, Czech Republic
- Marietta de POURBAIX-LUNDIN, Sweden
- Maria STAVROSITU, Romania
- Egidijius VAREIKIS, Lithuania
- Piotr WACH, Poland

– Socialist Group (SOC):

- Maryvonne BLONDIN, France
- Lise CHRISTOFFERSEN , Norway
- Titus CORLATEAN, Romania
- Andreas GROSS, Switzerland
- Tadeusz IWIŃSKI, Poland
- Indrek SAAR*, Estonia
- Doris STUMP, Switzerland
- Dana VÁHALOVÁ, Czech Republic

– Alliance of Liberals and Democrats for Europe (ALDE):

- Kerstin LUNDGREN, Sweden
- Jørgen POULSEN*, Denmark
- Ana Adriana SÃFTOIU, Romania
- Chiora TAKTAKISHVILI, Georgia

– European Democrat Group (EDG):

- Igor CHERNYSHENKO, Russian Federation
- Christopher CHOPE, United Kingdom
- Jana FISHEROVÁ, Czech Republic
- Tuğrul TÜRKEŞ, Turkey

– Unified European Left Group (UEL):

- Andrej HUNKO, Germany
- Sergey SOBKO, Russian Federation

– Venice Commission

- Konrad OLSZEWSKI, Poland

– Secretariat:

- Chemavon CHAHBAZIAN, Deputy Head of Secretariat, Interparliamentary Co-operation and Election Observation Unit
- Franck DAESCHLER, Interparliamentary Co-operation and Election Observation Unit
- Daniele GASTL, Interparliamentary Co-operation and Election Observation Unit
- Anne GODFREY, Secretariat of the Parliamentary Assembly
- Gaël MARTIN-MICALEF, Electoral Projects Officer, Elections and Referendums Division, Venice Commission

* Member of the pre-electoral delegation

4. The ad hoc committee was part of the international election observation mission (IEOM), which also included observers from the Parliamentary Assembly of the OSCE, the European Parliament and the election observation mission of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

5. With regard to the operation of the IEOM in Moldova, the ad hoc committee would underline that it was up to each parliamentary institution within the IEOM to ensure the political and geographical balance of its election observation delegation in accordance with its own internal procedures. The delegation of the Parliamentary Assembly of the Council of Europe comprised 26 members, representing the five political groups in the Assembly and 14 Council of Europe member states; the OSCE Parliamentary Assembly delegation comprised 35 members representing 14 countries; and the European Parliament delegation comprised four members representing two countries and two political groups – a Lithuanian MEP and three Romanian MEPs, including the head of delegation. The Assembly's ad hoc committee notes that the make-up of the European Parliament delegation didn't facilitate the IEOM's work, in particular the process of negotiating the text of the joint declaration.

6. The ad hoc committee met in Chisinau from 26 to 29 November 2010. The programme of the meetings is set out in Appendix 1.

7. The IEOM met representatives of the main political parties and independent candidates participating in the elections, the Chair of the Central Electoral Commission, the head of the OSCE mission in Moldova, the political adviser of the European Union Special Representative, the head of the OSCE/ODIHR election observation mission and his team and representatives of civil society and the media.

8. On polling day, the ad hoc committee split up into 16 teams, eight of which observed the voting in the capital and the surrounding areas, and eight the voting in the following towns and regions: Falesti, Balti, Gagauzia, Basarabeasca, Ohrei, Rezina, Taraclia, Cimislia, Briceni-Edinet and Causeni-Stefan-Voda. As in the previous elections, polling did not take place in Transnistria, which is under the de facto control of the Tiraspol authorities.

9. The IEOM concluded that the 28 November 2010 early parliamentary elections in Moldova "met most OSCE and Council of Europe commitments. ... the elections were administered in a transparent and impartial manner and a diverse field of candidates provided voters with a genuine choice. ... However, the introduction of a new mandate allocation system – shortly before the elections and without public consultations – was problematic. The quality of voter lists remained a weak point and led to diminished public confidence. Further efforts are needed to remedy remaining deficiencies and strengthen public confidence." The IEOM press release is set out in Appendix 2.

10. The ad hoc committee wishes to thank the OSCE/ODIHR election observation mission, the Special Representative of the Secretary General in Moldova and the staff of the Council of Europe office in Chisinau for their co-operation and their logistical support.

2. Legal context after the failure of the constitutional referendum

11. The early parliamentary elections in Moldova on 28 November 2010 were the third parliamentary elections since April 2009. The parliament elected on 29 July 2009 was unable to elect the President of Moldova: neither the ruling Alliance for European Integration (AIE) nor the opposition Communist Party of Moldova (PCRM) was able to secure a sufficient number of votes in parliament (61 out of a total of 101) to elect a president.

