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## Observation of the constitutional referendum in Moldova (5 September 2010)

Report

Ad hoc Committee of the Bureau of the Assembly

Rapporteur: Mr Egidijus VAREIKIS, Group of the European People's Party

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### 1. Introduction

1. At its meeting on 25 June 2010, the Bureau of the Parliamentary Assembly agreed to set up a 30-member ad hoc committee to observe the constitutional referendum in Moldova on 5 September 2010, subject to further developments. Once the official invitation had been received from the Speaker of the Moldovan Parliament, Mr Andreas Gross was appointed chairperson of the ad hoc committee. However, as he was finally unavailable, Mr Egidijus Vareikis was subsequently appointed chairperson 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:

Egidijus VAREIKIS, Head of delegation

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

Jorge BACELAR GOUVEIA	Portugal
Márton BRAUN	Hungary
Nikolaos DENDIAS	Greece
Anna LILLIEHÖÖK	Sweden
Dariusz LIPIŃSKI	Poland

Kent OLSSON	Sweden
Maria STAVROSITU	Romania
Egidijus VAREIKIS	Lithuania

**Socialist Group (SOC):**

Lise CHRISTOFFERSEN	Norway
Angelika GRAF	Germany
Geert LAMBERT	Belgium
Doris STUMP	Switzerland

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

Cecilia KEAVENEY	Ireland
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**Unified European Left Group (UEL):**

Jaakko LAAKSO	Finland
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**Venice Commission:**

Konrad OLSZEWSKI	Poland
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*Secretariat:*

Chemavon CHAHBAZIAN, Deputy Head of the Interparliamentary Co-operation and Election Observation Unit

Yann DE BUYER, Secretariat of the Parliamentary Assembly

Franck DAESCHLER, Interparliamentary Co-operation and Election Observation Unit

Nathalie BARGELLINI, Press Officer, Secretariat of the Parliamentary Assembly

Gaël MARTIN-MICALEFF, Elections and Referendums Division, Venice Commission

4. The Assembly's ad hoc committee was the only European parliamentary body to observe the constitutional referendum in Moldova.

5. The ad hoc committee met in Chisinau from 3 to 6 September 2010. The programme of the meetings is set out in Appendix 1.

6. On 3 and 4 September, the ad hoc committee met Mr Ghimpu, acting President, Speaker of the Moldovan Parliament, representatives of the main political parties registered by the Central Electoral Commission (CEC) to take part in the referendum campaign, the Chairperson of the Central Electoral Commission, the President of the Constitutional Court, the Special Representative of the Secretary General of the Council of Europe in Chisinau, representatives of the international community and representatives of civil society and the media.

7. On polling day, the ad hoc committee split up into ten teams and observed the voting in the capital, Chisinau, and the surrounding areas and in the following towns and regions: Calarasi, Cornesti, Ungheni, Falesti, Singerei, Nisporeni, Balti, Comrat, Orhei, Dubasari, Criuleni, Corjova, Bender and Anenii Noi, as well as in a large number of villages. The ad hoc committee visited 147 polling stations, or approximately 7.5% of the 1 957 polling stations throughout Moldova.

8. The ad hoc committee 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, looking beyond their personal or political quarrels. The press release is set out in Appendix 2.

9. The ad hoc committee to observe the constitutional referendum wishes to thank 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 efficient logistical support.

## 2. Political and legal context in the run-up to the constitutional referendum

10. The Parliament elected on 5 April 2009 proved unable to elect a new President of the Republic of Moldova. Under the Constitution, the election of the President requires a two-thirds majority or at least 61 of the 101 members of parliament voting in favour. The Communist Party of the Republic of Moldova (PCRM) won 60 seats in the election of 5 April; however, on two occasions, it fell short of the one decisive vote that would have enabled a new President to be elected. The acting President therefore dissolved Parliament on 16 June 2009.

