

Date Printed: 11/03/2008

JTS Box Number: IFES_8

Tab Number: 1

Document Title: Legal Assistance: The Development of
Electoral Laws and Institutions, July

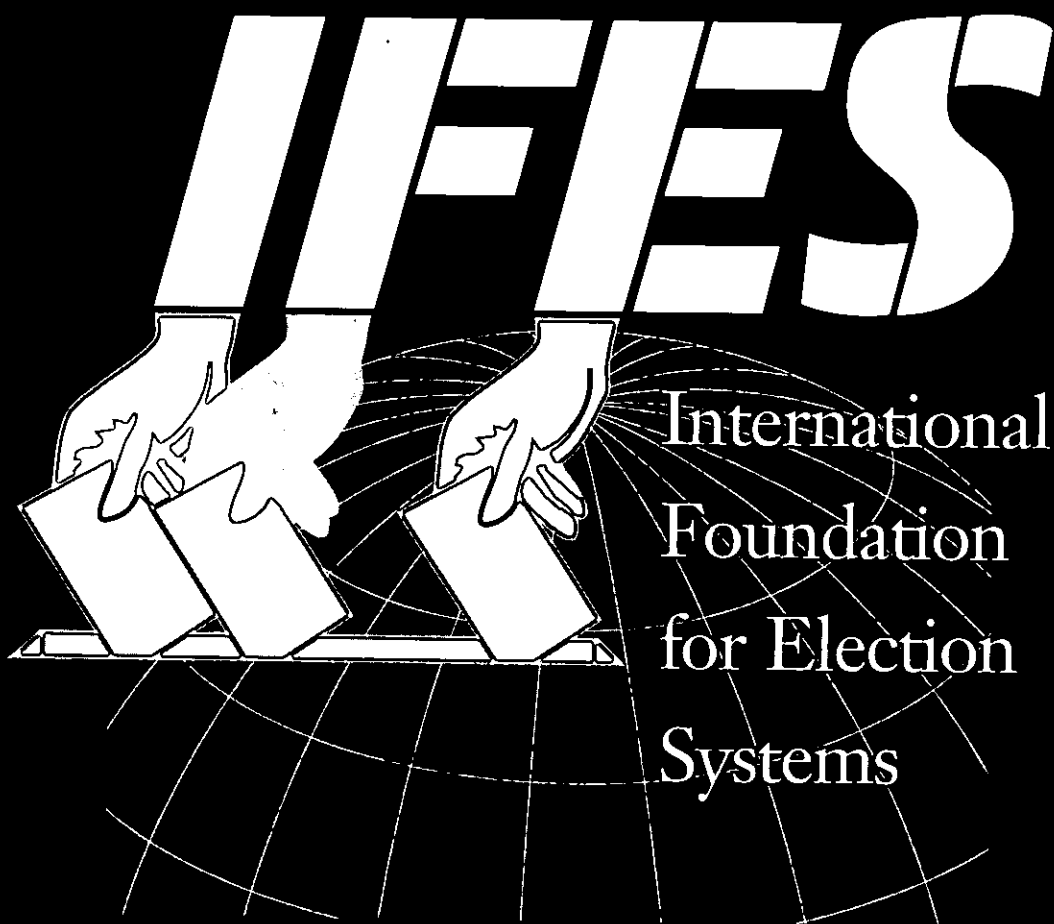
Document Date: 1997

Document Country: Moldova

IFES ID: R01754



* 8 1 2 2 F D D C - 7 0 3 4 - 4 F C 9 - 8 A 7 6 - 3 2 8 7 5 3 8 D 5 B 4 0 *



International
Foundation
for Election
Systems

MOLDOVA

LEGAL ASSISTANCE: THE DEVELOPMENT OF ELECTORAL LAWS AND INSTITUTIONS

July 1997

WRITTEN BY:

DANIEL P. FINN
LEGAL CONSULTANT

*This Report was made possible by a grant from the United States Agency for International Development (USAID).
The opinions expressed in this Report are solely of the International Foundation for Electoral Systems (IFES).
This material is in the public domain and may be reproduced without permission, citation is appreciated.*



International Foundation for Election Systems
1101 15th Street, NW, Third Floor
Washington, DC 20005

I.	Introduction	4
II.	Preparation of Draft Election-Related Legislation	5
A.	Development of a Proposed Uniform Election Code for Moldova	5
B.	Creation of a Permanent Central Election Commission	7
III.	Consultations in Chisinau, June 24 - July 6, 1997	8
A.	Briefings with IFES Staff in Chisinau	8
1.	Political Briefings	9
2.	Analysis of Election Issues	9
B.	Technical Assistance to Parliament	11
	Meeting with Hon. Victor Cecan, Chairman of the Juridical Committee of the Moldovan Parliament	12
C.	Meetings with Government Officials and Political Leaders	14
1.	Meeting with Dr. Fiodor Angheli, Vice Chairman of the Committee on Foreign Policy, Parliament of the Republic of Moldova	14
2.	Meeting with Valeriu Matei, Chairman of the Party of Democratic Forces	16
3.	Meeting with Mr. Victor Josu, Head of the Executive Bureau of the Party for Rebirth and Conciliation in Moldova	20
4.	Meeting with Mihai Petrarchi, Advisor to the President on Juridical Matters	22
5.	Meeting with Mme. Anastasia Pascari, Judge of the Supreme Court of Justice of the Republic of Moldova	25
6.	Conversation with Hon. Dumitru Motpan, Speaker of the Moldovan Parliament	28
IV.	Other Activities	30
A.	In Chisinau	30
B.	Afterward	31
V.	Conclusions	31
A.	Current Political Situation	31
B.	Prospects for Election Code Reform	33
C.	Major Problems in Election Law and Administration	33
1.	Legislative Drafting	34
a.	<u>Inconsistencies</u>	34
b.	<u>Omissions</u>	34
c.	<u>Non-General Provisions</u>	35
d.	<u>Rule of Law Considerations</u>	35
2.	Main Problem Areas	36
a.	<u>Establishment of Permanent Central Election Commission</u>	36

b.	<u>Formation of District and Precinct Election Commissions</u>	36
c.	<u>Voter List and Residence Records</u>	38
d.	<u>Nominating Petitions</u>	38
(i)	Submission	38
(ii)	Review	40
e.	<u>Representatives and Observers</u>	41
3.	Other Issues	41
VI.	Recommendations	41
A.	Continued Assistance for Election Code Reform	42
1.	Monitor Legislative Developments	42
2.	Provide Information and Perspective	42
3.	Make Legal Consultant(s) Available at Appropriate Time	43
B.	Assistance in Establishing the PCEC	43
1.	Development of Regulations	43
2.	Develop and Implement Work Plan	44
3.	Identify and Train Election Workers and Representatives	44
4.	Civic Education/Voter Information	44
VII.	Appendices	45
A.	D. Finn, Legal Consultant, "Proposed Universal Election Code for the Republic of Moldova", Draft, June 14, 1997	
B.	D. Finn, Legal Consultant, "Commentary on the Proposed Universal Election Code for the Republic of Moldova", Draft, June 14, 1997	
C.	D. Finn, Legal Consultant, "Resolution of the Parliament of the Republic of Moldova 'On the Creation of a Permanent Central Election Commission'", Draft, May 29, 1997	
D.	D. Finn, Legal Consultant, "Comments on the Draft Electoral Code prepared by the Moldovan Parliamentary Working Group", July 26, 1997	

I. Introduction

Since the emergence of the Republic of Moldova as an independent and sovereign state, elections have been conducted under separate statutes applicable to the different kinds of elections (Presidential, Parliamentary and for Local self-government administrations)¹ and referenda². In addition, the election laws have been changed prior to each type of election. Finally, a number of other laws -- particularly those regarding political parties and other socio-political organizations³ -- also directly affect election practice.

The International Foundation for Election Systems has conducted programs in Moldova for several years, and also maintains an office in Chisinau. As a leading international nongovernmental organization (NGO) active in the area of elections and other aspects of the establishment of democratic institutions, IFES has monitored elections in Moldova, provided comments and suggestions, engaged in programs of technical assistance to government bodies, worked with indigenous NGO's, and published informative and analytic works concerning Moldovan election experience.⁴

Last year, in connection with the Presidential elections, IFES provided a range of assistance to the Moldovan Parliament and Central Election Commission (CEC). Prior to the election period, an IFES consultant provided commentary on the Presidential Election Law.⁵ IFES consultant Paul DeGregorio was in Moldova during the elections, and assisted in developing the legislative amendments that were adopted in October 1996.⁶ IFES also issued a preliminary assessment on the Presidential election.⁷

¹Law of the Republic of Moldova "On the Election of the President of the Republic of Moldova", adopted 16 May 1996 and amended on 15 October 1996; Law on Elections to Parliament, 14 October 1993; Law on Local Elections, 14 January 1995.

²Law of the Republic of Moldova "Regarding the Referendum", 26 May 1992.

³Law of the Republic of Moldova "Regarding Parties and Other Socio-Political Organizations", September 1991.

⁴*See, e.g.*, IFES, Republic of Moldova Presidential Elections, November 17 & December 1, 1996; IFES, Republic of Moldova Local Elections, April 16, 1995; IFES, Republic of Moldova Parliamentary Elections, February 27, 1994.

⁵L. Edgeworth, Consultant, IFES, "General Review: Law on Election of the President, Republic of Moldova", 25 February 1996.

⁶Paul S. DeGregorio, Election Administration Consultant, IFES, "Preliminary Report on IFES Technical Assistance" (5 November 1996).

⁷IFES, "Preliminary Assessment of the 1996 Presidential Elections in Moldova", 19 November 1996.

IFES's experience with elections in Moldova -- particularly last year's Presidential election, in which legislative changes had to be made in the midst of the election period itself -- led it to conclude that it would be desirable for current Moldovan election laws to be reviewed by Parliament, for necessary modifications to be adopted, and for the results to be included in a single election code, which was originally referred to as a Universal Election Code (UEC). IFES also concluded, based on its experience, that steadier improvement of election administration could be achieved in Moldova only through establishment of a permanent central election commission (PCEC).

II. Preparation of Draft Election-Related Legislation

Difficulties in the conduct of elections in recent years have led Moldovan political leaders to seek the revision and reform of election laws. In addition, the need for improved election legislation became a special focus of attention in the late Spring and early Summer of 1997 in view of the perceived likelihood for parliamentary elections to be called early -- perhaps as soon as August. Based on this information, IFES believed that it could make a contribution to the codification and improvement of election laws by providing detailed proposals. Accordingly, the Consultant was requested to work on these matters as a priority.

A. Development of a Proposed Uniform Election Code for Moldova

Adoption of a UEC would enable the current complex of statutes to be simplified and remove redundancies and conflicts among them. It would also enable the best practices to be adopted in a manner consistent with Moldovan experience and practices. As the term "universal" seems quite broad in scope, however, the UEC will instead be referred to in this report as the "Uniform Election Code".

IFES therefore requested the present Consultant to undertake a review of Moldovan election laws and related authorities, including the Republican Constitution⁸, and attempt to assemble a single draft UEC for consideration by the Moldovan Parliament. The proposed UEC itself is quite lengthy and is contained as an annex to this report.⁹ In order to assist in understanding and acceptance of the Draft UEC, provisions carried over from current Moldovan laws were presented in regular text and proposed changes in *italics*. In addition, the Consultant provided a detailed Commentary on the UEC, which was intended to present further information and analysis concerning the provisions

⁸Constitution of the Republic of Moldova, 29 June 1994.

⁹Daniel Finn, Legal Consultant, IFES, "Proposed Universal Election Code for the Republic of Moldova", Draft, June 14, 1997.

included in the Draft. The Commentary is also included as an annex to this report.¹⁰

It immediately became clear to the Consultant, after having the opportunity to review the Moldovan Constitution, election and related laws, and assessments of past elections in Moldova, that the Republic already has a considerable base of law and administrative experience regarding elections at all levels. While various issues have been raised with respect to the formulation of the current laws, it is clear that they nevertheless provide a substantial legal basis for the election system. In addition, the problems that have been noted with respect to implementation of the laws do not detract from the fact that there is already an established body of election practice.