12. The referendum on 5 September 2010 to amend the Constitution to allow the direct election of the President failed because of an inadequate voter turnout (30%, that is to say below the 33% required for a valid referendum). The Assembly's ad hoc committee was the only European parliamentary body to observe the constitutional referendum in Moldova. It concluded that the voting was calm and orderly. The citizens who participated in the referendum were generally able to make their choice freely. However, the delegation did regret the low turnout and stressed that it was now up to the political stakeholders, regardless of their political positions, to propose solutions to make the functioning of institutions more stable in the general interest of the country and to look beyond their personal or political quarrels.

13. In its report, the ad hoc committee to observe the constitutional referendum on 5 September drew the attention of the country's main political stakeholders to the factors which had probably had an impact on the low voter turnout in the referendum:

– the referendum campaign coincided with a spell of intensive activities in the agricultural sector of an agrarian country;

– the referendum campaign was short;

– convinced that the positive results of the referendum were in no doubt, some political leaders and potential candidates for the presidential election took advantage of the referendum campaign to conduct a presidential campaign;

– the lack of effective co-ordination between the different political forces in favour of changing the voting method for the presidential election;

– the campaign for a boycott conducted by the PCRM and its allies.

14. In the conclusion of its report, the ad hoc committee to observe the constitutional referendum on 5 September called upon the Moldovan authorities to hold early parliamentary elections in 2010 as the political players had undertaken to do, in order to guarantee all the conditions required for all citizens of Moldova to freely express their will.

15. On 29 September 2010, Mr M. Ghimpu, the Acting President of Moldova, dissolved parliament and signed the decree calling early parliamentary elections for 28 November 2010. Two political issues were at stake in the parliamentary elections on 28 November: the establishment of a 51-seat parliamentary majority and, subsequently, the election by the newly elected parliament of the new President of Moldova, for which a 61-member majority is required.

16. The conduct of parliamentary elections is mainly governed by the Electoral Code and regulations issued by the CEC. On 10 March 2010, the Moldovan authorities requested the Venice Commission to prepare an opinion on the proposed amendments to the Electoral Code. The Venice Commission approved its opinion on 4 June 2010. It found that the proposed amendments improved the Electoral Code and enhanced the quality and integrity of the election process, taking account of the earlier recommendations by the Venice Commission and the Assembly concerning the reduction of electoral thresholds from 5% to 4% for political parties and from 3% to 2% for independent candidates, the formation of electoral blocs, lifting of the disqualification from election to parliament imposed on Moldovan citizens also holding the nationality of another country, and the introduction of a national voters' roll and the possibility of using supplementary voters' rolls at the poll. The Venice Commission concluded that, if implemented in good faith, the Electoral Code provided a sound basis for conducting democratic elections.

17. Some amendments to the Code were submitted to parliament for adoption after the publication of the Venice Commission's opinion on 4 June 2010. Accordingly, several amendments were made to the Electoral Code on 18 June and 18 September 2010. In particular, an amendment to Article 87 changed the system of mandate allocation in parliamentary elections, triggering harsh criticism from the PCRM. The party argued that, as this change was introduced less than a year before the elections, it violated the Venice Commission's Code of Good Practice in Electoral Matters, which requires a minimum period of one year between changes to electoral systems and the holding of elections.

18. Before this amendment, the Electoral Code provided for the D'Hondt mandate allocation formula, which favours parties with the highest number of votes. This was replaced with a method which gives a significant advantage to smaller parties and got the nickname "Robin Hood system". According to the representatives of the PCRM, the new calculation method resulting from the changes to the mandate allocation system penalises their party: according to them, if on 28 November the PCRM obtained the same results as in the last parliamentary elections on 29 July 2009, its number of seats would go down by two or three.

19. The PCRM members of parliament appealed to the Constitutional Court for the amendment to the Electoral Code concerning the allocation of seats in parliament to be quashed on the grounds that it was unconstitutional. In its decision of 18 November 2010, the Constitutional Court held that it fell to parliament to determine the rules for allocating parliamentary seats and dismissed the appeal.

20. Additional (mostly technical) amendments to the Electoral Code were adopted on 18 September 2010, notably an amendment to Article 84, which introduced the possibility for all students studying in academic institutions outside their domiciles (registered places of permanent residence) to vote at any polling station in the district where they study. After presenting their students' certificates and identity cards, the students would be added to the supplementary voters' rolls. The CEC was not in favour of this change, as it introduces both the possibility of duplication of voters on the voters' rolls and also a risk of double voting.