11. In the early parliamentary elections held on 29 July 2009, five parties passed the 5% electoral threshold and won seats in parliament: the Communist Party of the Republic of Moldova (PCRM) with 48 seats, the Liberal Democratic Party (PLDM) with 18 seats, the Liberal Party (PL) with 15 seats, the Democratic Party of Moldova (PDM) with 13 seats and the Moldova Noastra Alliance (AMN) with seven seats.

12. On 8 August 2009, the four “non-communist” parties which had passed the minimum threshold (PLDM, PL, PDM and AMN) established a coalition called the “Alliance for European Integration” (AEI). Together, these parties held 53 seats, but they were eight votes short of the number required to elect a President. At the same time, the PCRM, which had won 48 seats, announced that it was willing to go into opposition. On 14 August, the Constitutional Court confirmed the lawfulness of the elections and the results.

13. The newly elected parliament made two attempts to elect the President of the Republic. The first attempt took place on 10 November 2009, but failed because the members of the PCRM did not take part in the vote. The candidate presented by the AEI (the leader of the Democratic Party, Mr Lupu) obtained 53 votes (the minimum under the Constitution being 61). On 1 December 2009, the acting President set up a committee on constitutional reform, but the PCRM refused to take part in its work.

14. The second attempt took place on 7 December 2009, after lengthy consultations between the majority and the PCRM. It also failed, with Mr Lupu obtaining only 53 votes from the members of the majority coalition. Once again, the PCRM did not take part in the vote.

15. In December 2009, the Constitutional Court asked the Venice Commission to give an opinion on a case brought by a group of Communist Party members of parliament concerning the interpretation of the articles of the Constitution relating to the election of the President and the dissolution of the Parliament of Moldova. At its 82nd plenary session, the Venice Commission adopted an opinion for the Moldovan Constitutional Court.

16. On 15 March 2010, the Venice Commission decided to publish its recommendations concerning possible ways of resolving the institutional crisis. In a press release, the Venice Commission made a proposal on the steps to be taken concerning constitutional reform, which it believed was in line with the requirements of the current Constitution. It contained the following elements:

- A proposal to revise Article 78 of the Constitution to make it easier to elect the President of the Republic, which should be agreed as soon as possible by the leaders of the political parties represented in parliament. Such an agreement could be witnessed by representatives of the Council of Europe and the European Union;
- The proposal could provide for a lower majority in parliament to elect the President of the Republic as from the third round of voting or for direct election of the President by the people;
- The proposal should be voted by the current parliament as soon as possible following its approval by the Constitutional Court, but would take effect only for the next parliament;
- Parliament should be dissolved after this vote. This would still be in accordance with the requirement to dissolve parliament within a reasonable timeframe, namely the time needed by parliament to pass amendments to the Constitution to avoid the current crisis recurring in future;
- A more comprehensive revision of the Constitution could take place during the term of office of the newly elected parliament.

17. During his official visit to Moldova from 22 to 25 March 2010, the President of the Parliamentary Assembly called on all political stakeholders to sit down at the negotiating table and come to an agreement about the steps to be taken and the amendments to be made to the Constitution to overcome the institutional

deadlock in the light of the Venice Commission's recommendations. On 25 March, the Moldovan Parliament set up an ad hoc committee to prepare amendments to Article 78 of the Constitution. It included representatives of all the political parties in Parliament.

18. The PCRM and the AEI each subsequently drew up their own proposed amendments to Article 78 and submitted them to the Constitutional Court. The Court considered the two proposals on 29 April and 4 May 2010 and concluded that both were consistent with the current Constitution, although they were diametrically opposed.

19. The PCRM proposed that the system of the President of the Republic being elected by parliament be retained, but with the addition of a third round of voting and a gradual reduction in the majority required. Accordingly, the number of votes required would be 61 in the first round and 57 in the second, while an absolute majority would suffice to elect the President of the Republic in the third round. If parliament failed to elect the head of state after three rounds of voting, the acting President would be required to dissolve parliament within ten working days and early elections would have to be held within 60 days of the dissolution.

20. The AEI proposed that direct elections be introduced for the President of the Republic. The amendments proposed by the Alliance concerned only Article 78 of the Constitution.