As a result, the Consultant drew the provisions of the UEC largely from existing Moldovan legislation. Provisions from the Presidential, Parliamentary and Local Election laws were reorganized and integrated into a more coherent and universal form. At the same time, numerous technical refinements and other changes were made in order to improve the operation of these provisions. Beyond integrating and modifying existing provisions, the Consultant also incorporated new material on a large number of points. This material (which, as noted previously, is indicated in italics in the Draft) is intended to address inadequacies and gaps in the current laws, as well as the issues that have been raised by Moldovan and international commentators.

One of the main objectives in composing the draft UEC was to consolidate the treatment of the general aspects of election administration in the Code. This step alone would reduce considerably the confusion that now arises out of the different treatment of election administration issues in the existing laws, especially those on Presidential, Parliamentary and local elections, and on the conduct of *referenda*. In addition, reconciliation of generally-applicable provisions through a single text could permit different elections to be conducted simultaneously in Moldova, if that were desired. (Among other things, substantial economies could be realized in this manner.)

For these reasons, every effort has been made to reconcile the generally-applicable provisions in the UEC, and to assemble them together, especially in the first several chapters (Chapters I-VI, but also Chapter XI, of the Draft) of the UEC. The provisions in these Chapters, accordingly, are intended as proposed provisions applicable to all elections (and referenda) in the republic of Moldova, at whatever level. The provisions of chapters VII-X of the draft, on the contrary, apply only to the specific types of elections that they describe — Presidential, Parliamentary, Local and Republican referenda, respectively. (It is made clear in each of these chapters that its provisions apply only to the specific type of election in question.)

It should be noted, furthermore, that the resulting Draft UEC which resulted is a lengthy document, drawn from a number of sources. As with any lengthy and complex document, there remain a number of inconsistencies (including contradictions, gaps and overlaps) among the many detailed provisions. In addition, the Consultant was disadvantaged by the fact that he did not have

¹⁰D. Finn, Legal Consultant, IFES, "Commentary on the Proposed Universal Election Code for the Republic of Moldova", Draft, June 14, 1997.

the opportunity to first visit Moldova and obtain further information about the electoral, political and social situation, prior to assembling the PCEC bill and Draft UEC.

As mentioned previously, the Consultant believed that basing the proposed UEC as far as possible on existing Moldovan legislation and practices would result in greater relevance and acceptability in local conditions. At the same time, following this approach has inevitably meant that numerous provisions were retained even though they raised concerns. In fact, the Consultant determined to retain existing arrangements, sometimes redrafting them as necessary, whenever these practices were not clearly in violation of international standards and sound election practices.

As a result, the proposed UEC does not attempt to make fundamental changes in the method of election to various offices in Moldova, or the basic machinery that is expected to administer elections there. This should not be read as implying that the Consultant, or IFES, thereby intends to endorse these aspects per se. Instead, it merely indicates that they represent an acceptable approach if implemented in the manner provided for in the Draft.

One salient example is the method of election to Parliament, which is incorporated in Chapter VIII of the UEC. The version in the Draft Code is based on that in the 1994 Parliamentary Election Law, under which parliamentary mandates are awarded based on a system of proportional representation in multiple districts. Since a single electoral district was created instead, the possibility of repeating that option was also reflected in the Code.

After the Consultant arrived in Chisinau, however, it became clear that the method of election to Parliament was in fact undecided. Different groups and individuals were advocating all the major systems -- a continuation of the PR system based on party lists; creation of single-mandate districts; or a mixed system (combining both). Needless to say, any of these systems is acceptable from the standpoint of democratic principle and sound election practice. The retention of the PR/party list system in the present Draft Code was not intended to imply that the Consultant, or IFES, prefers or specially endorses this approach for Moldova.

B. Creation of a Permanent Central Election Commission

IFES's experience with elections in Moldova to date also convinced it that a permanent central election commission (PCEC) should be established as soon as possible. Having a PCEC in place prior to the next election would greatly facilitate the creation of the necessary administrative structures during the election period. Over the longer term, the PCEC could also work to address issues in election law, procedures and administration that have been noted during previous election assessments. For example, the PCEC could:

- review the implementation of election laws and recommend changes if necessary;
- study election practices and issue regulations to improve them;

- review the problems that have occurred in past elections and take various practical measures to address them;
- undertake programs to improve civic awareness of the elections process, information for voters, and the training of election officials; and
- more specifically, to address such salient issues in election administration as maintenance and correction of the voter list; improving the security of voting and counting; providing for a meaningful review of the nominating petitions (including signature lists) submitted in support of proposed candidacies; and enhancing the ability of parties, the press and public associations to monitor all aspects of the election process.

IFES therefore also requested the Consultant to prepare a draft bill to establish a PCEC in Moldova. A draft of this bill is also included in the annexes to this report.¹¹

The bill to create a PCEC in Moldova was originally prepared as a free-standing legal instrument. Actually, based on the Consultant's consultations in Chisinau (see following section and related materials in the annexes), it is perhaps more likely that a PCEC will be created as part of the development of a UEC there. To this end, some redrafting would be necessary, and the Consultant assisted in this regard to a certain extent while in Chisinau.

III. Consultations in Chisinau, June 24 - July 6, 1997

As part of the project, IFES also requested the Consultant to visit Chisinau between June 24 and July 6, 1997. The purpose of this visit would be to further develop the draft PCEC bill and UEC based on further information on political and electoral conditions in Moldova; to inform interested persons in Moldova about the work undertaken by IFES in this connection; to provide technical assistance to a Parliamentary Working Group (PWG) that had been formed to develop an election code for consideration in the Moldovan Parliament; and to undertake related activities under the direction of IFES's field director in Chisinau, Dorin Tudoran, and together with IFES's local staff in Chisinau, including Igor Botan, principal program coordinator.

A. Briefings with IFES Staff in Chisinau

Shortly after arriving in Chisinau, the Consultant met with Mr. Tudoran and IFES staff in order to become familiar with conditions in Moldova and provide further information on the proposed election-related legislation. These meetings occurred on a regular basis throughout the

¹¹Daniel Finn, Consultant, IFES, "Resolution of the Parliament of the Republic of Moldova 'On the Creation of a Permanent Central Election Commission'", Draft, May 29, 1997, 7 pp.

Consultant's stay in Chisinau.

1. Political Briefings

Despite the relatively short period which has elapsed since the time of its independence, the Republic of Moldova has experienced considerable political volatility. Numerous political parties have arisen; changed their identity, constituency and orientation; and formed numerous coalitions including electoral blocs. It is extremely difficult for an outside specialist to chart and understand these developments, which of course are highly relevant to understanding the issues concerning the election system and the attitudes of the various groups and parties toward it. The Consultant is beholden to Dorin Tudoran, IFES Field Director in Chisinau, and particularly Igor Botan, Principal Program Coordinator, for their explanations and other assistance in understanding the local political scene and how it affects the electoral process.

2. Analysis of Election Issues

As mentioned previously, the present project was designed in such a way that the Consultant did a considerable amount of substantive work --including the bulk of legislative drafting -- in advance of visiting the country. At times, this made it difficult for the Consultant to judge what problems had been experienced in the application of the laws before him, and therefore to what extent it would be desirable to present alternative formulations. Despite these problems, the Consultant decided -- after consultations with IFES staff in Washington and Chisinau -- to base the legislative proposals as much as possible on the existing laws. This method was adopted in order to increase the relevance and acceptability of the final product, and also to lessen any adverse reaction that could arise from the fact that the legislative proposals were being made by an outsider to the Moldovan political system.

While the situation in which the Consultant was asked to draft legislative proposals prior to obtaining a more complete picture of the situation in country was partially an artifact of the project timetable, it also reflected a conscious choice in terms of project design. Washington staff perhaps believed that preparation of legislative proposals by a specialist without specific experience in Moldova might result in a more ideal-oriented product. Chisinau staff felt that the fact that the proposals were drafted by a specialist with no preconceived ideas about Moldova or contact with groups there would help ensure disinterestedness, and also increase the probability that various parties and political formations would value the product and be likely to adopt it as their own.

In fact, the latter view was in large part justified, and parties across the spectrum tended to react to the Consultant's proposals as an expert, good faith and disinterested effort to improve election law and practices in the republic. Many actually offered to adopt it -- in whole or in part -- as the basis for their own proposals.

At the same time, the Consultant's decision to follow existing provisions unless there was a clear reason (on their face, with respect to applicable international standards, or based on the

commentary available to him) not to do so prevented the presentation or inclusion of alternatives in the drafts. The Consultant believes that his decision to proceed based on existing law has proved itself justified by the ready reception that his proposals received in country. At the same time, it must be said that the overall project design and this decision meant that many issues that had arisen under the current laws were not adequately resolved in the drafts.

The Consultant believes, therefore (and this point will be pursued at greater length in the Recommendations below), that further work should be done in terms of advancing further proposals to address the issues that would not be resolved merely through adoption of the provisions of the IFES Draft. Some of these issues were identified in a preliminary review meeting between the Consultant and Igor Botan of IFES/Chisinau, and are summarized in what follows. Other issues arise out of the Consultant's other meetings and observations in Chisinau, and they are addressed in the Conclusions section of this report.

Some issues not adequately addressed in the Draft UEC:

- ◆ The issue of personal voting (the right of each voter to vote for himself, and the prohibition against other practices) is not adequately reflected in the Draft, and material on this point should be added to the article on "Method of Voting" or "Basic Principles".
- ◆ There is a limitation on the time during which signatures may be collected in support of a candidate. Should there not be limitations on the period during which a party or other electoral association may formally choose its candidate?
- ◆ Should independent candidates be permitted to use party symbols, including on the ballot, and under what conditions? Should approval of the party be required?
- ◆ The language of the articles on CEC and DEC responsibilities, and the design and preparation of ballots, should be clarified so that the ballot form is adopted by the CEC and printing is arranged by the DEC, except in presidential elections.
- ◆ There should probably be an additional article dealing with internal appeals — *i.e.*, appeals within the election commission hierarchy, to include both appeals to higher authority and reconsideration of a decision on appeal by the same level commission. More specifics should be given on time limits and other procedural details.
- ◆ If a salary incentive (*i.e.*, salary bonus) is given for service on election commissions, it should not apply to private sector workers.
- ◆ The filing requirements -- particularly the time period -- for registration of electoral blocs should be clarified. Registration of electoral blocs should be added to the assigned responsibilities of the CEC and DEC's, according to the type of election.

- ◆ Submission of nominating petitions to DEC's should be able to be made based on the decision of the regional-level organization of a party or other electoral association. The reference to the "supreme body" of a party in this connection should be modified or eliminated.
- ◆ Compensation payments to candidates, among their "Guaranteed Rights" in the Draft, may not be appropriate at all levels, and perhaps should be limited to candidates in presidential elections. The level of payment might better be formulated in terms of the average national wage rather than the candidate's normal salary.
- ◆ Suspension of a candidate during an election — *e.g.*, for violation of the prohibition on foreign funding — might be too draconian, particularly if done without an adequate opportunity for judicial review.
- ◆ It will be necessary to specify how the relevant election commission should decide the order of candidates and parties on ballots. Probably the best way would be in the order of submission of valid nominating petitions.
- ◆ A provision should be added dealing with the preparation and delivery of electoral materials in addition to such especially sensitive materials as ballots, protocols and record forms (for minutes). It should cover such items as stamps of the various election commissions, and stamps for special purposes such as canceling ballots, indicating withdrawn candidates on ballots, and the like.
- ◆ With respect to independent indigenous observers, should they be required to stay at a particular polling station or permitted to move among stations? (It is generally considered best for observers to remain throughout the day at particular polling stations, in order to ensure continuity, if possible. Many jurisdictions also, however, allow some observers to move around in order to respond to reports of irregularities or provide partial coverage where there would otherwise be none.) While this could be handled through regulation of the CEC, something should probably be put into the law. It might also be useful to mention in the bill that alternate observers should also be designated upon request.
- ◆ What arrangements, if any, should be made to accredit the press to cover activities at polling stations and other election operations? It would also appear desirable to distinguish the press from other observers with respect to certain phases of the election -- *e.g.*, by excluding the press from the counting process at polling stations.

B. Technical Assistance to Parliament

As mentioned previously, the Moldovan Parliament had already begun development of a new election law prior to the Consultant's arrival in Chisinau. This effort was instituted by Mr. Victor

Cecan, Chairman of the Juridical Committee. It was Mr. Cecan who had written a letter of invitation that established the basis for the Consultant's visit to Chisinau.