21. On 23 September 2010, the chairs of the three Moldovan non-governmental organisations involved in the process of monitoring elections in Moldova wrote to Mr Thorbjørn Jagland, Secretary General of the Council of Europe, and Mr Gianni Buquicchio, President of the Venice Commission, seeking their opinion on the amendments to the Moldovan Electoral Code, in particular Article 87 concerning the change in the system for allocating seats in parliamentary elections, which they believed to violate the principles of the Venice Commission's Code of Good Practice in Electoral Matters.

22. In letters dated 5 and 7 October 2010 respectively, the Secretary General of the Council of Europe and the President of the Venice Commission replied, in particular, that, in accordance with the procedures of the Venice Commission's Code of Good Practice in Electoral Matters, the fundamental elements of the electoral system should not be changed less than a year before elections. However, they added that "the later adoption of the amendments of the Electoral Code does not appear as an obstacle to the holding of free and fair elections".

3. Electoral administration

23. The early parliamentary elections in Moldova were administered by a three-tier structure comprising the Central Electoral Commission (CEC), district electoral councils (DECs) and Precinct Electoral Bureaux (polling stations) (PEBs). The CEC is a permanent body with nine members serving a five-year term of office. One member is appointed by the President of the Republic and the other eight are appointed by parliament in accordance with the proportion of seats held by the majority and the opposition. If a member of the CEC's term expires during an election campaign, it is automatically extended by 90 days. The CEC's mandate expired on 11 November 2010, but was extended to allow for the preparation of the early parliamentary elections.

24. The CEC established 35 district electoral councils; the other two usually established in Bender and on the left bank of the Dniester (in Nistru) were not set up. Article 27 of the Electoral Code provides that the DECs comprise seven to 11 members, at least three of whom must have completed higher education in the field of law or public administration. All participants in the parliamentary elections had the right to nominate representatives to the CEC and DECs, in a consultative capacity.

25. The polling stations had five to 11 members, three being appointed by local councils and the remainder by parties represented in parliament, with one from each party. A total of 1 962 polling stations were established across the country and 75 abroad (in 30 countries). The chairs, vice-chairs and secretaries of the various electoral bodies were elected by their members by secret ballot.

26. Following a CEC decision, voters from the Transnistria region were able to vote at any of 21 specially designated polling stations, including three in Chisinau. They were added to the supplementary voters' rolls.

27. The CEC held regular meetings open to the public and the mass media, which increased the transparency of the election process and helped build trust. The CEC's major challenge during the early elections was the very large number of Moldovan citizens living in foreign countries. According to various sources, they account for over 500 000 people out of a total of 2.6 million voters registered on the voters' rolls. The government decided to open 75 polling stations in foreign countries, compared with 33 during the previous parliamentary elections on 29 July 2009. Some people the observers met drew attention to the fact that the geographical distribution of these polling stations in various foreign countries had been based on political considerations and was not consistent with the number of Moldovan citizens living in those countries. Preference was said to have been given to west European countries, even though, according to the official data from the Moldovan Bureau of Statistics, most Moldovan citizens living abroad were in Russia, where only four of the 75 polling stations abroad had been located.

28. The CEC took over 380 decisions and adopted (or amended) many regulations, including on media coverage, organisation of polling stations abroad and the complaints and appeals procedures, thereby providing a sound basis for the election campaign and the elections.

29. During the campaign, the CEC adjudicated almost 70 complaints from the participants in the parliamentary elections, mostly related to illegal campaign material and abuse of state resources. The only penalty which the CEC is entitled to impose in the event of breaches of electoral law by participants is to issue warnings or refer complaints to the courts and have registrations cancelled. During the election campaign, the CEC confined itself to issuing warnings, which appear to have been largely ignored by the participants concerned.

4. Registration of voters and political parties and independent candidates

30. According to the CEC's official figures, A total of 2 645 923 voters were on the rolls for the early parliamentary elections on 28 November 2010. A further 165 546 were on the supplementary voters' rolls, including 64 199 in foreign countries and 12 035 students. As in the previous elections, polling did not take place in Transnistria, which has been outside the Moldovan Government's control in de facto terms since 1992.

31. The Moldovan electoral authorities take a very liberal approach to drawing up electoral rolls, the aim being to enable as many citizens as possible to vote. The following categories of voters may accordingly be added to a supplementary or special voters' roll:

– Voters who live on the territory of a precinct where they are not on the ordinary voters' roll, upon presentation of a document confirming their place of residence;

– Voters with a voting certificate (for voting outside their place of residence);

– Voters with no registered permanent or temporary place of residence, who may vote in their last place of permanent residence;

– Persons under arrest or in custody pending final sentencing;

– Voters who on election day are in hospitals, health resorts or rest homes located far from their place of domicile;

– Persons voting in their homes with mobile ballot boxes who have applied in writing up to two weeks prior to polling day and no later than 6 pm the day before polling. On polling day, applications may also be submitted in writing until 3 pm upon the presentation of a medical certificate.