21. Under the current Constitution, parliament must wait for a period of at least six months before voting on proposed amendments to the Constitution. The majority required to pass a law amending the constitution is two-thirds (67 votes). Neither the AEI nor the PCRM has a sufficiently large majority to pass constitutional amendments. An alternative would be to submit to referendum a proposal to amend Article 78 of the Constitution and introduce direct elections for the President of the Republic.

22. The solution to the political crisis was the culmination of lengthy mediation efforts by the Council of Europe. The Council of Europe's Secretary General, Thorbjørn Jagland, was invited to Chisinau on 2 and 3 June 2010 to mediate between the two sides in the search for a solution to end the political crisis. At the end of his visit he said: "I have been in contact with all four leaders of the Alliance and the leader of the Communist Party in an effort to find a way to amend Article 78. It was not possible to reach a broad compromise between the Alliance and the Communist Party on this and the only way forward was to bring the decision to the people, which is normal in any democracy. The solution is supported by the Council of Europe's Venice Commission and the European Union. I appeal to all citizens in Moldova to exercise their right to vote in the coming referendum."

23. On 6 July, the Constitutional Court ruled that the bill on the revision of Article 78 on the method of electing the President of the Republic was constitutional. On 7 July, the AEI set 5 September as the date for the constitutional referendum, with the following question: "Would you agree with the Constitutional amendment, which would allow the election of the President of the Republic of Moldova by the entire population?" Voters could reply yes or no. The ballot paper also set out the four paragraphs of the new wording of Article 78 of the Constitution.

24. Alongside the debates and decisions concerning the method of electing the President of the Republic, the Moldovan authorities officially requested the Venice Commission to prepare an opinion on the 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 into account the earlier recommendations by the Venice Commission and the Parliamentary Assembly concerning electoral thresholds and 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 cases where supplementary voters' rolls are to be used at the poll.

25. The referendum would pass if 50% of the votes cast plus one were in favour. On 18 June 2010, parliament amended the Electoral Code and reduced the turnout requirement for the results to be valid from 60% to 33% of the voters on the voters' roll.

### **3. Electoral administration**

26. The constitutional referendum in Moldova was 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. Some arrangements for the formation and operation of the CEC were altered in the revision of the Electoral

Code. From now on, one member is appointed by the President and the other eight are appointed by the political parties represented in Parliament according to the number of seats they hold. If a member of the CEC's term expires during an election campaign, it is automatically extended by 90 days until a new member is appointed.

27. The CEC established 35 district electoral councils; the other two usually established in Bender and on the left bank of the Dniestr (in Nistru) were not set up. The DEC's comprise 11 members, two of whom are appointed by the district court and the others by the parties represented in parliament. Those appointed by the courts must not be affiliated to any political party. The polling stations have five to 11 members, depending on the number of voters registered with them. The chairpersons, vice-chairpersons and secretaries of the various electoral bodies are elected by their members by secret ballot.

28. The timeframe for holding the referendum was shortened from 60 days to 44 days, which meant that all electoral deadlines were automatically reduced by a quarter. The CEC altered the rules concerning the operation of the PEBs, with the effect that only the secretaries of the relevant polling stations could draw up the supplementary rolls on polling day.

29. The CEC had no experience of holding referendums, this being the first referendum held in Moldova since 1999. In this respect, the ad hoc committee concluded that the operation of the CEC was professional and transparent in overall terms and that the complaints and appeals process was open and transparent both at CEC and at court level. Overall, the CEC met its responsibilities as regards the consideration of pre-polling day complaints and adjudicated them in a timely manner and in compliance with the law.

#### **4. Registration of voters and political parties participating in the referendum**

30. According to the CEC's official figures, 2 662 052 constituents in all were on the rolls for the referendum of 5 September, about 83 000 more than in the previous elections on 29 July 2009. The number of constituents on the supplementary rolls was 59 571.

