Parliamentary Assembly
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COUNCIL OF EUROPE
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Resolution 1666 (2009)[1]
Final version

The functioning of democratic institutions in Moldova

Parliamentary Assembly

1. On 5 April 2009, parliamentary elections took place in Moldova. These elections were an essential test for Moldova's democracy and should have enabled the country to strengthen democratic institutions and make progress towards European integration. In the view of the Parliamentary Assembly's ad hoc committee which observed the elections, "they met many international standards and commitments but further improvements were required to ensure an electoral process free of undue administrative interference and to increase public confidence". The debates on public television held on the principle of a ballot to determine the speakers should have given candidates the opportunity to get their messages across. Nevertheless, it was noted that the opposition did not get across its ideas and programmes. Furthermore, the observers noted that:

1.1. the electoral process was marked by a number of significant procedural shortcomings and that significant improvements in the electoral process were required;

1.2. the state broadcaster blurred the distinction between the coverage of duties of state officials and their campaign activities;

1.3. although the campaign environment was pluralist, peaceful and without any major violent incidents, it was marked by frequent allegations of intimidation of voters and candidates, as well as by claims of misuse of administrative resources.

2. The Parliamentary Assembly regrets that some of the problems are identical to those detected in previous elections in Moldova and, most recently, during the local elections of 3 and 17 June 2007. In this respect, the Assembly recalls its Resolution 1572 (2007) on the honouring of obligations and commitments by Moldova, in which it:

2.1. underlines that such recurrent problems in Moldovan electoral practice are not in line with the obligations that Council of Europe member states which are aspiring to build a pluralist democratic society based on the rule of law must respect;

2.2. invites the authorities to carefully study and take into account the conclusions of the international observers on the local elections of June 2007, with a view to eliminating all shortcomings with respect to European standards for democratic elections in order to conduct totally free, fair, and democratic parliamentary elections in 2009.

3. The Assembly is seriously concerned about the Moldovan authorities' partial compliance with its earlier recommendations regarding the improvement of the electoral process and the strengthening of the state's democratic institutions before the parliamentary elections of 5 April 2009. The amendments introduced to the Electoral Code in April 2008 raised the electoral threshold from 4% to 6%, did not provide for electoral coalitions of political parties and socio-political organisations and introduced a ban on the exercise of elevated public functions by Moldovan citizens holding multiple nationality. The combined effect of these amendments was to restrict the opportunities for a number of political forces to participate effectively in the political process,

1. *Assembly debate* on 29 April 2009 (15th Sitting) (see Doc. 11878, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mrs Durrieu and Mr Vareikis). *Text adopted by the Assembly* on 29 April 2009 (15th Sitting).

thus weakening pluralism. Despite the holding of debates on the principle of a ballot to determine the speakers, the opposition did not take advantage of this opportunity to enlarge on their ideas and political programmes, but employed this time in arguing with each other.

4. The Assembly deplores the fact that the peaceful protest in front of the buildings of the presidency and the parliament which began on 6 April 2009, mainly at the initiative of young people who did not accept the results of the elections, degenerated on 7 April 2009 into a violent attack on, and destruction of, the buildings of the parliament and the presidency, as well as the destruction of several public buildings. The right to demonstrate is essential in a democracy. It is also a government's duty, and the duty of the authorities concerned, to ensure its citizens' right to security when public order is disturbed. It is always difficult to reconcile respect for these reciprocal rights. But there is no right which allows public buildings to be destroyed and burned down, thus endangering the lives of the people inside them. Consequently, the Assembly firmly condemns such acts of violence, which must never be used in a democratic society as a vehicle to express political opinions.

5. At the same time, the Assembly disapproves of the statements made by the Moldovan authorities immediately after the outbreak of violence, in which officials at the highest political level, without first having conducted a thorough investigation, accused the opposition of staging the violent protests in an attempt to organise a coup d'état. The Assembly believes that, in the circumstances, the authorities should have shown greater restraint in their statements in order to calm the situation.

6. The Assembly is strongly concerned about acts of violence that were committed by the police during the post-electoral events. According to the information available, more than 300 people were arrested and 9 are still being held in detention. These were reported by numerous international and domestic non-governmental organisations, as well as by the National Preventive Mechanism against Torture, established under the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. These include:

6.1. certain alleged cases of "beating and ill-treatment";

6.2. violations of the right to a fair trial and of the right to an effective remedy, as defined by the European Convention on Human Rights (ETS No. 5) and the case law of the European Court of Human Rights;

6.3. disproportionate restrictions on freedom of access to information and freedom of the media, and attacks against journalists.