32. A liberal approach of this kind seeks to make it easier for Moldovan citizens to exercise their constitutional rights given the economic conditions in the country. However, it is not backed up by legal procedures for ensuring the accuracy of the voters' rolls and avoiding risks of duplication, where particular groups of voters such as students and people living abroad could easily be on the ordinary and supplementary rolls at the same time. This situation is not in line with Article 39 of the Electoral Code, which requires voters to be registered only once and at only one polling station. Moreover, the existence of several different electoral rolls means it is not possible reliably to determine the exact number of voters having voted or to calculate a reliable turnout rate.

33. The inaccuracies of the rolls remained one of the disturbing questions of the early parliamentary elections on 28 November. The voter registration system used gives the local authorities responsibility for keeping the registers up to date, resulting in non-uniformity of arrangements for carrying out this process. The CEC created a national database for the electoral register to allow centralised examination of the voters' rolls and detection of multiple entries and other possible errors in them. For that purpose, the local executive authorities were asked to submit an electronic copy of their electoral rolls to the CEC. In spite of this request, around 300 of the 2 037 electoral rolls were not submitted to the CEC.

34. The changes to the Electoral Code in the section concerning voter registration will come into force in 2011, before the local elections. With these changes, the CEC will be responsible for the operation and upkeep of the central voters' register, but will apparently not have any real possibility of modifying it or checking it; it will be managed by the Ministry of information technologies and communications.

5. Election campaign and political context

35. For the early parliamentary elections of 28 November 2010, 20 political parties and 19 independent candidates were registered by the CEC. The registration process was inclusive. Opinion polls showed the following parties to have a chance of passing the 4% threshold for representation in parliament: the Liberal Democratic Party of Moldova (PLDM), the Liberal Party of Moldova (PLM), the Communist Party of the Republic of Moldova (PCRM), the Democratic Party of Moldova (PDM) and the Moldova Noastra Alliance (AMN). The campaign was pluralist, but the campaign atmosphere, in contrast, was tense as a result of political polarisation and accusations mainly directed against those regarded as responsible for the political and institutional crisis.

36. One development following the failure of the constitutional referendum was that arguments and mutual accusations increased within the Alliance for European Integration and signs of disintegration very rapidly reappeared. Another change was that a gulf developed between the political parties of the AIE, with the exception of the Democratic Party, and the PCRM about the following subjects: condemnation of the Ribbentrop-Molotov Pact, commemoration of 28 June as the Day of Soviet Occupation, evaluation of the communist legacy, relations with Romania and the Russian Federation, and the status of the Russian language. All these questions, as well as various events organised on the occasion of certain specific dates, such as the march in Chişinău which had been announced on the occasion of Romania's national holiday, divided Moldovan society.

37. The main political leaders levelled accusations at their opponents, describing them as "pro-Romanian", "pro-Russian" or "pro-European". The election campaign further deepened the divergence between the main political parties on the key issues of the country's domestic and foreign policy. For example, while the PLDM, PLM and AMN used campaign slogans calling for the eradication of poverty, the protection of citizens' rights, and the strengthening of state institutions, the slogans of the PCRM and PDM on the other hand related to free education, a free health service for all and increases in pay and pensions. Similarly, where the country's foreign policy is concerned, the PLDM, PLM and AMN were in favour of a strategic partnership with Romania and integration into the Euro-Atlantic structures, whereas the PCRM and PDM were in favour of pragmatic and strategic relations with the Russian Federation.

38. A Parliamentary Assembly pre-electoral visit was made to Chişinău on 26 and 27 October 2010 to assess the state of preparations and the political climate as the early parliamentary elections of 28 November 2010 approached. The delegation comprised Mr Indrek Saar (Estonia, SOC), Head of the delegation, Mr Jørgen Poulsen (Denmark, ALDE) and Mr Andres Herkel (Estonia, EPP/CD). Unfortunately, no members were available to represent the other political groups of the Assembly within this delegation.

39. At the end of the pre-electoral visit, the delegation emphasised the importance of the early parliamentary elections of 28 November 2010, the results of which should at last make it possible for properly functioning state institutions in conformity with the Constitution to be set up, and therefore enable the authorities' efforts to be focused on solving citizens' urgent problems. It also concluded that active participation by citizens in these elections, despite a certain lassitude, could help to bring the country out of its current political crisis.

40. A number of people expressed anxiety about the use of administrative resources during the election campaign; for example, some local authorities and university authorities did not always comply with the principle of equal access for all participants to public places in order to hold electoral meetings. Some cases were also noted in which official cars had been used for the election campaign. The delegation was informed by various political parties of attempts to pressurise or intimidate political opponents and of other activities contrary to the principles of the Code of Good Practice in Electoral Matters issued by the Council of Europe's Venice Commission. The ad hoc committee was informed by NGOs of a persistent practice during election events of distributing gifts bearing the names of political leaders, food and sundry items.