31. In accordance with the government's recommendations, the CEC opened 75 PEBs in foreign countries including 43 PEBs outside diplomatic representations. According to the CEC data, some 130 000 ballot papers were dispatched for the PEBs abroad, and some 200 000 according to the representatives of the opposition. The ad hoc committee was not able to verify the accuracy of these figures. For the first time, Moldovan citizens abroad could vote in PEBs outside diplomatic representations. This new facility brought criticism from the opposition concerning possible manipulation of votes in these PEBs and absence of oversight by observers from the opposition parties.

32. As to the functioning of the PEBs outside diplomatic representations, they each had seven members, five of them representing the five parliamentary parties, one representative of the CEC and the president appointed by the Moldovan embassy in the country concerned. The largest number of PEBs (20) was opened in Italy. From 27 July onwards, nationals of Moldova in foreign countries could have themselves entered in the register on the CEC's website. The Council of Europe, in close co-operation with the European Union, established an action plan intended to help the Moldovan authorities with the organisation and observation of the referendum abroad.

33. The voter registration system used gives the local authorities responsibility for keeping the registers up to date before the referendum, resulting in non-uniformity of arrangements for carrying out this process. The voters' rolls were drawn up by the local authorities before 10 August, then, after verification, transmitted to the district electoral councils. The updated rolls were meant to be posted in the polling stations and on the CEC website on 16 August, but this deadline was not met in a considerable number of polling stations owing to administrative delays. Voters could report any inaccuracies up to 30 August.

34. The inaccuracies of the rolls remained one of the disturbing questions of the 5 September referendum. 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 errors therein. For that purpose, the local executive authorities were asked to submit an electronic copy of their electoral rolls to the CEC by 20 August, but the deadline was not met.

35. The inaccuracy of electoral rolls in Moldova remains a matter of concern which must be settled as speedily as possible, for at least two obvious reasons: to obviate the risk of double voting and to increase the confidence of Moldovan citizens in the electoral process.

36. As happened in the previous elections, there was no ballot in Transnistria, which since 1992 has for practical purposes evaded the Moldovan Government's control. The CEC opened 11 regular polling stations in the security zone for Moldovan citizens resident in Transnistria. Voters resident in Transnistria, in the municipality of Bender and a number of villages in the Causeni region and who, on the date of the referendum, were in Chisinau, were able to vote at its polling station No. 113.

37. On a trial basis, the CEC introduced for the first time a computerised electoral register for this referendum in 43 PEBs in the centre of Chisinau so as to avert the danger of multiple voting and improve the polling system.

38. Of the 30 political parties registered with the Moldovan Ministry of Justice, 25 registered with the CEC to take part in the referendum campaign and 16 of these, including the four belonging to the AEI stated that they would conduct the campaign for a "Yes" vote, and one for a "No" vote, while the PCRM, with two other parties, were in favour of boycott; at the time of registration with the CEC, five parties had not yet determined their position.

## **5. Referendum campaign**

39. The referendum campaign took place in the continuum of the political and institutional crisis which Moldova entered after the parliamentary elections on 5 April and 29 July 2009. The campaign was pluralist, but its atmosphere was tense as a result of the political polarisation and accusations aimed chiefly at identifying culprits for the political crisis.

40. The official campaign commenced after the Moldovan Parliament's decision on 7 July to organise the constitutional referendum on 5 September. The decision was carried by 52 votes, the PCRM parliamentarians not having taken part in the vote. Thereafter the PCRM also reversed its position by stating that it would drop its protest agenda and would be ready to support the adoption in parliament of amendments to Article 78 of the Constitution instituting direct election of the President of the Republic. The AEI leaders said that they would not countermand their decision to hold the referendum on the choice of balloting method.

41. Throughout the referendum campaign, the PCRM accused the authorities of infringing Article 143 of the Constitution and Article 150 of the Electoral Code requiring parliament to consider the Constitutional Court's decision on constitutional amendments six months after the date of delivery of the Court's decision. Another important event during the referendum campaign was the Constitutional Court's decision of 3 August that the PCRM leader, former national President, Mr Voronin, could not seek a third mandate at the next presidential election if the results of the referendum were positive. Other accusations concerned the non-dissolution of Parliament after 16 June, and the creation of the additional PEBs abroad, outside the Moldovan diplomatic representations. According to the PCRM representatives, it was possible for the authorities to commit fraud in these PEBs, where the political parties would have no representatives.