To support his initiative, Mr. Cecan had formed the PWG, composed of four local experts on law and elections. As part of a separate initiative, IFES/Moldova provided financial support for the activities of this group, by entering into personal service contracts with three of its members.

On his first full day in Chisinau, and on four days thereafter -- a total of five meetings, the Consultant engaged in lengthy consultations with the PWG. The first meeting was mainly a roundtable on election law and practice, with some discussion of the contents of the UEC. The second meeting involved consideration of some drafts of definitions and language on general principles prepared by the group. The third meeting continued along the same lines, considering other general provisions, but resulted in a change of course when the group realized that it would be more efficient to proceed with further drafting and revisions based on the IFES draft itself. The fourth meeting proceeded under this new arrangement, and considerable progress was made as a result. The same approach was continued at the fifth meeting, by the end of which there had been at least some consideration of most of the general portions of the UEC.

After this, in an attempt to expedite the process further, IFES's Igor Botan began to work directly with one of the members of the PWG right at the IFES office. This mode of work was selected in order to take advantage of the word processing capability at the office, and the fact that the IFES Draft was already in electronic form. At the same time, Igor was able to make comments in the Romanian language as the work proceeded. Subsequent to preparation of a modified draft in this manner, it was returned to the PWG for discussion, and would be finalized using IFES's resources.

As part of the IFES/Chisinau's cooperative relationship with the Moldovan Parliament, and particularly the Juridical Committee, the Consultant met with Mr. Cecan. A summary of the meeting follows:

Meeting with Hon. Victor Cecan, Chairman of the Juridical Committee of the Moldovan Parliament

On Monday, June 30, accompanied by Igor Botan of IFES/Moldova and Margareta Mamaliga as translator, the Consultant met with Victor Cecan, Chairman of the Juridical Committee of the Moldovan Parliament, and Ion Creanga, a member of the Committee's staff. (We had already been working for several days with Mr. Creanga and the Parliamentary Working Group [PWG] on election code revision.) Mr. Creanga began by saying that IFES and the PWG had been working together for about a week, reviewing chapters of the proposed comprehensive election code ("Draft Code").

Mr. Cecan thanked IFES for its contribution to the work of the Committee toward election

code reform. He said that he had carefully reviewed the materials that IFES had provided -- including the Consultant's draft law establishing a permanent central elections commission (PCEC), the draft universal election code (UEC), and accompanying commentary -- and found that they were an "acceptable" basis for action by the Committee and Parliament.

Cecan said that he planned to submit the comprehensive election code bill in Parliament in two days, Wednesday July 2. This would enable the Committee to consider the bill prior to the Parliament's summer recess, and for the Parliament itself to give it a first reading during the current session. As Cecan viewed the draft, he saw all the general provisions of the Draft Code as constituting "Title I"; the portions pertaining to Parliamentary Election are "Title II". It was his intention that these parts would be considered first, prior to the recess; the other titles, containing the provisions regarding other types of elections (Presidential, local and referenda) would be taken up later.

One thing that Cecan was looking for at this point -- in order to support introduction of the bill in Parliament, was an informative general statement about the principles and key aspects of the Draft Code. In particular, he wanted to be able to demonstrate that the Code was based on the Constitution of the Republic. (In further discussion with Mr. Cecan and his staff, we determined that his needs could probably be accommodated through materials created by the staff and supplemented by IFES's work, including the Commentary on the UEC.)

Chairman Cecan observed that, in the new state of Moldova, each election had been conducted under a new law. In addition, these laws had been put together on an *ad hoc* basis, primarily to further the political ambitions of certain individuals and groups. His goal was to draft laws that could apply generally. It was his hope that these laws would also reflect international experience.

With respect to parliamentary elections, he hoped that the product of his Committee would establish conditions for all groups, including national minorities, to be fairly represented in Parliament. Such representation should, however, be based on the basic principles of the State (reflected in the Constitution) and not on mere political ambitions.

For now, Cecan insists that the proposed system for parliamentary elections, based on proportional representation (PR), should continue to operate on the basis of a single republic-wide electoral district. He also, however, believes that the Draft Code should preserve the option for a different system following successful administrative-territorial reform in the Republic.

With respect to the problem of ensuring adequate parliamentary representation for the Gagauz minority, Cecan said that he also wanted to preserve some room in the Draft Code for resolution of this issue. We discussed how it could be resolved through the creation of a second electoral district in Gagauzia, but Cecan said that he believed that there could still be problems. (For example, a single popular Gagauz independent candidate running in this area could attract so many votes that other Gagauz candidates might not obtain mandates.)

Mr. Cekan said that in his view the Gagauz problem was not so important right now. Furthermore, he was reluctant to propose ways of addressing Gagauz aspirations that were not Constitutionally appropriate. (The Constitution, according to him, does not explicitly address the question of national minorities.) In addition, he believes that much of the current attention to this issue is based on political ambitions of certain individuals and that satisfying these interests could prove dangerous in the long run.

With respect to the PCEC, Cekan believes that the necessary authority for its creation and operation should be incorporated directly into the Draft Code. In fact, he wants all aspects of elections to be regulated as much as possible exclusively through the Code.

C. Meetings with Government Officials and Political Leaders

As part of IFES/Chisinau's regular program of contacts with government officials, political leaders and the community, meetings were also arranged for the Consultant with a number of persons with a particular interest in election law and practices. In addition, after consultation with the U.S. Embassy, IFES/Chisinau determined that the initial results of the IFES Election Law Assistance Project should be shared with other interested persons and groups. As a result, copies of the Draft UEC and Commentary, as well as the draft bill to establish a PCEC, were also provided to such organizations.

The following sections contain summaries of the various meetings that were held by the Consultant in Chisinau. The summaries are organized chronologically:

1. Meeting with Dr. Fiodor Angheli, Vice Chairman of the Committee on Foreign Policy, Parliament of the Republic of Moldova

On June 27, 1997, accompanied by Igor Botan of IFES/Chisinau and interpreter Margareta Mamaliga of IFES/Chisinau as interpreter, the Consultant met with Dr. Fiodor Angheli, a ranking parliamentarian with the leading Agrarian Party and representative of the Gagauz minority. Dr. Angheli's staff had previously contacted the IFES office to request information on ways that the representation of minority groups were assured in various political systems around the world.

Dr. Angheli started by saying that the ruling coalition hoped to prepare amendments to the Parliamentary Election Law by the end of July. He said there were three leading views on the method of election to Parliament -- single mandate districts, proportional representation (PR), and to a lesser extent, a mixed system. Recent experience appears to show that the PR system based on party lists does not result in sufficient communication between parliamentarians and the voters; nevertheless, a majority of deputies prefer to be elected through party lists. (Single mandate races would be more competitive.)

An issue of special concern to Dr. Angheli is the question of national minorities, particularly the Gagauz. Based on the size of the ethnic Gagauz population, which is concentrated in Gagauzia, the Gagauz people should have four parliamentary mandates representing their interests. In fact, the Gagauz now have four deputies in Parliament, which is down from the previous high of six. (The two others were promoted to higher government positions.) Most Gagauz deputies have been elected through the list of the leading Agrarian Party. But, according to Dr. Angheli, it is expected that in future fewer Gagauz candidates will be included high on the lists of the Agrarian and other parties.

The Gagauz are not directly represented through the program of any major party. The 51 (now 52) current parties will form many electoral blocs for upcoming elections. Some Gagauz candidates are included on the lists of various parties, but usually not high on their lists -- and often near the bottom. Dr. Angheli feels, therefore, that the method of election should be changed -- either republic-wide or regionally -- to protect the minority interests of the Gagauz.

Dr. Angheli personally prefers the adoption of the single mandate district approach republic-wide. If that cannot be achieved, then he would ask for four single mandate districts to be established specially in Gagauzia, so that the method of election in that region would be different than in the rest of the republic. He asked if we had any other ideas for protecting minority interests in Parliament.

In response to Dr. Angheli's question, the Consultant indicated that IFES had received an expression of interest in this matter from his staff just prior to the Consultant's departure from Washington. Although there was not sufficient time to go into this issue in detail, the Consultant had compiled some information and done some thinking about it. First of all, the Consultant provided the results of some recent research he had done (related to a project in Kyrgyzstan) related to upper houses and other techniques for balancing representation or representing particular interests in national parliaments. This material included summary descriptions of several systems in which special interests were accommodated within unicameral parliaments.

It was pointed out that, overall, there seemed to be four or five methods of providing special protection for minority interests in parliament:

1. Districting: In PR systems, minority interests are usually protected through the establishment of the correct number and distribution of electoral districts to allow minorities to achieve parliamentary representation. Minority interests are usually not well protected through large districts, including single national districts. They are better represented through smaller districts, and especially if the districts are drawn so as to reflect the distribution of minority population. On the other hand, there are limits on how small districts should be. If districts are drawn so small as to have fewer than 5-6 representatives elected from each, then the principle of PR begins to break down arithmetically, and the number of representatives elected from each party no longer bears a close relationship to the percentage of the vote they receive. (This could be an issue in Gagauzia, since presumably districts drawn to protect minority

interests in this area would be the basis of election for only four parliamentary representatives.)

2. Single Mandate and Mixed Systems: These systems are inherently better at reflecting minority strength in local districts than PR, provided the district lines generally coincide with areas of minority strength.
3. Side Elections: The most commonly-used special technique to achieve minority representation in parliament is to conduct side elections. While there are many variations on this approach, it generally involves permitting all voters to participate in national elections according to whatever system is generally followed. Minority voters have, in addition, the ability to participate in a special, or side, election that would result in the election of a special bloc of minority candidates to parliament.
4. Minority Quotas: Another method, which is followed in the world's biggest democracy (India), is to require parties to nominate a certain percentage of their candidates nationwide from various ethnic or other groups. (In India, this includes various castes, and also women.) This approach helps to ensure that a sufficient number of such candidates are elected to office.
5. Regional Parliaments: Another approach, not directly related to the question of minority representation in the national parliament, is establishment of special regional councils in areas with large minority populations. This approach is, however, more closely linked to the question of political status (including possible autonomy) of minority areas than the protection of minority interests in the method of election to the national parliament.

Igor also mentioned another possibility -- of having minority (such as Gagauz) candidates in Moldova participate on a "list" of independent candidates. This way, they could obtain enough votes to win election, but without having to pass the threshold for party representation in Parliament (currently 4%).

After our discussion, Dr. Angheli thanked us for our interest. He also requested that we continue to provide information to him on the subject of minority representation in Parliament.

2. Meeting with Valeriu Matei, Chairman of the Party of Democratic Forces

On July 1st, accompanied by Igor Botan of IFES/Chisinau and IFES Chisinau interpreter Margareta Mamaliga, the Consultant met with Mr. Valeriu Matei, Chairman of the Party of Democratic Forces (PFD), and Mr. Ion Jigau, Chairman of the Executive Committee of the party.

The PFD began participating in elections in Moldova beginning with the 1994 parliamentary elections, at which time the party was called the Congress of Intellectuals and joined a broad rightist electoral bloc. It also contested the 1995 local elections, as the United Democratic Congress, also in coalition with other parties. In the 1996 presidential elections, Mr. Matei ran as a candidate and won about 10% of the vote in the first round. The PFD is viewed as a center-right party which combines a pro-European orientation (and a special affinity for Romania) with economic liberalism.

Mr. Matei began by informing us that he expected President Lucinschi to announce in Parliament the next day (July 2nd) that he planned to declare early elections. Lucinschi would inform parliamentarians that the Prime Minister would soon take steps to dissolve the Government and request early elections.

Messrs. Matei and Jigau informed us about the general orientation of the PFD, and its international Christian democratic associations. Our main purpose in meeting with Mr. Matei, however, was to share with his party the material that the Consultant had developed at IFES's request. We therefore presented a short explanation and delivered copies of the draft bill to establish a permanent central election commission (PCEC), the proposed universal election code (UEC), and the commentary on the UEC.

Mr. Matei was very complimentary toward the IFES program in Moldova. IFES activities have always been very beneficial, according to him. Matei was already aware that we were working on election laws, and indicated that he had previously received useful materials on different methods of election to parliament (single-mandate, proportional and mixed systems). He said his only complaint with IFES is that it was limited in its resources and the size of the staff. He would therefore like to see IFES do even more in Moldova, in order to help ensure that the fraudulent election practices of the past are eliminated.