41. On 5 November, in reaction to complaints from certain political parties about the problem of access to university buildings to hold election meetings with students, the Ministry of Education signed a decree restricting election events in universities to university working hours and prohibiting school pupils' participation in election events. On the subject of children's involvement in the election campaign, Mrs Plamadeala, Ombudswoman for children's rights, issued a statement calling for children's involvement in political activities to be prohibited. Most of our discussion partners, with the exception of the representatives of the PCRM, considered the likelihood of electoral fraud on polling day to be very slim, but felt that election campaigns should be fairer, in view of the problems noted.

42. On 18 September, the principal state prosecutor of Moldova made an official request to parliament to lift the parliamentary immunity of former President Voronin, so that investigations could continue into the tragic events of 7 April 2009 and the role which he had played in them. In this context, on 7 October 2010, the Assembly's Unified European Left (UEL) group made a statement expressing regret about this attempt to prevent its member from "free and fair participation in the election campaign and the elections", also referring to the matter of his immunity as a member of the Parliamentary Assembly. On 12 October 2010, the Moldovan Parliament's Legal Affairs and Immunities Committee refused to lift Mr Voronin’s parliamentary immunity.

43. Another major theme of the election campaign, which gave rise to speculation, was the participation of senior state officials in the election campaign in their capacity as election candidates. Article 13 of the Electoral Code prohibits participation in election campaigns by ministers and their deputies, as well as by mayors and their deputies and heads of districts and their deputies. They have to suspend their paid activities during campaigns. This prohibition does not extend to the Prime Minister and President. The Prime Minister complained to the Constitutional Court, arguing that Article 13 of the Electoral Code contravened Article 103 of the Constitution on the principle of continuity of government powers, and that the functioning of his government would be paralysed. On 9 November, the Constitutional Court ruled that Article 13 of the Electoral Code was in line with the Constitution. Nevertheless, the question of the continuity of institutions, namely the effective functioning of the government during an election campaign – within the meaning of Article 103 of the Constitution – in the event that members of the government stand in parliamentary elections, remains, for the future, a challenge in both the legal and the practical sphere.

44. The legislation on the funding of political parties and election campaigns establishes legal foundations in this area for the conduct of the election process. The Electoral Code requires participants in parliamentary elections to submit to the CEC detailed fortnightly reports on their expenditure relating to the election campaign, which are published on the CEC's Internet site. The great majority of election participants complied with this requirement. However, some of those to whom we spoke told the ad hoc committee that the financing of the election campaign was not transparent and that the rules governing the funding of the election campaign were in fact obscure. A non-governmental organisation which acts as a human rights resource centre (CREDO) monitored the financing of the election campaign in Moldova, showing that undeclared expenditure by the main political parties was thought to be two or three times higher than the official figures. Such a situation does not increase citizens' confidence in the democratic election process.

45. The ad hoc committee was pleased to note that the network of local non-partisan NGOs involved in observation of the elections was fairly active in Moldova. The presence of such observers helps to increase citizens' confidence in the democratic election process. The Council of Europe, in the framework of its co-operation programmes, including with the CEC, has implemented an action plan relating to election observation. The ad hoc committee considers that such action plans must continue to be developed, with a long-term vision and in close co-operation with the European Union and the other international partners present in Moldova.

6. Media environment

46. Media coverage of election campaigns is regulated by the Electoral Code, the Broadcasting Code and the rules of the CEC. Audiovisual media, including the public television channel Moldova 1 and Radio Moldova, are the country's main sources of information, especially in rural regions, as they cover virtually the whole country. According to the rules on media coverage, the media have a duty to ensure equal conditions for all election participants. Teleradio Moldova, generally speaking, fulfilled its statutory obligations by providing each election participant with 20 minutes of free airtime on television and 45 minutes on the radio.

47. The ad hoc committee noted an improvement in media coverage of the election campaign, including by Teleradio Moldova's public broadcasting channels, which had in the past tended to favour the parties in power – whatever their political colour – in their coverage, something which the Assembly had constantly criticised.

48. However, some of our discussion partners emphasised that the public channel Moldova 1, which is part of Teleradio Moldova, did not manage to retain its neutrality and impartiality in its coverage of election-related news. The PLDM and PLM enjoyed more coverage that was neutral or positive; some 22% of news programmes were devoted to government activities. Among the parliamentary parties, the PCRM was the subject of the majority of the negative coverage.

49. The representatives of the opposition and of the private TV channel NIT, which broadcasts nationally and is very close to the PCRM, told the observers that the Moldovan authorities had used pressure and intimidation against this channel, which had been forced to leave the premises where it had been based for 11 years. The premises were located in a public building in which the government was said to want to house a public agency.