42. Concurrently, the PCRM organised a series of protests and called on its sympathisers to boycott the referendum with a clear aim: if the turnout was less than 33.33% of the constituents on the rolls, the results of the referendum would be invalidated. The representatives of some 70 PCRM-controlled villages and localities signed a declaration asking the citizens not to participate in the referendum.

43. According to the representatives of the AEI, since the PCRM controlled the local authorities in certain regions, it used the administrative resources and staff to carry out the boycotting campaign. The Prime Minister, Mr Vladimir Filat, issued a warning to the local government representatives, asking them to refrain from participating in the boycott; otherwise the competent authorities might undertake judicial investigations.

44. The PCRM lodged a complaint against the Prime Minister, who had asked the security services to conduct investigations of local government representatives engaging in the boycotting campaign. On 20 August, the CEC dismissed the PCRM's complaint, holding that the Prime Minister's warning was in accordance with the law. In the same decision, the CEC also considered that the Communist opposition was entitled to boycott the referendum by virtue of its right to express "disagreement".

45. The ad hoc committee wishes to point out that in a referendum campaign, the administrative authorities have a duty of neutrality. In that respect, it stresses the importance of Article 3.1, paragraph b), of the Venice Commission's Code of Good Practice on Referendums, which stipulates: "Contrary to the case of elections, it is not necessary to prohibit completely intervention by the authorities in support of or against the proposal submitted to a referendum. However, the public authorities (national, regional and local) must not

influence the outcome of the vote by excessive, one-sided campaigning. The use of public funds by the authorities for campaigning purposes must be prohibited”.

46. The referendum campaign featured other issues or events that divide Moldovan society. For example, the National Liberal Party (PNL) distributed an advertisement asking its voters to return a Head of State who would promote union with Romania. After the complaint lodged by the PCRM, the CEC instructed the PNL to withdraw this advertisement from all media. The PNL appealed before the Chisinau Court of Appeal, which overturned the CEC’s decision on 24 August. The PCRM challenged the Court of Appeal ruling before the Supreme Court, which upheld it on 28 August.

47. Another divisive issue during the referendum campaign was the communist legacy. The acting President of Moldova, Mr Ghimpu, signed a decree on the commemoration of 28 June as a “Day of Soviet Occupation”. The Constitutional Court, after hearing the complaint of the PCRM, ruled that the Presidential decree was unconstitutional on the ground that the acting President had attempted to assess the historical facts from a legal standpoint. During the referendum campaign, the acting President said that he contemplated signing another decree on the condemnation of the Ribbentrop-Molotov Pact, and that it was necessary to draft a law on lustration.

48. While the parties of the Alliance showed their united resolve to censure the policy of the PCRM and to reach the decision to hold the constitutional referendum, they seemed far less convincing and often divided on the questions of evaluating the communist legacy or the future AEI candidatures for the presidential election.

## **6. Media environment**

49. The media coverage of the election campaign is regulated by the Electoral Code, the Broadcasting Code and the regulations of the CEC. Audiovisual media, particularly the public television channel Moldova 1 and Radio Moldova, are the country’s chief sources of information, especially in the rural regions, since they cover virtually the entire country.

50. On 16 July 2010, the CEC approved the regulations on the media coverage of the referendum campaign. The CEC asked the Audiovisual Co-ordinating Council (CCA) to carry out surveillance of the media coverage and submit twice-monthly reports on the media coverage to the CEC. Under the regulations on media coverage, the media are required to ensure equal conditions for all participants in the referendum, and the debates should not be reserved for political parties alone but also open to the representatives of civil society.

51. The CCA published the list of media in charge of coverage at national level (over 60% of the population), required to devote a proportion of their air time to the debates on the referendum. These are four TV channels (Moldova-1, Prime, 2 Plus, NIT TV) and six radio stations (Radio Moldova, Antenne-C, Vocea Basarabiei, Noroc, Hit FM and Europe Plus Moldova). Surveillance was applied as from 26 July. The first televised debate on the public channel “Moldova 1”, presenting a series of ten debates, began on 13 August, and the last took place on 3 September.