Mr. Matei was especially critical of the conduct of local elections, and also participation by local authorities in the administration of other elections. He said that the PFD was unfairly denied mandates in 60 local races as a result of local courts canceling their victories. Just yesterday, they received the latest such decision (from a partial election).

Matei said that currently attempts to revise election laws were made based on the interests of particular groups. Once they succeed in getting elected, these groups simply try to remain in office indefinitely. Theirs is not really a democratic mentality. But Moldova should have a democratic system, and he would be able to use IFES's models as a basis for proposing constructive alternatives.

Matei is especially interested in the law on referenda, a proposal for which is included in the IFES package. He also stressed the necessity of better laws on territorial/administrative structure and local public administration. To him, the principle of Separation of Powers -- especially for the Judiciary -- is particularly important.

Matei commended the concept of the PCEC. He said that their party has supported this idea. One of the key functions of a PCEC should be voter education. People should be educated in the meaning of the concept of "voting" rather than just electing". Matei opined that, in the past, the function of organizing the voters was performed by the Agriculture Ministry, which influenced opinions in the rural organizations (such as collective farms) under its supervision.

Matei said that the PFD currently has an initiative to amend the Law on Political Parties. So far, Parliament has withheld consideration of their proposal, however. The Parliamentary Speaker, Mr. Motpan, reportedly said he regrets not amending this law, and may in fact introduce some amendments at the beginning of the next session.

There are currently 52 parties in Moldova. In Matei's view, the democratic system needs a "filter". Parties should be required to have "territorial representation" before being permitted to participate in elections. He also feels that candidates should be required to be members of a party for one year prior to running, and to have their legal-political knowledge tested.

IFES mentioned that the Draft UEC contained signature requirements for lists of candidates for parliamentary seats. Matei said he thought such requirements should be imposed even earlier, viz., at the time of party registration. He proposes that, to register, parties should be required to submit 10,000 signatures gathered in 1/3 of the localities in the country. (Only signatures collected in excess of 100 from a single locality would count toward satisfying this criterion.)

With so many parties allowed to operate, a multiplicity of parties can be formed in a very short time, including just prior to an election. It is entirely possible for initiators to just go out to the markets and pay people for their signatures. Then these "parties" can go ahead and form an electoral bloc, giving themselves greater perceived legitimacy.

Matei believes that Moldova should have large and strong political parties. Moving in this direction requires firm restrictions on the formation of parties. With many parties in operation, there are problems with respect to access to the mass media, facilities (including office space) and other matters. (Office space is a particular sore point. The non-governing parties have experienced great difficulty obtaining decent space, while the ruling parties have easily obtained extensive and well-appointed facilities.)

We had a discussion of the factors that created the recent opening of the electoral system in Romania. Matei agreed with me that one of the underlying issues is the creation of civil society. In Moldova, however, most nongovernmental organizations (NGO's) have developed in the direction of being political -- "socio-political organizations".

As a parliamentarian, Matei is concerned that local officials do not respect his right to summon them to meetings and to provide information. He says, on the other hand, parliamentarians from the ruling parties get more assistance from local authorities than is legally authorized.

Similarly, despite their rights under the Constitution and laws, NGO's and the media do not receive answers to their requests for information from local public administrations. Both in this regard and with respect to requests from parliamentarians, part of the problem is the absence of penalties for non-compliance.

Consultant asked if there actually had to be a new parliamentary election law before such elections are conducted. Matei did not answer directly, but said that he favors a mixed electoral system, with strong parties. One major problem with parliamentary elections continues to be the situation in Transnistria (where most voters either will not or cannot vote). Matei thinks that this problem could be solved by adding some electoral districts to the overall number. (It was not clear how this would work. The problem with adding a district or more for Transnistrian voters *per se*, however, is that the results there would likely be either invalid -- for failure to achieve the voter quorum -- or distorted -- since the winners would not necessarily be the most popular candidates, but rather those who were able to get the most voters to polling stations).

Taking up on an issue mentioned earlier, Matei said a basic problem with the current election system is the appointment of the members of election commissions. Mostly, such appointments are made at the suggestion of local officials. Despite denials, these appointees are often actually members of political parties. On the other hand, actual representatives of parties are not usually appointed (as consultative members) to precinct commissions, as they should be.

Matei believes that most election fraud occurs during the transportation of results from one commission (precinct) to another (district). This involves alteration and falsification of protocols, and also addition or replacement of voted ballots. There are numerous anecdotal examples where the results from precincts do not reflect how the voters in the area say they voted.

Matei believes that parliamentary and local elections should normally be held simultaneously. Igor mentioned that one of the purposes of the IFES effort at codification was to support this objective by integrating the general provisions applicable in different types of elections.

It was mentioned that the IFES approach reflected in the drafts given to the PDF was not by any means an ideal. It was instead based largely on existing Moldovan election laws and practices. If it was the intention of the PDF or other interested parties to pursue alternative approaches or issues, then IFES might be in a position to assist in this effort as well. In response to Matei's inquiry, Igor said that IFES would be able to provide further comments in response to requests or drafts provided by the PDF.

In the last point of discussion, Matei mentioned that the Government had drafted new bills on local elections and local public administration. The Government has also been working on an administrative/territorial reform bill. Matei said that, from his perspective, the proposed local election and local public administration bills are even worse than the current laws -- in that they reflect a fundamentally centralized approach.

In summary, the IFES Moldova's meeting with Mr. Matei was quite cordial and resulted in a good exchange. IFES will, doubtlessly be able to continue to work with the PDF on election code-related issues.

3. Meeting with Mr. Victor Josu, Head of the Executive Bureau of the Party for Rebirth and Conciliation in Moldova

On July 2nd, accompanied by Igor Botan of IFES/Chisinau and interpreter Margareta Mamaliga as interpreter, the Consultant met with Victor Josu, Head of the Executive Bureau of the Party for Rebirth and Conciliation in Moldova (PRCM), which is the party headed by former president Mircea Snegur. Mr. Josu, formerly of the Social Democratic Party, also served as chief of staff to Snegur during the 1996 Presidential election.

The image of the PRCM is said to be somewhat fuzzy. Composed of former Communists and other Leftists, the party has recently been moving to the Right. The critical moment in this movement was reached when Mr. Snegur came out in favor of calling the national language Romanian, rather than "Moldovan". (This put him beyond the pale of most Leftists, who are keen not to alienate their base of support among the Russian and Ukrainian minorities.)

Mr. Josu said that he had long been in contact with IFES in Chisinau, first when involved in nongovernmental organization (NGO) activities, then as a presidential advisor, and later as an opposition party leader. He and his team have always greatly appreciated IFES's activities in Moldova, conducted through the staff in Chisinau.

I provided Mr. Josu the documents prepared in connection with my consultancy: the draft law creating a permanent central election commission (PCEC); the draft universal election code (UEC); and the commentary on the UEC. He thanked me, and hoped that IFES assistance would help relieve the likely deadlock in Parliament over the method of election to that body.

Mr. Josu also indicated that he would give our materials to experts to review. Later, his group would contact IFES with questions and suggestions. He pointed out that his group has had considerable experience in administering elections under the current laws, and so they are aware of the various kinds of problems that have arisen.

Mr. Josu was rather less excited about the prospect of early parliamentary elections than others with whom we consulted. He feels that, on balance, elections will probably be held in due course, viz., in February or March of next year. Drafting a new election code is still an urgent matter in his view, however.

The next election in Moldova will definitely be a parliamentary one. But no one can say as yet under what method of election the next parliament will be formed. The Snegur group prefers proportional representation (PR), and thus a continuation of the current system. Aside from other

reasons (cited below), they think it preferable to avoid continual frequent changes in the method of election.

According to Josu, the ruling (Agrarian) party favors moving toward single-mandate districts. This is despite that fact that their victory in the 1994 parliamentary elections occurred under a PR system. The popularity of the party is said to be declining, however, and some well-known parliamentary figures have concluded that they are better off running in single-mandate districts. As a result, the ruling party is more and more stressing personality and less and less basing its appeal on a specific program.

As for President Lucinschi's supporters, they are said to be inclining toward a mixed system (half single-mandates and half PR). Lucinschi is currently greatly hampered in his ability to accomplish tasks, due to an unsympathetic Parliament. His advisors appear to hope that a mixed system would -- if not deliver Parliament into their hands (which it probably wouldn't) -- then at least prevent the formation of a consolidated majority in opposition to him.

The Snegur group, as represented by Mr. Josu, felt that PR should be retained. As mentioned previously, this is not only for substantive but also institutional reasons. (It would be an element of continuity in the political system.) He noted that legal and administrative problems have occurred in the past whenever election laws and procedures were changed in order to accommodate new ways of electing candidates. The clearest example occurred during the presidential election of 1996, when the revised law was quite defective and had to be amended even in the middle of the campaign. The Snegur group would prefer to avoid this kind of thing during the upcoming parliamentary election period.

The reasons the Snegur group favors PR are as follows: (1) It encourages the development of pluralism and promotes the presentation to the voters of a diverse range of options. (2) It focuses more on party programs than personalities, thus helping to clarify the issues for voters. (3) It also has other advantages; for example, the party discipline associated with candidate lists helps ensure stable governance.

The often-cited disadvantage of PR is of course that there is no proximate relationship between voters and their representative(s) in Parliament. Josu noted, however, that before 1994 Moldova had 380 single-mandate districts. Despite this, the performance of parliamentary deputies was extremely poor.

When asked whether the Snegur group prefers single or multiple districts as a basis of election *via* PR, he said ideally they would favor multiple districts corresponding to established administrative/territorial divisions. But the absence of such divisions, and continued problem of how to represent voters in Transnistria, make it expedient to continue to base elections on a single district. (With respect to the ideal number of districts, the Snegur group would appear to favor 8-10, as opposed to the current 40 localities legally established for administrative purposes.)

With respect to what authority would be required to follow the 1994 parliamentary election system again next time, Josu believes that the 1993 Parliamentary Election Law, establishing the PR system and other basic terms, remains valid. The resolution specially adopted prior to the 1994 elections in order to create a single national electoral district was valid that time only, however. Some similar action would therefore have to be taken again.

On the other hand, any major change in the underlying election law(s) is unlikely, according to Josu. This is because such changes would have to be adopted as part of an "organic law", which under the Constitution requires the positive vote of an absolute majority of parliamentarians. (He says this would actually require 53 votes in Parliament.) Josu is doubtful that there would be 53 votes in favor of any single proposal.

We concluded with a discussion of the nature of the contribution being made by IFES at this time. We confirmed in response to Josu's inquiry that the documents which we gave to him were the same as those previously provided to Chairman Cekan in Parliament. The Consultant reiterated, however, that the IFES materials were developed based largely on Moldovan laws with considerable refinement and the necessary modifications to reflect sound international election practices. In particular, inclusion of the current system for elections to parliament (proportional representation from multiple districts, with the possibility of a single electoral district) in the Draft should not be read to mean that IFES believes that this approach is the best, either as a general matter or in Moldovan circumstances -- only that it is basically acceptable and could be workable if administered in the manner indicated.

We also indicated that of course IFES would prefer to see enactment of a comprehensive election code all at one time, since this would avoid the necessity for revisions (just as in the past) as additional sections -- governing particular kinds of elections -- were added. On the other hand, there could be no objection if Parliament decided instead to try to adopt only such parts of the code as necessary at this time -- in which case IFES would of course like to see consideration of the entire code (including the other sections) resumed as soon as possible thereafter.

4. Meeting with Mihai Petrarchi, Advisor to the President on Juridical Matters

On July 3, accompanied by Igor Botan of IFES/Moldova and interpreter Margareta Mamaliga, the Consultant met with Mr. Mihai Petrarchi, Advisor to the President on Juridical Matters. Consultant presented Mr. Petrarchi with a copy of the draft laws on a Permanent Central Election Commission (PCEC) and Universal Election Code (UEC) -- which the Consultant had been asked to prepare by IFES -- and also with the Commentary accompanying the UEC.