50. According to the explanations given by the government and the members of the Alliance for European Integration, the TV channel NIT manipulated public opinion during the election campaign. Furthermore, the Audiovisual Co-ordinating Council said that it had received a number of complaints against NIT relating to lack of pluralism in the opinions expressed in its programmes. The ad hoc committee was unable to check the accuracy of all the facts put forward by the different parties. While welcoming the variety of opinions expressed through the various media, the ad hoc committee considers that the news-reporting environment could be far more calm, tolerant and non-partisan, and should avoid becoming a means of propaganda for any political party.

51. As far as media coverage of the election campaign by private TV channels which broadcast nationally is concerned, Prime TV and 2plus in particular provided coverage more in favour of the PDM. Both channels have close connections with one of the richest businessmen in Moldova, Mr Plakhotniuc, who had been added to the PDM list in second place four days prior to the elections.

52. Generally speaking, the ad hoc committee noted that the media had made efforts to provide coverage for all election participants, ensuring that a variety of opinions was expressed, also in the print media, and that access for opposition parties to public television channels broadcasting nationally was easier.

7. Polling day and subsequent developments

53. The ballot was well organised and took place in a peaceful and calm atmosphere. According to the international observers, ballot procedures were complied with in accordance with the Electoral Code at 98% of the polling stations visited. The polling stations opened and closed punctually (from 7 a.m. to 9 p.m.). None of the teams reported a lack of any election material when the polling stations opened. No unauthorised activity, campaign material or presence was reported in the immediate vicinity of or inside the polling stations visited. All the teams observed a very high turnout, in urban and rural areas alike. The members of the ad hoc committee were pleased to note active participation by young people in the elections.

54. In the polling stations where the teams were present for the counting of votes, this was conducted transparently and speedily, and generally in conformity with the procedures. The members of the ad hoc committee reported that counting was made difficult by the size of the ballot paper, which was 94 cm long. Some members of the delegation suggested technical changes to make the ballot paper containing the names of 20 political parties and 20 independent candidates easier to read. The members of the ad hoc committee also drew attention to the problem of access to polling stations for persons with reduced mobility, particularly in rural areas. The opportunity to vote using mobile ballot boxes seems to be a solution for elderly persons, especially in rural areas. Some polling stations in villages were small and were therefore packed with voters.

55. Throughout the day, the members of the ad hoc committee observed the presence of a large number of observers from the main political parties participating in the elections, as well as national non-partisan observers. No observer representing independent candidates was present at the polling stations visited.

56. On 6 December 2010, the CEC validated the final results of the early parliamentary elections of 28 November 2010. Turnout in the elections was 63.35%, with 1 721 037 voters turning out, more than in the previous elections of 29 July 2009 (58.77%). Four parties passed the 4% threshold, namely the PCRM with 39.3%, giving it 42 seats, the PLDM with 29.4%, giving it 32 seats, the PDM with 12.7%, giving it 15 seats, and the PLM with 10%, giving it 12 seats.

57. On 1 December 2010, the PCRM lodged an application with the CEC for, *inter alia*:

– mistakes identified in the counting protocols to be corrected;

– the supplementary lists to be checked so that double voting is excluded;

– the PCRM to be provided with copies of the supplementary lists;

– the number of invalid ballot papers to be checked in the presence of election participants' representatives;

– the ballot papers cast for the PCRM and PLDM to be recounted;

– the ballot papers in the form of sheets of A4 paper which were used in the polling stations abroad where there was a shortage of ballot papers to be declared invalid.

58. On 6 December 2010, the PCRM lodged an application with the Constitutional Court for a recount of the ballot papers from the early parliamentary elections of 28 November. On 10 December, the Constitutional Court decided to authorise a recount of the ballot papers. On 20 December, the CEC, after a complete vote recount announced that the PCRM obtained 308 voters more then after the first count. Nevertheless, the seat distribution remains the same: PCRM – 42 seats; LDPM – 32; PDM – 15; and LPM – 12 seats.

8. Conclusions

59. The ad hoc committee of the Assembly which was asked to observe the early parliamentary elections of 28 November 2010 in Moldova has concluded that these elections complied with most of the commitments made to the OSCE and the Council of Europe; they were conducted transparently and impartially, and the variety of candidates offered voters a genuine choice.

60. The ad hoc committee was pleased to note that polling day was calm. A pre-electoral visit made by the Assembly Delegation to Chişinău on 27 October, one month before the ballot, had addressed the citizens of Moldova, emphasising that "the active participation of citizens in the elections, and continuous trust in the democratic process, despite current lassitude, could help to end the political crisis". The ad hoc committee wishes to congratulate the citizens of Moldova on their enthusiasm, democratic conduct and active participation in the ballot, despite the fact that this was the third parliamentary election in two years.