52. Some NGOs criticised the work of the CCA which allegedly did not comply with deadlines for publication of the list of media required to ensure the media coverage of the referendum campaign. Moreover, the CCA website contained no information on the names of the owners of the media.

53. In general, the ad hoc committee found that the media made efforts to provide coverage for all political parties, ensuring the pluralism of the opinions expressed, particularly in the printed press, and reader access for the opposition parties to nationwide public television channels. The Council of Europe and CEC experts arranged training for the journalists handling the media coverage of the referendum.

## **7. Polling day**

54. The members of the ad hoc committee acknowledged that the ballot was well organised and took place in a calm and orderly manner in an untroubled atmosphere. The polling stations opened and closed on time (7 am-9 pm). None of the teams reported a want of electoral material at the opening. No campaigning activity or material or any unauthorised presence were reported inside or in the immediate vicinity of the polling stations visited. All teams observed the low turnout both in towns and in rural localities, but no instance of pressure on voters was reported. In some villages they observed rare cases of voters who held their ballot papers open on leaving the polling booth and before placing them in the ballot box, so that their choice was visible to all.

55. The members of various teams criticised the present procedure of stamping voters' identity documents to prevent multiple votes, which is inimical to the secrecy of the ballot. The question of secrecy during the constitutional referendum was of major importance given that certain political forces had called for a boycott of the referendum, and the presence or absence of a stamp on an identity card could furnish proof of participation or otherwise in the boycotting of the referendum.

56. Throughout the day, the members of the ad hoc committee noted the presence of many observers from the principal political parties participating in the referendum, and of non-party national observers.

57. In the polling stations where the teams were present for the count, this took place openly, speedily and generally in accordance with the procedures.

58. The turnout at the referendum was 30.29%, representing 818 429 voters of whom 707 468 voted in favour and 97 999 against. The biggest turnouts were in Telenesi (41.12%), Nisporeni (37.65%), Orhei (37.60%) and Chisinau (30.7%). The lowest turnout was observed in the Gagauz region (8.62%), in Taracila (12.10%) and in Balti (18.90%). In compliance with the Electoral Code, the results of the constitutional referendum are invalid because the minimum threshold of 33.33% was not reached.

## 8. Conclusions

59. The Assembly's ad hoc committee responsible for observing the constitutional referendum in Moldova concludes that polling day took place in a calm and orderly manner. The citizens participating in the referendum were generally able to make their choice freely. The ad hoc committee, however, deplors the low turnout at the referendum.

60. The ad hoc committee notes that since the last parliamentary elections on 29 July 2009 and during the period leading up to the constitutional referendum, the various Council of Europe bodies made considerable efforts to help Moldova out of the institutional crisis. In that regard, the ad hoc committee would emphasise that it henceforth rests with the political players, whatever their stance, to propose solutions for bringing stability to the operation of the institutions in the general interest of the nation, overcoming their personal or political quarrels, and to restore trust between the principal political forces as well as the population's confidence in the electoral process.

61. Moldova's political leaders, irrespective of their political affiliations, should conscientiously analyse the results of the referendum of 5 September and draw the appropriate lessons at political level.

62. A referendum is an exercise in direct democracy not limited to polling day. The referendum campaign took place in the context of the political and institutional crisis that followed the two parliamentary elections of 2009. The ad hoc committee found that the atmosphere of the referendum campaign was marred by accusations levelled at political leaders of all persuasions, chiefly intended to single out culprits for the political crisis. The following factors probably had an impact on the citizens' poor participation in the referendum, although on the evidence of various credible public opinion polls, about two thirds of the population are believed to be in favour of directly electing the country's President:

- the referendum campaign coincided with the spell of intensive activities in the agricultural sector of an agrarian country;
- the referendum campaign was short;
- some political leaders and potential candidates for the presidential election, convinced that the positive results of the referendum were in no doubt, conducted a presidential campaign during the referendum campaign;
- the lack of effective co-ordination between different political forces who came out in favour of changing the balloting method for the presidential election;
- the campaign for a boycott conducted by the PCRM and its allies.