7. The Assembly urges that an independent and thorough investigation of all these allegations of violence be started immediately, and that those responsible for these violations be brought to trial. In this context, full co-operation needs to be established with the responsible bodies of the Council of Europe, particularly the Commissioner for Human Rights and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

8. With a view to improving confidence in the country's democratic institutions, the Assembly once more urges the Moldovan authorities to fully implement, in this particular context, the recommendations contained in its earlier Resolution 1572. In particular, the Assembly urges the authorities to:

8.1. resume reform of the electoral legislation, in co-operation with the European Commission for Democracy through Law (Venice Commission), in order to lower the electoral threshold for political parties, thus opening up the political process for more pluralism; immediately review the voters' lists in order to establish them definitively, introducing an obligation for regular review, and abolish in future supplementary lists; put in place mechanisms and procedures enabling the many Moldovan citizens residing abroad to exercise effectively their voting rights;

8.2. suspend the application of articles of the Electoral Code prohibiting people who hold multiple citizenship from exercising elevated public functions, while awaiting the judgment of the Grand Chamber of the European Court of Human Rights in the case of Tanase and Chirtoaca v. the Republic of Moldova;

8.3. continue national and local media reform, promoting in both law and practice media pluralism, and transform the state-funded television and radio channels into a genuine public broadcasting service offering to the population a plurality of views, and at the same time remove from the state ambit the written and audiovisual press controlled and financed by the local public authorities;

8.4. increase the effectiveness and professionalism of the courts and build up the confidence of the population in the effectiveness of domestic judicial remedies against alleged human rights violations;

8.5. further reform the police; create effective remedies against excessive force and violence by members of the police; set up training for police officers, so as to ensure that they always act in full compliance with the law and in conformity with the standards of the European Code of Police Ethics, which is enshrined in Committee of Ministers Recommendation Rec(2001)10 to member states on the European Code of Police Ethics;

8.6. considerably improve conditions of detention to bring them fully into line with European standards; transfer responsibility for pre-trial detention from the Ministry of Internal Affairs to the Ministry of Justice;

8.7. facilitate the access of human rights defenders to all places of detention, including those still administered by the Ministry of Internal Affairs;

8.8. ensure that all cases of police ill-treatment are subject to prompt, thorough, independent and impartial investigations and subsequent prosecution where appropriate; implement fully the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

9. The Assembly calls on Moldova and its neighbours and partners, particularly Romania, Ukraine and Russia, which are also members of the Council of Europe, to play a constructive role in calming the tensions and promoting dialogue between all the political stakeholders, while respecting the country's sovereignty and territorial integrity.

10. At the same time, the Assembly emphasises that all Moldovan political stakeholders, representing the majority and the opposition, must themselves shoulder their responsibilities, notably relating to the post-electoral situation, in order to resolve the current political crisis and to restart a normal political process. To this end, it recommends that:

10.1. all political stakeholders should recognise the legal force of the decision of the Constitutional Court confirming the results of the elections; anyone who disputes the result of the elections has the right to use any legal means available to them, including the European Court of Human Rights;

10.2. the authorities and all political stakeholders should immediately and resolutely condemn violence and commit themselves to using only democratic political means to defend their positions, ideas and programmes;

10.3. an independent, transparent and credible inquiry into the post-electoral events and into the circumstances which led to them must be held immediately, in addition to the independent investigation into all the aforementioned allegations of human rights violations;

10.4. the parties that successfully clear the electoral threshold and sit in the parliament should engage in a constructive dialogue within the framework of the parliamentary process in order to resolve the current political crisis and put the political process back on the right track; democratic debate must now take place in the parliament; the election of the future president of the country should offer a concrete opportunity to restore confidence in the democratic process;

10.5. at the same time, the parliamentary majority and the opposition should engage in an inclusive political dialogue with a wide participation of extra-parliamentary forces and civil society in order to develop their vision for the country’s future, on the basis of democratic principles and the European integration they subscribed to;

10.6. the new parliament should promptly draw up and adopt an action plan with concrete measures and deadlines on the implementation of the Assembly recommendations contained in this resolution, as well as commitments taken, as established in Resolution 1572 (2007) on the honouring of obligations and commitments by Moldova.

11. Therefore, the Assembly resolves to continue to give attention to the situation in Moldova and invites its Monitoring Committee, at its next meeting prior to the June 2009 part-session, to examine the progress achieved by the Moldovan authorities and the opposition with regard to the implementation of this and the previous resolutions, and to propose any further action to be taken as required by the situation.