Explaining the nature of the IFES project, the Consultant indicated that he had relied to a considerable extent on existing Moldovan statutes in assembling the UEC, but had made numerous refinements and also incorporated new or modified provisions at various points (as indicated by the typeface in the Draft). Consultant also mentioned that, for this reason, the provisions in the draft

UEC were not necessarily to be considered optimal nor the specific set of provisions contained therein the ones that IFES might prefer to see adopted. In particular, inclusion of the method of election of Parliament contained in the 1994 Parliamentary Election Law (proportional representation [PR] from multiple districts, with an option to have only a single electoral district) should not be viewed as a statement of support for this particular approach.

Petrarchi said that although drafted from afar he expected the bills to be given very favorable consideration in Moldova. The fact that the material was produced by a foreign expert -- who was also far removed from various interests in Moldova -- would lend the work even greater weight with parliamentarians. He said he was optimistic that an election code would be approved by Autumn, and would in all probability be based in large part on IFES's product.

Already, according to Petrarchi, there has been considerable movement on election laws. But while there has been a lot of discussion, there has not been much actual drafting as of yet. The IFES proposal was especially well-timed in this connection. In explaining this point, Mr. Petrarchi pointed to the fact that Parliament was already about to start consideration of amendments to the election laws, particularly with respect to parliamentary elections. The Government has proposed a new bill on elections at the local level. The Presidency itself has a proposal on referenda.

Petrarchi said that he believed that the current PR system was most appropriate at the current stage of political and social development in Moldova. (It appeared that he was also basing his remarks on continuation of the multi-district approach contained in the core 1994 law.) This system could give a high level of representation to various territories, permit voters to get to know their candidates, force political parties to form structures at the territorial level, and prevent parties from concentrating their activities in Chisinau.

Petrarchi expects a tough debate in Parliament on the method of election -- particularly with reference to retaining a multi-district structure, since most parties are very weakly represented in the territories. In addition, Parliamentary processes are always very volatile.

Returning to the IFES products, Petrarchi said that the work was particularly well-timed in view of all the discussions on related issues and the absence of completed drafts on this subject. He said that the Draft UEC looked good and could very well be adopted before the elections, even assuming that they are held in the near future. He also endorsed the creation of a PCEC in connection with enactment of the Code; such a measure would be very useful in achieving greater political stability.

As mentioned previously, Mr. Petrarchi was particularly interested in the provisions of the UEC on referenda, since the Presidency has also been doing some work in this area. He asked if the IFES Draft contained any particular standards as to when a referendum should be called, and Consultant said no -- that the draft, as an election code, simply provided electoral procedures once a referendum were authorized in accordance with the Constitution and relevant laws of the Republic.

Petrarchi noted that there were several sources of power to initiate referenda -- mandatory powers to amend the Constitution and contained therein; the power of the President to seek the views of the people, also under the Constitution; and the Parliament's right to call a referendum, established under the existing law on republican referenda. The Consultant responded that, in connection with the previous explanation, these matters were not addressed as such. Instead, the relevant Chapter of the Draft UEC fundamentally distinguishes between Constitutional and non-Constitutional referenda. (The former would of course be self-executing, and not require any Parliamentary action prior to implementation. In addition, special procedures would be used that would limit the opportunity for the government to impede the progress of such a referendum.)

Petrarchi was also interested in the question of what would happen if two entities with the power to initiate a referendum (*e.g.*, the President and Parliament) proceeded simultaneously toward a referendum. How would the conflict be resolved? Could one piggyback on the other? Consultant responded that many of these questions might have to be answered by the Constitutional Court, especially with respect to non-Constitutional referenda (as described previously). It also seemed to me that Constitutional referenda, qualified under the Constitutional provisions on amendment to the Constitution, would have absolute priority and no other referendum process could be allowed to interfere with them.

In response to Petrarchi's question, the Consultant indicated that the IFES Draft does not deal with the question of local referenda. In addition, it does not specifically address "consultative" referenda, although these would probably fall under the provisions regarding non-Constitutional referenda. Consultant also indicated that the IFES Draft did not deal with recall of public officials. (Recalls are currently limited to the local level, and are precluded as a subject of republican referenda.)

After this discussion, Petrarchi said that the Presidency would take the IFES proposal as their basis for drafting their bill on referenda. He also indicated that President Lucinschi will be very insistent on his views toward this subject.

Igor noted the usefulness of the UEC in permitting multiple elections to proceed at the same time, without generating conflicts among the basic provisions of the applicable laws. We also discussed improving the structure of district election commissions, including by having the PCEC maintain a roster of individuals qualified to serve on them during election periods.

Petrarchi said that in his view it is not important who makes appointments to election commissions, but rather where the names come from. As far as involvement by the judges is concerned, it is probably better for the courts to appoint other qualified persons to serve on election commissions than to have their own members selected for this purpose.

5. Meeting with Mme. Anastasia Pascari, Judge of the Supreme Court of Justice of the Republic of Moldova

On July 3, accompanied by Igor Botan of IFES/Chisinau and interpreter Margareta Mamaliga, the Consultant met with Mme. Anastasia Pascari, Judge of the Supreme Court of Justice. Judge Pascari has had extensive experience in election administration, having served as Vice Chairman of the Central Election Commission (CEC) during the 1996 Presidential elections and a member of the CEC during the 1994 Parliamentary elections.

Judge Pascari began by referring to the problems that Moldova has experienced in the past due to defects in the election laws. These problems became particularly acute in 1996, when defects in the Presidential election law enacted prior to that election actually led to amendments being adopted during the actual election period. As Vice Chairman of the CEC during that time, she actively supported the effort to obtain the amendments. As a result, she became subject to criticism and threats from some parliamentarians, including from the ruling party.

Judge Pascari strongly supports the concept of developing a UEC for Moldova. She said the President and Parliament are aware of the need to do this, but have not been active enough in working on it. As a result, elections could once again be held without election code reform. Instead, there could again be a situation in which *ad hoc* amendments to the election law would be required. *E.g.*, the failure to adopt administrative/territorial reform would make it impossible to apply the 1994 Parliamentary Election Law, and some legal action would be required to set up a system of election to Parliament.

Igor mentioned the probable need to create districts for administrative purposes in connection with the upcoming parliamentary elections. Judge Pascari agreed, mentioning that in 1994 such districts were created, but by local authorities and not the CEC. As a result (and as permitted in 1994) local officials and members of political parties were given places on district election commissions (DEC). This problem reoccurred during the 1996 Presidential elections, with the result that the DEC's that were formed initially (by local officials) were disbanded and reconstituted by the CEC.

The main purpose of our meeting was for the Consultant to present Judge Pascari, as a highly knowledgeable and interested person on election law and practice, copies of the IFES Draft UEC, Commentary and bill to create a permanent CEC (PCEC). Looking through the documents, Judge Pascari immediately noted the presence, in the UEC, of a provision giving the CEC authority to develop and issue regulations. She said that this was an important reform, and one which was not addressed in the past. (An amendment on this subject was not accepted during the 1996 Presidential election period.)

With respect to the appointment of judges of the Supreme Court to the CEC, Judge Pascari said that this continued to be a good idea. It was probably no longer feasible, however, in view of the limited number of such judges at present. She noted that the membership of the Constitutional

Court has successfully been drawn from among the judges of the Supreme Court, in a similar manner. She was very skeptical of the idea of appointing prosecutors to election commissions, since prosecutors are seen as agents of enforcement by the state.

We had a discussion of the overall advisability of appointing judges to election commissions. The Consultant said that he understood the tendency to do this in formerly Socialist countries, due to the perception that judges were the most independent public officials. On the other hand, judges are generally not trained managers, and are often unaware of the importance of communicating their decisions.

Judge Pascari said that in the 1994 (Parliamentary) elections, the CEC was probably the best. The relative inexperience of the judges with elections was counterbalanced by the direct (voting) participation by party representatives, who actually had full rights on the commission at that time. The 1994 CEC was very activist, leading to negative reactions by the ruling party. Some judges believe that their careers have been hurt as a result of their service on a CEC, particularly the 1994 one.

The Consultant asked if there were a number of especially salient legal issues with respect to elections in Moldova. Judge Pascari said that the most important was the method of selection of members of election commissions, including DEC's and precinct election commission (PEC). This method has been different in each election law, preventing a sound general procedure of making such appointments from emerging.

Higher election commissions are greatly impeded in their ability to choose (or review) appointees to inferior election commissions by the lack of information about proposed appointees. As a result, some individuals who should not be appointed to election commissions are permitted to serve on them nevertheless. In parliamentary elections, the ability of the CEC to review proposed DEC members is compounded in the event a single national electoral district as the basis for election. (If this method is used again, she feels that the CEC rather than local authorities should be given the power to create districts for administrative purposes.)

I mentioned that the important thing with respect to appointments is probably transparency. If local authorities are actually going to be the source of names for appointment to inferior election commissions, then the power to appoint should probably also be given to them so that it is at least clear where the responsibility lies. If a PCEC is formed and it takes over this role, then it should establish a roster of qualified personnel, make this roster available for public review, and use it as the basis for selection of election commission members during election periods. Judge Pascari agreed that a roster could help the CEC check the qualifications and reputations of proposed candidates for membership on inferior election commissions.

A second issue was violation of rights of people to vote and be elected. *E.g.*, in certain elections judges were not able to run as candidates, even though other state officials, such as prosecutors, were. (These rules have prevented the election of legally-competent candidates to

Parliament.) Under the Presidential Election Law, persons who were subject to detention could not vote, even if they were being held without having received an adjudicated sentence.

A third problem is with respect to the establishment of precincts. The formation of PEC's is a separate issue, and subject to the issues discussed above. But it is also not clear how the actual precincts, in terms of their geographic boundaries, should be created. Similarly, there have been problems with respect to the establishment of voting precincts at Moldovan diplomatic facilities abroad. (The Foreign Ministry has some concerns in this area, and wants to propose some changes in the event that election law amendments are considered.)

A fourth major issue is with respect to where voters may cast their ballots. Should a voter cast ballots in the precinct where he is registered to live (*i.e.*, based on the address contained in his residence visa), or where he or she actually lives? The residence visa system is breaking down in Moldova, due to social changes. Many residents of other areas have obtained residence visas for Chisinau, in hopes of securing employment in the capital.

In short, there appears to be nothing to prevent people from acquiring more than one residence visa. Judge Pascari believes that a large but undetermined number of voters may therefore have multiple places at which they could vote. It is not known whether or to what extent this represents an actual voting security problem at present.

A related problem is with other categories of people who have multiple residences, for temporary periods. This includes patients in hospital, and also students living in dormitories. These people could also be able to vote in two locations.

We had a discussion of ways of addressing this issue, internationally. She mentioned the possibility of issuing a special voter card to eligible voters, but Consultant mentioned that such a system had not been successfully implemented in Romania. There, however, it was possible to achieve some level of voting security by stamping internal passports with the notation "voted", and the date. Moldovan identity documents are not designed to accommodate such a function, however.

A fifth issue is with respect to the submission and review of nominating petitions. While there is no way to check signatures as such, it is possible to check names and other basic information -- by computer -- in national residence data files.

The difficulty of systematically verifying names on signature lists has led to ridiculous situations. In the last parliamentary elections, independent candidates (who were the only ones required to submit signature petitions) were excluded on the basis of one or two false signatures. In the last presidential elections, on the contrary, candidates were registered despite the fact that they had submitted 20,000 of more false names -- on the grounds that they submitted so many more that they were still likely to have passed the threshold of valid signatures.

Judge Pascari thinks that it would be desirable for candidates, at the presidential level at least,

not to be permitted to submit more than a fixed number of names. This would encourage their campaign organizations to pay more attention to quality, and also reduce the burden on the election commission.

We had a further discussion of this issue, during which we also discussed other approaches, such as establishing a specific number or percentage of false names that would trigger disqualification of a candidate. The idea was to find ways for parties and others proposing candidates to do better job at self-policing, a concept which Judge Pascari supports. (The Consultant also mentioned he had not taken such an approach in the relevant section of the UEC, but that alternatives should be explored on this point.) We agreed that development of this issue should be monitored very closely in connection with the current effort toward election code reform.

In closing, Judge Pascari said she felt that IFES should promote its ideas, including the UEC and other documents, independently. Parliamentary drafting on election laws has actually gotten worse, not better, over the years. This is because Parliament has tended to act upon such proposals without adequate consultation with knowledgeable and interested individuals and groups.