63. The ad hoc committee would emphasise that during a referendum campaign, the administrative authorities have a duty of neutrality. In that respect, it stresses the importance of Article 3.1, paragraph b), of the Venice Commission's Code of Good Practice on Referendums (see paragraph 45).

64. The call for boycott issued by certain political parties to some extent accounts for a large number of voters not taking part in the referendum. The ad hoc committee considers that while boycotting the referendum may be regarded as the choice of a given political force for expressing its disagreement with the



referendum, that choice nevertheless commits the responsibility of the political forces which have discouraged their electorate from exercising its right to vote.

65. The electoral administration as a whole displayed professionalism and acted in a transparent manner. Despite the efforts made to improve the quality of the electoral rolls, their accuracy remains problematic. The proper management of lists of voters is essential for guaranteeing equity in the conduct of elections and referendums and strengthening the public's confidence in the electoral process.

66. Overall, media coverage was balanced. The ad hoc committee noted that the media made an effort to deliver coverage of all political parties, ensuring the pluralism of the opinions expressed, particularly in the printed press, and give the opposition readier access to the nationwide public television channels.

67. The ad hoc committee calls upon the Moldovan authorities to hold early parliamentary elections in 2010 as the political players undertook to do vis-à-vis the Council of Europe, in order to guarantee all the conditions required for all citizens of Moldova to freely express their will.

68. The Parliamentary Assembly will keep close watch on the development of the situation in Moldova as part of its monitoring procedure.

## **9. Recommendations**

69. To bolster the citizens' confidence in the democratic process in Moldova, the ad hoc committee recommends the following measures:

- The Parliament newly elected after the early parliamentary elections is encouraged to increase its co-operation with the Monitoring Committee in order to improve the functioning of the democratic institutions in Moldova still further and proceed with stringent reforms;

- After the early parliamentary elections, the leaders of the main political forces should straightway enter into a constructive, responsible dialogue on the country's political system in order to achieve the broadest possible consensus on the amendments to the present Constitution that may be required before the actual procedure is addressed. The Parliamentary Assembly would be ready to make a contribution to this;

- Considering the imminence of the early parliamentary elections, the Central Electoral Commission should promptly carry out an analysis of certain procedures which were tested during the referendum of 5 September, namely the functioning of the electronic electoral register in 43 polling stations in Chisinau and the functioning of the polling stations opened for the first time in foreign countries outside diplomatic representations. This work, together with improvements of a technical kind to the Electoral Code, should be performed in close co-operation with the experts of the Venice Commission;

- The newly elected Parliament is strongly encouraged to resolve the political and institutional crisis in compliance with the constitution of Moldova.

- The ad hoc committee recommends that the Parliamentary Assembly observe the early parliamentary elections with a 30-member delegation.

## Appendix 1

### Programme

#### Friday, 3 September 2010

- 09.00-10.00 Ad hoc committee meeting
- Opening of the meeting and information on the mission by Mr. J. Laakso, Head ad interim of the Delegation
  - Political situation and background, Mrs. B. Abraitene, Special Representative of the Secretary General of the Council of Europe to Moldova
  - Recent developments in the field of election legislation and constitutional amendments, Mr. K. Olszewski, Expert of the Venice Commission
  - Council of Europe Action Plan to support the referendum and early elections in Moldova in 2010, Mr O. Masters, Expert
  - Practical and logistical arrangements, Secretariat
- 10.00-10.45 Meeting with Mr C. Neukirch, Deputy Head of the OSCE mission to Moldova
- 10.45-11.30 Meeting with Mr D. Lorenz, Political adviser, European Union Delegation to Moldova
- 11.30-12.15 Round table with NGO representatives involved in referendum observation:
- Mr I. Manole, Chairman of the Association "Promo-LEX"
  - Ms S. Livădaru, Institute for Human Rights (IDOM)
  - Ms N. Gogu, Director of the Centre for Independent Journalism
  - Mr I. Boțan, Director of the Association for Participatory Democracy (ADEPT)
- 12.30-13.15 Round table with representatives of mass media from Moldova:
- Mr A. Dorogan, Director Radio, Teleradio Moldova
  - Ms A. Sîrbu, Director TV, Teleradio Moldova
  - Mr G. Saghin, Deputy Director Publika TV
  - Ms R. Mahu, Jurnal de Chisinau
- 13.15-14.45 Lunch
- 15.15-16.15 Meeting with the leaders of four-party Alliance for European Integration (AEI)
- 16.15-17.00 Meeting with the leaders of the Party of Communists of the Republic of Moldova
- 17.15-17.45 Meeting with Mr M. Ghimpu, President of the Parliament, Acting President of the Republic of Moldova