61. The ad hoc committee again stresses the fact that it is now for the main political players, including the parties now in parliament, whatever their political position, to ensure at last the operational functioning of public institutions and to place the general interest of the country above personal or political disagreements.

62. The campaign was pluralistic, but, in contrast, it took place in a tense atmosphere because of the polarisation of society. The ad hoc committee regrets that the election campaign was used by certain political leaders to aggravate still further the divide in Moldovan society on the difficult issues of the country's recent history, namely the Ribbentrop-Molotov Pact, the commemoration of 28 June as the Day of Soviet Occupation, evaluation of the communist legacy, relations with Romania and the Russian Federation, the status of the Russian language, as well as other sensitive questions.

63. In this respect, the ad hoc committee is convinced that it is a direct responsibility of the main political players to start a civilised dialogue through the organisation of public debates with broad participation of civil society and historians, so as to come to terms with the past and to create the necessary conditions for reconciliation between the different categories of citizens, rather than systematically using the painful issues of history for electoral purposes.

64. On 18 June 2010, approximately four months before the date of the election, the Moldovan authorities amended the Electoral Code, particularly Article 87 on the allocation of seats in parliamentary elections. Prior to this amendment, the Electoral Code provided for seats to be allocated using the D'Hondt formula, which favours the parties which have obtained the largest numbers of votes. The system was replaced by an apparently unique method which gives a significant advantage to small parties.

65. In this context, the ad hoc committee considers that the choice of electoral system is a sovereign decision for each state. However, this choice must be made on the basis of public consultation and broad agreement among the main political parties. The committee ad hoc recalls the common conclusions of the IMOE which stresses that "the adoption, four months before the elections and without public consultations, of a new mandate allocation system, which favours small parties led to the wide perception that the change was designed to benefit the parties in power. This is not in line with the Venice Commission Code of Good Practice in Electoral Matters".

66. The electoral administration as a whole functioned transparently and impartially. Despite the efforts made to improve the quality of the voter lists, their accuracy still remains problematic.

67. Media coverage was on the whole well balanced, including that provided by Teleradio Moldova's public broadcasters, which had previously tended to provide coverage more in favour of the parties in power. The ad hoc committee considers that the news-reporting environment, particularly in the private national TV channels, could be calmer, more tolerant and non-partisan, so as to avoid becoming a means of propaganda for any political party.

68. The Parliamentary Assembly of the Council of Europe will closely follow changes in the situation in Moldova in the context of its monitoring procedure.

9. Recommendations

69. In order to increase citizens' confidence in the democratic process in Moldova, particularly where elections are concerned, the ad hoc committee recommends that the following measures be taken:

– the newly elected parliament is urged to strengthen its co-operation with the Assembly's Monitoring Committee in order to improve still further the functioning of democratic institutions in Moldova and to pursue rigorous reform;

– having set up public institutions after the early parliamentary elections, the leaders of the main political forces should, without waiting for the next national elections, engage in constructive and responsible dialogue on the country's political system, in order to find the broadest agreement on possible amendments to the current constitution. The Assembly would be willing to make a contribution;

– as far as the Electoral Code is concerned, it is recommended that the Moldovan authorities, and more particularly the newly elected parliament, fully implement the recommendations made by the Venice Commission on 4 June 2010, in close co-operation with the Venice Commission and on the basis of broad agreement among the main political parties.

Appendix 1 – Programme

Friday, 26 November 2010

08.30-09.30 Ad hoc committee meeting:
- Opening of the meeting and information on the pre-electoral mission by Mr I. Saar, Head of the Delegation
- Briefing by other members of the pre-electoral mission
- Political situation and background, Ms B. Abraitiene, Special Representative of the Secretary General of the Council of Europe in Moldova
- Recent developments in the field of election legislation, Mr K. Olszewski, Venice Commission
- Practical and logistical arrangements, Secretariat

Joint Parliamentary Briefing

09.30-09.50 Opening by the Heads of parliamentary delegations:
- Mr T. Picula, Head of the Delegation of the Parliamentary Assembly of the OSCE
- Mr I. Saar, Head of the Delegation of the Parliamentary Assembly of the Council of Europe
- Mrs M. Macovei, Head of the European Parliament Delegation

09.50-10.15 Political background:
- Ambassador P. Remler, Head of the OSCE Mission to Moldova
- Mrs B. Abraitiene, Special Representative of the Secretary General of the Council of Europe in Moldova
- Mr D. Lorenz, Political Officer, European Union Delegation to the Republic of Moldova