6. Conversation with Hon. Dumitru Motpan, Speaker of the Moldovan Parliament

At the July 4th reception at the U.S. Embassy, IFES/Chisinau Director Dorin Tudoran introduced the Consultant to Mr. Dumitru Motpan, Speaker of the Moldovan Parliament. Mr. Motpan immediately brought up the subject of mixed systems of representation in parliament, saying he was very interested in this approach, and asked for our views.

We began by saying that the choice of a method of election to parliament is first and foremost a question for a nation itself. Any of the three main systems -- single-mandate districts, proportional representation (PR) or a combination of the two (mixed system) in a unicameral parliament is an entirely acceptable approach to the problem of democratic representation in the national legislature. What is important from the standpoint of election practice and standards is how such a system is implemented.

We told Mr. Motpan that IFES was especially concerned to see that as part of the adoption or continuation of any system in Moldova that the necessary election code reforms were carried out and, if possible, a permanent central election commission created. He expressed some support for these items.

The Consultant said that a mixed system has some of the advantages of single-mandate and multidistrict approaches in terms of bringing parliamentarians closer to their constituencies, and encouraging the parties to increase their organization and strength at the regional level. Consultant also pointed out, however, that in Moldova the mixed system could not directly address the issue of participation by Transnistrian voters in republican elections. This is because it would be unlikely for the necessary vote quorums to be reached to fill the single-mandate seats from Transnistria.

Responding further to Mr. Motpan's interest in mixed systems, the Consultant said that such a system could have a number of special advantages in Moldovan conditions:

First, adoption of a mixed system could have the aforementioned advantages in terms of bringing politicians closer to their constituents.

Second, despite the aforementioned difficulty, adoption of a mixed system could yet help address the problem of voters in Transnistria. If vote quorums were not obtained in the single-mandate races in this region, repeat elections could be held for these districts. If these failed as well, the seats could be held open as a symbolic gesture. Failure to fill the small number of seats in question would probably not impede the work of Parliament. (There could be an issue under the Moldovan Constitution, however, since the Constitution actually speaks of Parliament as having 101 "members", not seats or mandates.) Naturally, Mr. Motpan indicated that it would not be his intention to leave seats unfilled.

Third, the mixed system could provide some ability of Gagauzians or other minority groups to get more representation, especially in areas where they are concentrated, than under a pure PR system. This objective could be achieved through a mixed system without differentiating between the Gagauzians and other voters in a way that is not authorized by the Moldovan Constitution, and could be politically unpopular as well. In response, Mr. Motpan said that there is no real problem with representation of the Gagauz at this time, and therefore special approaches are not really required.

Fourth, adoption of the mixed system could obviate the need for administrative/territorial reform as the basis for creation of a parliament that would be regionally as well as nationally oriented. Under the mixed system, presumably half or a similar number of the seats in parliament would be elected from single-mandate districts. This number, about 50, is not greatly different from the number of existing municipalities (40). The electoral districts could not simply be based on the existing districts, since they differ in population and using them as the basis for election could violate the equal voting rights provision of the Constitution (Article 38.1). But districts could yet be created based largely on existing local boundaries, if adjusted for population.

By way of background, we had heard from several sources that the ruling Agrarian Party, of which Mr. Motpan is Chairman, is deeply divided on the issue of the method of election to Parliament. Some members are said to prefer to run on party lists, assuming they would be elected if running at a high position on the list. Others are said to be concerned with the decreasing popularity of the party, and believe that they have a better chance in single-mandate contests. (These parliamentarians are somewhat better known, and would like to focus on personality in their electoral contests rather than party image and program.)

In exploring the establishment of a mixed system of parliamentary representation, Mr. Motpan may have found a way to reconcile the competing positions within his party, and proceed

with the consideration and adoption of a new electoral law to govern the upcoming parliamentary elections. Perhaps as a result, Mr. Motpan was very receptive toward our views toward mixed systems in general, and with special reference to Moldova. We also mentioned to him that IFES/Chisinau had recently received from Washington a volume of information on the subject of mixed systems of representation, and could make it available to him.

IV. Other Activities

A. In Chisinau

The Consultant also performed a range of other minor activities for IFES while in Chisinau. It is worthwhile mentioning an written interview for use in IFES/Chisinau's monthly newsletter, *Vocea Civica*. The text of the Consultant's responses to the staff interviewer's questions follows:

1. "The election laws in Moldova provide the basis for citizens to choose their representatives at all levels (Parliamentary, Presidential and local) in a democratic manner. The laws are not without flaws, however, and there are numerous inconsistencies that have impeded the consolidation of sound electoral practices in the Republic. The most important requirements right now are twofold: First, Parliament should enact a uniform electoral code (UEC) that would allow all elections to be conducted on the basis of one model of administration, subject to specific provisions for the type of election in question. Second, a Permanent Central Election Commission (PCEC) should be established that could operate continuously and use the time between elections to make improvements in the election machinery as well as increase public understanding of the elections process. In terms of electoral administration, some of the most important issues are with respect to improving voter lists; ensuring ballot security; reviewing candidate nominating petitions (including signature lists); and enhancing the ability of parties, the press and public associations to monitor the entire elections process."

2. "I believe there is a good chance that Parliament will enact a UEC, and also establish a PCEC as part of this work. At the same time, the prospect of early Parliamentary elections has made it more difficult to focus on other parts of the election laws. Some form of Parliamentary action will be required prior to elections, since the 1994 Parliamentary Election Law cannot be applied under current circumstances (see below). Changing the election law will require an absolute majority in Parliament. Currently, however, there are several tendencies within Parliament on what method of election to use next time -- continued proportional representation (party lists), changing to single-mandate districts, or having a mixed system."

3. "A UEC is required despite these other serious difficulties, which actually only directly affect parliamentary elections. The absence of a PCEC prevents a regular improvement of election administration in Moldova. Combining the election laws into a single Code would permit different elections to be scheduled at the same time, which could result in considerable savings as well as

permit citizens to exercise their power to change the government in a more responsive way. Both steps could also improve continuity and increase public confidence in the elections process.

"The exclusion of Transnistria from republican elections and the failure to adopt administrative/territorial reform limits the options on how to base elections to Parliament. If these problems could be resolved, it would be possible to implement the provisions of the 1994 Parliamentary Election Law, which envisioned elections from multiple districts under a proportional representation system. Elections from multiple districts could help bring deputies closer to the people they represent and also help address issues about national minorities (such as in Gagauzia and the Transnistrian region). Of course, it still may be possible to do something about these issues through other approaches -- including adoption of a single-mandate or mixed system."

4. I have met with representatives of the Presidency and various political formations, as well as with election experts. All these groups have indicated their support for establishment of a PCEC and enactment of a UEC, and have expressed their appreciation for the assistance received by IFES in this connection.

As part of its program, IFES-Moldova has also directly supported the work in Parliament to develop a UEC for consideration in the near future. In addition, IFES has shared copies of its proposed draft laws on the PCEC and UEC with the various parties. IFES will continue to stay in touch with all interested groups on these issues and provide various forms of support for their activities."

B. Afterward

After returning from Chisinau, the Consultant continued working on this project mainly by preparing the present report. In addition, the Consultant provided oral reports on the project and related developments in Moldova to senior IFES staff in Washington. Finally, the Consultant provided further written comments on the portions of the proposed Moldovan election code that were submitted for consideration by the Parliament by Chairman Cekan of the Juridical Affairs Committee. These comments, included in the Attachments hereto,¹² were primarily intended to assist IFES staff in understanding the provisions of the bill being considered and provide some guidance on how to address related issues.

V. Conclusions

A. Current Political Situation

¹²D. Finn, Legal Consultant, IFES, "Comments on the Draft Electoral Code prepared by the Moldovan Parliamentary Working Group", July 29, 1997.

The current political situation in Moldova is quite fluid, and it is difficult to assess the probability of parliamentary elections being called early, in late Summer or Fall of this year (as opposed to next Spring). President Lucinschi has criticized the failure of Parliament to adopt certain economic restructurings required as a condition for continued balance-of-payments support by international financial institutions, and has threatened to dissolve the Government and call for early elections. Lucinschi's warnings have certainly grabbed the attention of deputies, and the ruling coalition in Parliament — while opposing the idea of early elections — is nonetheless moving to prepare for them.

Despite the economic crisis and political maneuvering, participants' views differ whether early elections will actually occur. The 1993 Parliamentary Election Law remains valid, but contains a multi-district proportional representation (PR) system that still cannot be implemented due to the continued inability of most Transnistrian voters to vote in republican elections. (For the 1994 elections, a special parliamentary resolution was approved establishing a single national electoral district.) In order to proceed under the current law, therefore, at the very least a similar action would have to be taken.

Legislative action on any parliamentary election-related measure is made problematic, however, by the varied positions of individual deputies and their parties and other political formations:

- ◆ Within the ruling Agrarian Party, some deputies reportedly prefer to run on party lists, while others would like to emphasize their personalities and run in single-mandate districts; some members, who represent ethnic constituencies (mainly the Gagauz), would like to have special arrangements to protect minority interests in the event a republic-wide PR method is used again.
- ◆ President Lucinschi is said to favor a continued PR system, elected from multiple constituencies. (The latter element is problematic, however, since the necessary legislative steps to create the basis for such districts through so-called "administrative/territorial reform" has not been undertaken.) Some observers claim Lucinschi is actually inclining toward a combination of single-mandate and PR races (a "mixed system").
- ◆ Former President Snegur's group favors continued PR, and is prepared to proceed on the basis of a single republic-wide district, as in 1994.
- ◆ The rightist coalition associated with Mr. Valeriu Matei, Chairman of the Party of Democratic Forces, advocates a mixed system.

It cannot be said with any assurance of certainty to what extent one or another of these approaches can be enacted in time for early parliamentary elections. Unlike a resolution to create

a single electoral district for purposes of implementing the PR system created in the 1993 Law,¹³ establishment of a new method of election to Parliament would require enactment of a new election law (or amendments to the existing one, which amounts to the same thing). Under the Constitution, such a law is considered an “organic” law, the adoption of which requires an absolute majority vote in Parliament.

At the same time, it is possible that proposing a mixed system could break the legislative logjam and permit a new parliamentary election law to be enacted. As reported earlier, Parliamentary Speaker Dimitru Motpan is exploring this approach. (As mentioned just above, further, it is said that President Lucinschi may also find it acceptable.) Proposing a mixed system may also give enough parliamentarians enough of what they want to gain their support. It could also have other beneficial effects, some of which have been described previously. (See especially Summary of Conversation with Speaker Motpan.) Not least, application of this system could create a framework for regional representation without undergoing the legislative rigors of administrative/territorial reform.

B. Prospects for Election Code Reform

The present political uncertainty in Moldova has at once enhanced the prospects for electoral law revision and perhaps undermined the probability of comprehensive election code reform. On the positive side, the current interest in Parliament in preparing for new elections has encouraged the drafting of a new basic election law and the establishment of upgraded electoral institutions (including a permanent central election commission, or PCEC). Chairman Cekan of the Juridical Affairs Committee has requested and received considerable IFES support in this project, both in terms of the provision of lengthy drafts and commentaries and technical consultations by the Consultant, and also ongoing advisory and information services by the staff of IFES/Chisinau. On the negative side, the current political crisis appears to make it unlikely that — in terms of specific election legislation — the Parliament will go beyond the establishment of a PCEC, enactment of general provisions and adoption of specific legislation on parliamentary elections. (This is despite the interest of the President in a new referendum law, and of the Government in a new law on local public administration and local elections.)

C. Major Problems in Election Law and Administration

¹³The Consultant is not necessarily of the view that the decision to form a single republic-wide election district to implement the 1993 Parliamentary Election Law can actually be taken through a mere resolution of the Parliament, and not the enactment of a law for this purpose. Such an action would appear to violate Separation-of-Powers considerations, and the practice in most other jurisdictions — in which districting decisions must be made by statute. On the other hand, under the Moldovan Constitution and existing practice, the Parliament is accorded sweeping powers, apparently including over the interpretation and implementation of legislation.