#### Saturday, 4 September 2010

- 9.30-10.15 Meeting with Mr E. Stirbu, President of the Central Electoral Commission and members of the Central Electoral Commission
- 10.30-11.15 Meeting with Mr D. Pulbere, President of the Constitutional Court of Moldova
- 11.30 Pre-deployment meeting and meeting with interpreters and drivers

#### Sunday, 5 September 2010

- Election day Observation of opening, voting and vote count

#### Monday, 6 September 2010

- 09.00-10.00 Debriefing of the Parliamentary Assembly delegation
- 12.00 Press conference

## Appendix 2

### Declaration of the PACE delegation: low turnout of the Constitutional Referendum in Moldova

Strasbourg, 06.09.2010 – A delegation from the Parliamentary Assembly of the Council of Europe (PACE) has observed the constitutional referendum in Moldova on 5 September. This delegation was the only European parliamentary organisation to observe this referendum.

The delegation considered that the voting day was calm and orderly. The citizens who participated in the referendum could in general make their choice freely. However, this delegation regrets the low turnout. It is now up to 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.

A referendum is a democratic exercise which is not only limited to the voting day. The referendum campaign took place in the context of the political and institutional crisis which followed the 2009 Parliamentary elections. The delegation noted that the referendum campaign had been negatively affected by constant accusations by political stakeholders of different sides who were responsible for the political crisis.

The observation delegation notes however with satisfaction that this did not have a negative impact on the behaviour of the supporters either “for” or “against” the referendum, and there were no cases of violence reported during the campaign.

The election administration generally demonstrated professionalism and acted in a transparent way. The delegation welcomes the efforts to improve the quality of the voters’ list. However, significant problems with accuracy of voters’ register continue to persist.

The observation delegation welcomes the authorities’ efforts aimed at facilitating the participation of the citizens of Moldova, including those citizens residing in foreign countries.

The media coverage was generally well balanced, reflecting different points of view. PACE delegation notes with satisfaction the improvements in media coverage of the pre-referendum campaign.

According to the PACE delegation, the recommendation by some political parties to boycott the referendum contributed in part to the non-participation of a significant number of voters.

The PACE delegation stresses the fact that, contrary to the case of elections, it is not completely prohibited for the authorities to intervene in order to support the proposal submitted to referendum. Nevertheless, the delegation strongly condemns all attempts aiming to influence the outcome of the referendum by the authorities (national, regional or local) using excessive and one-sided campaigning or by any other means.

The PACE delegation calls on the authorities of Moldova to hold early parliamentary elections in 2010 as the political stakeholders of Moldova committed themselves towards the Council of Europe. This is to ensure all necessary conditions for the free expression of the will of all citizens of Moldova.

This delegation expects all political leaders to resolve the political and constitutional deadlock on the election of the President of the Republic of Moldova.

The Parliamentary Assembly of the Council of Europe will follow closely the further developments in Moldova through its monitoring procedure and will observe the forthcoming elections in 2010.

The complete report on the observation of the constitutional referendum on 5 September will be adopted by the Assembly in the 2010 October part-session (4-8 October 2010) in Strasbourg.