10.15-11.15 Briefing by the OSCE/ODIHR Election Observation Mission:
- Introduction by Mr P. Eicher, Head of OSCE/ODIHR Election Observation Mission
- Political overview, campaign activities and media landscape: Ms D. Paprocka-Rzehak, Political Analyst and Mr I. Godarsky, Media analyst
- Legal framework and complaints: Mr D. Bisson, Legal analyst
- Election administration and Election day procedures: Mr A. Cayuso, Election analyst

11.30-13.00 Meetings with the representatives of political parties:
- Mr G. Petrenco, MP, Party of Communists of the Republic of Moldova
- Mrs Fruntasu, Vice-President of the Liberal Democratic Party of Moldova
- Mrs Fusu, Vice-President of the Liberal Party
- M. Tulea, Vice-President of the Democratic Party of Moldova
- M. Balan, MP, Representative of Moldova Noastra Alliance

13.00-14.30 Lunch Break

14.30-15.15 Meetings with the representatives of political parties:
- Mr S. Corobcean, MP, Social Democratic Party
- Mr A. Curararu, Independent candidate
- Mrs T. Ţîmbalist, Independent Candidate

15.15-16.00 Electoral Administration:
- Mr E. Ştirbu, Head of the Central Electoral Commission.

16.00-17.00 Panel with media representatives:
- Ms N. Gogu, Director, Independent Journalism Centre
- Mr P. Macovei, Director, Association for Independent Press (API)
- Ms A. Sirbu, Director, TV Moldova 1
- Ms A. Reazantev, general producer, NIT TV
- Mr C. Tănase, Director, Timpul de Dimineaţă

17.00-18.00	Panel with NGO Representatives: – Mr Postica, Deputy Director, Promo-LEX Association, election observation mission – Mr I. Botan, President, Association for Participative Democracy (ADEPT) – Mr S. Mereacre, President, East European Foundation (former Eurasia Foundation) – Mr S. Ostaff, Director, Resource Center for Human Rights NGOs in Moldova (CREDO)

Saturday, 27 November 2010

09.00-11.00	Briefing by the OSCE/ODIHR Election Observation Mission: – Observation forms: Mr A. Cayuso, Election Analyst – Area specific briefing by Long-Term Observers (LTOs) for the teams operating in Chisinau
11.00	Meeting with interpreters and drivers

Sunday, 28 November 2010

Election day	Observation of opening, voting and vote count

Monday, 29 November 2010

08.30-9.30	Debriefing of the ad hoc committee
14.00	Press conference

Appendix 2 – Press release of the international election observation mission:

Moldovan parliamentary elections met most international standards

Strasbourg, 29.11.2010 – Yesterday's early parliamentary elections in Moldova met most OSCE and Council of Europe commitments, the international observers concluded in a statement issued today.

The observers noted that the elections were administered in a transparent and impartial manner and a diverse field of candidates provided voters with a genuine choice. Election day was assessed positively although some procedural errors were observed. Civil and political rights were respected during the election campaign. A lively and diverse media covered the campaign actively and provided voters with varied information. A number of amendments to the electoral code improved the electoral framework overall. However, the introduction of a new mandate allocation system – shortly before the elections and without public consultations – was problematic. The quality of voter lists remained a weak point and led to diminished public confidence. Further efforts are needed to remedy remaining deficiencies and strengthen public confidence.

"These elections reflected the will of the people, and were a positive step in Moldova's democratic development. We commend the competitive and pluralistic environment of this country, and hope that the political forces will act responsibly in building bridges and bringing Moldova out of this political crisis," said Tonino Picula, who led the short-term OSCE observer mission and headed the delegation of OSCE Parliamentary Assembly.

"We congratulate the citizens of Moldova on their democratic conduct both during the election campaign and on the election day itself with a remarkably high turnout. The delegation insists once again that it now belongs to the main political stakeholders, whatever their political position, to assure, at last, the functional operation of public institutions and to put the interests of the country as a whole over and above their personal or political disagreements," said Indrek Saar (Estonia, SOC), head of the delegation of the Parliamentary Assembly of the Council of Europe (PACE).

"The European Parliament delegation observed real democratic elections, and witnessed the clear improvement of the election process since the last elections. The election results reflect the will of the people. When elections are held every year, it is politics in crisis and not politics as usual. For us these elections mean that Moldova is perceived as the flagship of the Eastern Partnership of the EU," said Monica Macovei, head of the delegation of the European Parliament.

"I am pleased that we can issue an overall positive assessment. These elections have strengthened democracy in Moldova. But a number of deficiencies remain to be tackled. Every effort should be made to build broad-based support among political parties for the outstanding reforms of the electoral framework," said Peter Eicher, head of the election observation mission of the OSCE Office for Democratic Institutions and Human Rights (ODIHR).