1. Legislative Drafting

As has been noted by previous observers, current election practice in Moldova is greatly impeded by defects in the drafting of the applicable statutes — the laws on parliamentary, presidential and local elections; referenda; parties and socio-political organizations; and other matters. The difficulties that have arisen from drafting problems are myriad and quite serious — so much so that during the actual election period of the last (1996) presidential elections, legislative amendments had to be adopted to address some of them.

a. Inconsistencies

One problem, which the concept of the UEC is intended to address, is with respect to the inconsistencies which exist among the applicable laws with respect to fundamental issues of election administration. These discrepancies make it difficult to develop a body of election practice that can help to guide future election officials. In addition, the existence of such inconsistencies would make it difficult or impossible to conduct two different kinds of elections simultaneously.

For example, under the current Presidential Election Law, representatives of the contestants in the election are entitled to propose members of the various election commissions, but they serve only as consultative (*i.e.*, nonvoting) members. But under the Parliamentary Election Law, the representatives of electoral associations serve as full members of the commissions. (This description applies mainly to the CEC and DEC's; the situation with respect to precinct commissions [PEC's] is less clear.)

Similarly, under the Parliamentary Election Law, DEC's and PEC's are formed by local authorities. Application of this system during the last Presidential elections, following the timelines contained in the Presidential Election Law, led to the DEC's being formed before the CEC itself. It subsequently appeared that some members of the DEC's were members of local councils, which had apparently been the practice under the Parliamentary Election Law, which speaks of "representatives" (but not members *per se*) of local councils serving on the DEC's. This undesirable situation led to disbandment and reestablishment of the DEC's during the Presidential election period.

b. Omissions

For reasons which are unclear, many of the applicable laws simply fail to address important aspects of the elections process. This is often the case even when the same aspects may have been addressed in more detail in the statutes applicable to other types of elections. For example, none of the election laws provide for preliminary reports of results to be announced by the CEC prior to validation of the final reports, even though international practice supports this practice (which tends to increase the integrity and perceived legitimacy of the tabulation process). As another example, the Presidential Election Law, drafted more than two years after the Parliamentary Election Law, does not incorporate many detailed provisions of the latter law — *e.g.*, on polling station procedures.

c. Non-General Provisions

The essence of statutory law is that it should contain only principles of general applicability. That is, a statute should be universal and apply in all cases, not only with respect to a particular case. (Under Separation of Powers doctrine, the application of the law to a particular case, through implementation or interpretation, is taken to be a function of the Executive or Judicial -- not Legislative -- branch of government.)

Current Moldovan election and related laws contain numerous instances of provisions which can be implemented only in a certain situation or under specific, non-universal conditions. The best-known example is contained in the Presidential Election Law, which calls for elections to be declared on a certain day in November. This provision may have been applicable during the 1996 election, which was a regular election held during this timeframe. But under the Moldovan Constitution, a presidential term runs precisely four years from its date of commencement; and elections must be scheduled a certain time prior to the expiration of the term of the incumbent in order to allow his successor to take office within the Constitutionally-required period. These mandatory dates would not necessarily occur during the prescribed period in November.

d. Rule of Law Considerations

The Consultant believes that the tendency toward drafting deficiencies in Moldovan election and related legislation in part reflects an incomplete transition of the country's legal and political structure toward that of a society governed under the Rule of Law. The Consultant understands that there is a shortage of juridically-trained personnel, and that many practitioners are currently struggling due to economic circumstances. But it strikes him nevertheless that the deficiencies observed in the drafting of legislation also reflects habits from the previous political system, in which perhaps the words of a statute were not so important as the wishes of those with the power to implement it.¹⁴ Seemingly as a result, many laws are inadequately formulated to permit them to operate primarily based on their own terms alone. While in some areas of civil law it may be permissible to expect reliance on existing practices and interpretations, this would appear especially undesirable in the case of election laws. Elections are essentially a political competition. The laws governing elections must therefore be sufficiently clear so that an overtly political resolution of their terms is not required.

Another related problem is the tendency in recent years to adopt election laws adapted to the particular interests of the parties involved. Numerous participants informed the Consultant during his stay in Chisinau that both past and proposed election laws have been unduly influenced by the political objectives of those who were entrusted with enacting them. (Once again, although this sort of thing is common enough, it is still extremely important that a workable and fair election system

should be developed by the political establishment.)

2. Main Problem Areas

The Draft UEC and accompanying Commentary developed by the Consultant address a large number of issues that arose from an examination of Moldovan election laws and also the experience reflected in the reports of IFES and other commentators. For the most part, the Consultant believes that the issues identified in this way have turned out to be real and should be addressed through the proposed UEC.

Consultations in Chisinau have, however, also resulted in the identification of a set of key issues that should be carefully monitored in connection with revision and reform of the current election laws. Most of the subsections of this part deal with these issues. At the same time, however, it must be kept in mind that there are still a large number of outstanding issues in election law and administration that must be addressed through a new Code and electoral institutions. Following this large number of issues will require ongoing efforts by IFES staff and consultants.

a. Establishment of Permanent Central Election Commission

It is to be hoped that the new election code being considered by the Moldovan Parliament will include creation of a permanent central election commission (PCEC). Establishment of such a body would create the basis for steady improvements in election law, procedures and administration. A PCEC could accomplish these objectives by reviewing election standards, studying the election code, developing procedures to deal with recurrent problems and improve standards, and undertake a range of programs to improve the elections process. The latter could include identifying skilled election officials; undertaking civic education programs; providing training for election officials and other participants (including representatives of the contestants in an election, as well as independent observers); and conducting voter information campaigns.

The Consultant earlier provided a draft resolution (or bill) to establish a PCEC. At the request of IFES and its contacts in Chisinau, this bill was drafted separately from the UEC. Subsequently, however, Chairman Cekan of the Juridical Committee decided to include creation of a PCEC in the proposed election code. It will be important to follow whether the provisions adopted for this purpose accomplish the broader objectives of establishing a PCEC (as reflected in the separate draft bill on this subject), and are not basically limited to the functions of the temporary CEC which would be created during election periods under other provisions of the UEC.

b. Formation of District and Precinct Election Commissions

One particularly vexatious area in past elections was the formation of inferior, or district and precinct, election commissions (DEC's and PEC's). As noted previously, under the relevant election laws these bodies have been formed directly by authorities of local public administrations;

sometimes they have included members of local councils and also, reportedly, active members of political parties. The direct involvement of local authorities in establishment of the inferior election commissions has created the appearance of an absence of transparency with respect to the selection of members of these commissions, and the appointment of individuals with political positions or political links has created a perception of unfairness. An extreme example of this situation, which arose during the last presidential elections, necessitated disestablishing the DEC's which had been formed by local authorities, and reconstituting them under the direction of the CEC.

There are two general ways of approaching the selection of members for the DEC's, and to a lesser degree the PEC's. The first way is to make the CEC responsible for appointments, at least to the DEC's. The second is to make local authorities responsible, subject to their selections being reviewed by the CEC. While the first approach emphasizes the role of the CEC, it may not be workable in the absence of a PCEC. In this situation, the question arises as to where the CEC obtained the names of qualified persons to do this job. In the absence of a transparent procedure for this purpose, the suspicion must surely arise that the CEC merely accepted names from the national government or local authorities. If this is to be the case anyway, then it can be argued that it would be preferable to retain the concept of having the local authorities make the appointments themselves (subject of course to approval by the CEC).

The key issues in all of this would appear to be whether the CEC would have the necessary information before it to make informed selections of qualified persons to serve on the DEC's, and whether there would be any public exposure (transparency) for this process. The Consultant has recommended that among the basic functions of the PCEC should be included the maintenance of a roster of suitably-qualified individuals for appointment to inferior election commissions. This roster should be available for review by the press and public.

It is somewhat more difficult to extend these principles to the PEC's, since there are so many of them and a sufficient number of qualified people to serve on them may be difficult to find. It would be understandable, therefore, if local authorities played a greater role in making appointments to the PEC's. At the same time, it should be clear that persons appointed to the PEC's should not hold a political office or have active ties to a political organization; in addition, their appointments should be subject to approval by a higher election commission.

A related issue is with respect to establishment of the boundaries of precincts themselves. This function, like maintenance of the residents list (the basis for the voter list), is given to local authorities. In many other countries, establishment of precincts is considered an electoral function and is usually assigned to the DEC's. This is true despite the fact that the DEC's are typically brought into existence only a relatively short time before the election. Typically, precincts are established based to the extent between practicable on existing political and other subdivisions (such as villages and rural collectives); this is occasionally provided for in current Moldovan election laws. Oftimes, in addition, local authorities may also make suggestions as to reasonable boundaries for precincts.

c. Voter List and Residence Records

Another area of special concern is preparation of the voter list. In Moldova, this is done at the local level, with the local public administration authorities presenting a list of the residents of the precinct (presumably limited to those who are believed eligible to vote) to the PEC. While it is formally the PEC which issues the voter list, the limited time in which it is in operation prior to the election (usually only 20 days) presumably makes it difficult for the PEC to do more than accept the residents list and make it available for voters to review. (The normal conditions under which such review occurs was not observed by the Consultant, nor was this subject pursued during his visit.)

In many other countries the electoral authorities create a national voters list. This is done even when (as in neighboring Romania) the information which creates the basis for the list is primarily collected and organized locally. In fact, there is a limited capability at the republican level in Moldova to assemble such a list, as is revealed by the fact that information about residents of various areas can be accessed in a national computerized database. (This database has been used in past elections to verify the names which appear on signature petitions submitted from various regions in support of the nomination of candidates.)

What seems to be missing from this system, such as it exists, is any systematic review to prevent people from being listed as eligible voters in more than one precinct. (Apparently, national residence records are not currently used for this purpose.) The possibility of multiple voter registration could — and likely does — arise when such persons have obtained residence visas in more than one locality. The Consultant was informed by an expert in this area that there is little if any control on obtaining multiple residence visas. As a result, it may be presumed that these individuals are usually listed as eligible voters in all precincts in which they are registered as residents.

What is not known at this point is whether this potential opening for fraud is being exploited, either systematically or otherwise, within the current election system. Issues have, however, been raised with respect to persons who are permitted to vote in special polling stations established in hospitals, rest homes, student dormitories and the like. (Such voting procedures, and also use of the mobile ballot box, are often particularly suspect in countries in the Newly Independent States.) Once again, it is probable that the persons who are permitted to vote at special places also have the ability to vote at their normal places of residence.

d. Nominating Petitions

(i) Submission

Moldovan practice on the submission of nominating petitions for candidates and lists of candidates is very varied:

- ◆ In presidential elections, candidates are required to submit a relatively large number of

signatures distributed over a certain number of localities republic-wide.

- ◆ In parliamentary elections, on the other hand, only independent candidates are required to submit signature petitions. Registered electoral associations (parties, socio-political organizations and electoral blocs) are not required to submit names of supporters at this time. Parties and socio-political organizations are, however, required to submit a nominal number of signatures at the time of their registration as such.
- ◆ In local elections, again only independent candidates are required to submit signature petitions, and even these are nominal. Registered electoral associations are not required to demonstrate support for their candidates, either in PR or directly-elected (mayoral) races. The same is true of electoral blocs; however, these must have already been registered during the last republican election.

In the Draft UEC proposed by the Consultant, signature requirements are applied at all levels of election. Electoral associations (including parties, socio-political organizations and electoral blocs) nominating lists of candidates for election through PR would, however, be subject to a lower number of signatures *per* candidate. The Consultant believes it is desirable to require parties and others putting forward candidates or candidate lists to demonstrate their own support and that of their candidate(s).

The low threshold of support for party and candidate registration in Moldova has caused a plethora of parties and independent candidates to come forward during elections. This has led to problems in informing voters of their positions, allocating time and space for media announcements and posters, and appointing representatives to election commissions. The Consultant believes that either the underlying problem must be resolved, or all the related issues will have to be addressed separately.

In addition to the large number of electoral associations and candidates which are active during elections, there is also a large number of such bodies registered between times. Currently, there are more than 50 registered parties. While the Consultant is reluctant to advocate limitations on such political activity *per se*, the fragmentation of parties and the volatility of political alliances has seemingly prevented the consolidation of a durable political structure. (It is to be remembered that the head of one party, the Party of Democratic Forces, recommended to the Consultant that the bar should be raised at the time of party registration as well as with respect to the actual nomination of candidates.)

