

The electoral system change – benefits for whom and for what?

On 20 July 2017, the Moldova Parliament voted to change the proportional system for parliamentary elections with a mixed voting (parallel) system. This modification took place despite the recommendation ([http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)012-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)012-e)) of the Venice Commission and EU institutions to refrain from changing the electoral system without having a broad national consensus on this issue. The rejection of electoral reform by opposition and large segments of citizens was confirmed by mass protests the polls. In such conditions a solution to assure a minimal level of “respect of effective democratic mechanisms, including a multi-party system”, consisted of at least following punctually a set of Venice Commission recommendations. Complying with these recommendations served as a conditionality for EU’s macro-financial assistance for Moldova.

The changed electoral system continues to raise a range of concerns which were stressed in the latest (March 15, 2018) joined opinion ([http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2018\)008-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2018)008-e)) of Venice Commission and OSCE/ODIHR. Accordingly, the recent opinion refers only to the amendments submitted for review after the adoption of modification to the electoral legislation.

The main concerns are as follows:

🔍 **Risk of distorted citizens’ electoral will (bribed voters) in the majoritarian constituencies. The electoral reform “could potentially have a negative effect at the constituency level, where independent majoritarian candidates may develop links with or be influenced by businesspeople or other actors who follow their own separate interests”** ([http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2018\)008-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2018)008-e)). That was as well the opposition’s argument against majoritarian system;

🔍 **Arbitrariness in forming the single-mandate constituencies, without taking into account the peculiarities of administrative boundaries, and in the context of unfulfilled territorial administrative reform. Under the proposed changes, administrative and judicial districts would not correspond with electoral single-member constituencies (46 single mandate**

constituencies established for 32 administrative districts, and covering 14 judicial districts). Consequently, the competences and attributions of the electoral, administrative and judiciary bodies in many cases will not fit exactly, sometime overlapping or, on the contrary, arbitrary interrupted;

🔍 **Vague criteria for setting up constituencies for voters from uncontrolled Transnistrian region where are living about 10% of Moldovan citizens with right to vote. The modified electoral law also ignores Constitutional Court’s decision, issued on May 2 2017, which stated that Transnistrian region is “a territory occupied by Russia”. In the absence of a special law on a special legal regime of the “occupied territories” it remains unclear how candidates would campaign in Transnistrian constituencies and, generally, how the electoral rights of voters from the region could be ensured;**

🔍 **Vague criteria for establishing the majority of constituencies abroad, where about 1/4 of the Moldovans with voting rights live, led to arbitrarily and unfair formed single-mandate electoral constituencies for voting abroad – two constituencies for about 20 thousands votes in North America and Eurasia vs. one constituency for more than 100 thousands voters in Europe;**

🔍 **Transferred responsibility for control over campaign financing, as well as other competences, from the Central Election Commission to the District Electoral Councils in single-mandates constituencies, which also involves the role of the district courts. This may complicate the effective control and supervision of the electoral process because of the lack of trust in the independence of regional administration and courts which are entitle to appoint the members of District Electoral Councils.**

Apart from the mentioned concerns, the remarks made in the 2017 opinion remain still valid ([http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2018\)008-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2018)008-e)) and the Venice Commission and ODIHR expressed regrets that the fundamental recommendations were not followed. Consequently, the monitoring of the modified electoral legislation implementation remains the strongest instrument for assuring a relatively correct election process.