

REPUBLIC OF MOLDOVA'S 2ND UNIVERSAL PERIODIC REVIEW (UPR) 2016

ELECTORAL RIGHTS IN THE REPUBLIC OF MOLDOVA

Electoral issues are being raised for the first time in the 2016 UPR which aim at policy and legislative change.



EMERGING ISSUES

UNEQUAL OPPORTUNITIES FOR INDEPENDENT CANDIDATES TO ENTER LEGISLATURE

DESCRIPTION

The legislative threshold of 2% for independent candidates to enter the parliament is excessive and represents a barrier to gather enough votes in order to enter the legislature.

According to the CCPR (General Comment No. 25 (57), #17), the right of persons to stand for election should not be limited unreasonably. According to OSCE guidelines (CDL-AD(2010)024) Electoral legislation may enact minimum vote thresholds for independent candidates to be elected to parliament. The Moldovan Parliament consists of 101 MPs elected in a single nationwide constituency. The threshold for passing in the Parliament is 6% - for political parties, 9% and 11% - for electoral blocs formed of 2 and 3 political parties and respectively 2% - for independent candidates. Over the 25 years of Moldova's Independence no independent candidate has passed the legislative threshold. In the 2014 parliamentary elections the number of independent candidates decreased to 4 in comparison to 19 independent candidates which entered the electoral campaign in 2010. Thus, the current electoral threshold is not only limiting the independent candidates but also discouraging them to run.

RECOMMENDATION

The legislature should consider amending the Electoral Code with the provision of changing the electoral threshold for independent candidates from "2%" to "a maximum of 1%" of the electorate.

SUGGESTED QUESTIONS

- How many times was the Electoral System/Electoral Code in the Republic of Moldova adjusted/amended and how many times was the threshold of independent candidates addressed?
- What were the arguments for setting the threshold of 2% for independent candidates to enter the Parliament while the parliament is composed of 101 MPs?

LACK OF A LEVEL PLAYING FIELD FOR INDEPENDENT CANDIDATES

DESCRIPTION

Discriminatory provisions regarding registration of independent candidates leads to their limitation of access to ballots.

According to the CCPR (General Comment No. 25 (57), #17), if a candidate is required to have a minimum number of supporters for nomination this requirement should be reasonable and not act as a barrier to candidacy. It is the duty of the State to ensure equal regulations for parties and independent candidates regarding ballot access and candidacy restrictions. The ballot access rules however, cannot be at a level which is unachievable for independent candidates compared with parties. In order to register a party in the Republic of Moldova, one needs 4,000 signatures. On the other hand, in order to register an independent candidate in the electoral race for Chisinau mayorship, one needs - 10 000 signatures, while for the mayorship of Balti – 5,000 signatures. Thus, an independent candidate needs far more signatures than a party that would like nominate candidates to run for office in local public administrations. Another issue relates to independent candidates' campaign length –they only have the right to start collecting signatures for registration in the campaign when the electoral campaign starts and thus they have less time for campaigning in comparison with parties.

RECOMMENDATION

It is recommended the Parliament amends the Electoral Code in order to ensure equal chances for independent candidates and political parties during the registration process, specifically with regard to collection of signatures and candidates' registration timeframe.

The legislator should consider amending the Electoral Code with the provisions to ensure fair treatment of independent candidates when collecting signatures in subscription lists.

SUGGESTED QUESTIONS

- *How many legal complaints were filed by the independent candidates in regards to unequal terms and conditions of registration in the electoral campaign?*

LACK OF A LEVEL PLAYING FIELD FOR INDEPENDENT CANDIDATES

DESCRIPTION

Substantial discrepancies in setting the financial ceilings for independent candidates compared to candidates coming from political parties at General Local Level Elections.

According to the OSCE (Study No. 601 / 2010, CDL(2011)012rev*), in order to ensure equality of opportunities for the different political forces, electoral campaign expenses shall have an upper limit, appropriate to the situation in the country and fixed in proportion to the number of voters concerned. Thus, political parties have an advantage of being able to choose in which of the rayon level constituencies they can spend more on their candidates for either council or mayor and in which they can spend less, while independent candidates are limited to the rayon constituency magnitude in which they run.

RECOMMENDATION

For General Local Elections, CEC should establish a single campaign finance ceiling for all electoral candidates (independent candidates and candidates appointed by the political parties) at every electoral constituency level, as well as establish the obligation of drafting campaign financial reports for each electoral constituency in particular.

SUGGESTED QUESTIONS

- *What measures were carried out by Moldovan authorities for political parties campaign finance decentralization ?*

LACK OF EQUAL ENFRANCHISEMENT RIGHTS FOR MOLDOVAN CITIZENS

DESCRIPTION

Prohibition of parties from receiving donations from Moldovan citizens that work abroad leads to disfranchisement.

According to the OSCE (Study No. 601 / 2010 CDL(2011)012rev*), contributions from foreign States or enterprises must be prohibited. This prohibition should not prevent financial contributions from nationals living abroad. Recognizing the reasons for an out-of-country ban on donations in Moldova, one needs to appreciate the country's situation, with some 554,000 Moldovans of the population living abroad. At the same time it is a discriminatory provision in relation to these citizens since their in-country counterparts can donate an amount of 200 medium salaries per economy in a year (which in 2016 would amount to 1,100,000 MDL or 50 000 EUR) while the out of country Moldovan citizens – 0 MDL.

RECOMMENDATION

The legislator may wish to examine legal possibilities that would allow Moldovans living abroad to support financially political parties of their choice, without risk of exposing the Moldovan political landscape to an improper foreign influence.

SUGGESTED QUESTIONS

- *What are the measures undertaken by the Moldovan authorities that ensure Moldovan citizens who work abroad are able to participate fully in the political life of Moldova, including through making donations for political parties?*

LACK OF FEASIBLE STRATEGY TO FIGHT GENDER INEQUALITY

DESCRIPTION

Lack of affirmative measures for ensuring gender equality in the public and political life in Moldova through public funding.

Women are in a disadvantaged position when it relates to access to campaign funds. A possible solution to this problem was identified and proposed to the Government and legislators during the elaboration of the law on election campaign and political parties' funding, which envisaged in the draft version that political parties who would be sensitive to gender issues should get financial incentives - 20% yearly of the total amount from the state budget designated for the parties. Unfortunately, the provision with the financial incentives was excluded from the adopted law on political parties and campaign finance.

RECOMMENDATION

The legislator should consider reinstating financial incentives for political parties that will promote women on parties' lists and decision making positions.

The legislator should ensure the implementation of law no. 180 on gender equality (adopted on April 14, 2016) and consider improving the legal framework on this issue by guaranteeing that a gender quota will be applied for every five seats in the Parliament.

SUGGESTED QUESTIONS

- *What are the mechanisms for Moldovan authorities to implement law no. 180 of April 2016?*
- *What are the mechanisms for Moldovan authorities to reinstate the financial incentives for parties that would promote women on winning positions on electoral lists?*