Another issue is with respect to the initiation and conduct of signature petition efforts. Under current law (*e.g.*, the Presidential Election Law), an initiative group must be formed to collect signatures in support of a candidacy, and this group must register with the relevant election commission. The number of signatures that can be submitted is not limited, nor is there any clear standard for the number of false signatures that would invalidate a petition. During the parliamentary elections, candidates were refused registration based on even a small number of

invalid names.

The idea of registering the initiative group, which is widespread in NIS election systems, results from the belief that failure to do so would permit unauthorized persons to submit invalid petitions in order to trigger the removal of a candidate -- *i.e.*, as a provocation. This system also ostensibly permits a candidate or electoral association to control the signature collection process more effectively, making it more fair to hold them to a high standard of accuracy and permitting invalidation of candidacies based on only a small number of observed discrepancies.

The Consultant believes that it is preferable to have a more open system in terms of the collection of names -- *i.e.*, one not requiring registration of the signature collection group. At the same time, persons who collect signatures should be put on notice that inaccuracies on lists they have presided over may result in legal liability against them directly. In addition, ways should be considered to create incentives for candidates or their sponsors to ensure that only high-quality petitions be submitted in their names.

(ii) Review

Other problems have emerged with respect to the review of nominating petitions. As noted above, when such petitions are required -- as, for example, in presidential elections -- a relatively closed system is applied with respect to the collection of signatures. Yet little guidance is given on how the relevant election commission should go about determining whether the signature lists submitted as part of a petition should be considered valid. That is, whether a candidate submitted a sufficient number of valid names. And if the number of invalid names is sufficiently small that the candidacy should not be disallowed on the basis of fraud or inexcusable negligence. The Consultant was informed by knowledgeable persons during his visit to Chisinau that all of these issues have arisen in recent elections, and different and conflicting approaches were applied.

It is particularly important in a country like Moldova that high-quality nominating petitions be submitted on behalf of candidates. Not only is there no active voter registration system (containing specimen signatures as well as other information), but national records concerning potentially eligible voters -- based on residence information -- are limited. Precinct election commissions, which are ultimately responsible for issuance of voter lists, come into being very late in the elections process -- usually after the time that the responsible election commission must decide whether to register a candidates. (Review of the voter rolls by voters and resulting corrections of course occur even later, right up to the very eve of the election.) There are relatively few telephones, and financial and human resources for checking signature lists are in short supply.

While a specific proposal was not included in the UEC, it would therefore appear desirable to consider ways of ensuring that candidates and their sponsors do a better job of policing themselves and submitting the highest quality signature petitions. One possibility along these lines that was mentioned by a knowledgeable person was to establish a ceiling on the total number of names that a candidate or electoral association could submit in connection with nominations. Another approach

could be to establish a certain percentage or number of false names that would automatically lead to invalidation of a nominating petition.

e. Representatives and Observers

Current Moldovan election laws, particularly the Local Election Law, do provide some guarantees of the ability of election contestants to observe election operations — including at polling stations during the period of voting as well as the count — as well as for public accountability mainly through the activities of the press on election day. There are numerous inconsistencies in the current laws, however, including with respect to the question whether representatives of candidates and electoral associations may appoint representatives to all election commissions — including precinct commissions — and whether these representatives are considered full members.

The Draft UEC developed by the Consultant provides an entirely new Chapter on observation and press coverage of elections. Under this Chapter, not only would the contestants in an election be permitted to have representatives present at the precincts. The CEC would also be authorized to accredit observers from social associations, and would be empowered to develop regulations to ensure that the domestic monitors from such organizations were *bona fide* and impartial. Establishing a linkage between elections and other aspects of civil society could be one of the most important functions of a new permanent CEC (PCEC).

3. **Other Issues**

As mentioned previously, the proposed UEC and accompanying Commentary address literally hundreds of issues in election law and administration in the Republic of Moldova. It will be important to continue to monitor the development of many of these issues as the process of legislative consideration for this important bill proceeds. At the same time, since the UEC and Commentary were drafted prior to the Consultant's visit to Chisinau, it will also be necessary to consider the desirability or necessity of additional changes in current Moldovan election laws and practices.

VI. Recommendations

The Consultant believes that the project that is the subject of this Final Report has already enjoyed considerable success in terms of assisting the Moldovan Parliament and various political parties, groups and formations to put forward their proposals for election code revision and reform, as well as for the improvement of other electoral institutions. It would appear that the Moldovan political climate is still quite receptive to expertise on election and other issues related to democracy-building provided by external organizations, particularly IFES. For that reason, the Consultant recommends that IFES continue its program of technical assistance and support to Moldovan electoral institutions, both through its staff in Chisinau and visits by consultants whenever these would be valuable. This part provides more detail on how to continue the effort by IFES to

contribute toward the development of a new election code and institutions in Moldova.

A. Continued Assistance for Election Code Reform

As mentioned above, the Moldovan political environment currently seems open to outside legal assistance on election code revision and reform. In addition, the present political uncertainty provides a definite opportunity to accelerate the development and adoption of election laws, at least with respect to general provisions and the specific section related to elections to Parliament. For this reason, the Consultant recommends that activities in this area should continue, in accordance with the overall concept of the project summarized in this report.

1. Monitor Legislative Developments

The most pressing item at present is simply to monitor the development of the new election code by Parliament. IFES has already contributed greatly to this effort by cooperating with interested persons in Moldova; and retaining the present Consultant to prepare drafts and related materials, and also to visit Chisinau for consultations with election experts, legal specialists, and political leaders. In addition, IFES has directly assisted the efforts of the Parliamentary Working Group (PWG) established by Mr. Cekan, Chairman of the Juridical Committee, through funding and other support.

The PWG has now prepared a Draft Electoral Code ("Parliamentary Draft Code"), which has been introduced in Parliament by Mr. Cekan. After being given initial consideration in the Committee, and perhaps the Parliament as a whole, the bill will lay over into the next session, which resumes in late summer. As the primary legislative vehicle advanced to date, the Parliamentary Draft Code will surely be the focus of the upcoming debate in Parliament on election overall election procedures, as well as the method of election for parliamentarians.

In addition, IFES staff in Chisinau should continue to monitor closely all aspects of the Draft Code being developed in Parliament. IFES should continue to play an active role by offering advice and providing information (including analyses and comparative materials) in response to requests. In this regard, IFES activities in Chisinau should be carefully supported from the organization's resources in Washington.

2. Provide Information and Perspective

In addition to working with Parliament, including the various parties, groups and formations represented there, IFES/Chisinau should continue to provide information to the public about the issues with respect to election code revision and reform. IFES can operate toward this objective by publicizing material in its newsletter, and also conducting other programs of public information. Above all, IFES staff should continue to stay in touch with all interested and affected persons in order to support their contributions to the reform of election laws and institutions.

3. Make Legal Consultant(s) Available at Appropriate Time

The Consultant believes that the relative success enjoyed by IFES during his time in Chisinau indicates that it would once again be productive to bring a similar consultant to Moldova during the appropriate period of consideration of the Draft Election Code by Parliament. This would presumably be at some stage of Parliamentary consideration of the Draft Code, during the next session which runs into the fall. IFES staff in Chisinau should identify what the best timing for such a mission would be, and also the key issues which the legal consultant(s) should be prepared to address. As before, the consultant should be requested to meet with interested political and other leaders and experts in addition to involved parliamentarians.

B. Assistance in Establishing the PCEC

One of the most important reforms that is included in the Parliamentary Draft Code is creation of a permanent CEC (PCEC). Establishment of a PCEC will help to consolidate election practice in the Republic of Moldova and move away from the current episodic structure. At the same time, the PCEC can serve as the focus for a number of longer-term programs that cannot be accommodated by current transitory election arrangements. Recommendations in these areas are included in this section.

1. Development of Regulations

There are numerous aspects of election practice that simply cannot be included in an election code. This is because certain aspects of election administration are too lengthy and complex to be accommodated within a code, may require periodic modification or amendment, or must be formulated to respond to specific problems that appear in the course of administering the code.

If a PCEC is established as part of a new election code, as anticipated, one of its most important functions will be the examination of election procedures in order to codify them in regulations and elaborate or modify them as required. For this purpose, IFES staff should be prepared to provide analytic materials and also examples of regulations adopted in other countries to address issues of interest in Moldova. In all probability, it would also be advisable to have consultants in election administration visit Chisinau from time to time to assist the members of the PCEC and its staff in developing a full range of election regulations.

Previously, the CEC created under Moldovan laws did not always have authority to promulgate regulations even during election periods. According to experts, this greatly impeded the CEC's ability to address problems that arose in administration of the applicable election laws. The creation of a PCEC will greatly improve this situation by bringing into existence a body that has the authority to study election practices and problems on an ongoing basis, and respond through developing the necessary regulations, if possible well in advance of elections.

2. Develop and Implement Work Plan

Issues of election administration go far beyond the enactment of suitable legislation and adoption of necessary regulations. The PCEC should have a much broader agenda, to lay the groundwork for improved election administration through creation of a permanent structure, training of involved persons, and broad outreach to the community as a whole. (Some of these items are further developed in the following sections.)

In order to accomplish these purposes, the PCEC should develop a detailed work plan to help it address the tasks within its purview. IFES, through its resident and local staff and also consultants as needed, should assist the PCEC to develop a plan for the fulfillment of its mission as well as assistance in implementing the plan. In addition, provision of other forms of support to the PCEC should also be considered.

3. Identify and Train Election Workers and Representatives

One of the key functions of the PCEC will be to identify suitably skilled and qualified persons to serve as election officials. In past Moldovan elections, the selection of members of inferior election commissions has been a cause of complaint due to the influence of local councils and possibly political parties, as well as an overall lack of transparency. The PCEC could go a long way toward correcting these problems through creating a public roster of qualified individuals for appointment as election officials.

Another key aspect of improving the performance of election commissions, both at the District and Precinct levels, is training. The PCEC should supervise the preparation of suitable training materials, and organize a training program well in advance of anticipated elections. IFES could support these efforts in a variety of ways, including through its local office and external consultants.

Training of persons involved in elections should not be confined to election officials or workers *per se*. Training of the representatives of the contestants in elections to the various commissions could also go a long way to increase their ability to enhance the legitimacy of the elections process by serving as observers or actual members of election commissions.

Finally, the PCEC should attempt to lay the basis for broader public participation in ensuring the legitimacy of election operations. The PCEC should begin to engage in liaison with public associations in order to determine if any such associations is currently qualified and ready to participate in a program of domestic monitoring of future elections.

4. Civic Education/Voter Information

Another important element in improving the performance and perceived quality of the elections process will be broader programs of civic education to encourage citizens to understand

their electoral and other democratic rights, and engage more actively in political discourse and competition. The PCEC could make an important contribution to the emergence of civil society in Moldova by conducting programs of civic education, particularly with reference to the elections process and the electoral rights of citizens. During an election period, furthermore, the PCEC should conduct various programs — including with media involvement — to inform voters of their choices and how to express them. At the appropriate time IFES, through its local office and consultants, could provide various forms of assistance or support for such programs.

VII. APPENDICES

- A. D. Finn, Legal Consultant, "Proposed Universal Election Code for the Republic of Moldova", Draft, June 14, 1997
- B. D. Finn, Legal Consultant, "Commentary on the Proposed Universal Election Code for the Republic of Moldova", Draft, June 14, 1997
- C. D. Finn, Legal Consultant, "Resolution of the Parliament of the Republic of Moldova 'On the Creation of a Permanent Central Election Commission'", Draft, May 29, 1997
- D. D. Finn, Legal Consultant, "Comments on the Draft Electoral Code prepared by the Moldovan Parliamentary Working Group", July 26, 1997

APPENDIX A

International Foundation for Election Systems

**Proposed
UNIVERSAL ELECTION CODE
for the
REPUBLIC OF MOLDOVA**

**Daniel Finn,
Legal Consultant**

**DRAFT
June 14, 1997**

CHAPTER I.	GENERAL PROVISIONS	8
Article	Basic Principles	8
Article	Qualifications for Voting	8
Article	Right to be Elected	8
Article	Limitations on Voting	8
Article	Equality of Voting	9
Article	Definitions	9
CHAPTER II.	ORGANIZING AND CONDUCTING ELECTIONS IN THE	
	REPUBLIC OF MOLDOVA	10
PART A.	ELECTION COMMISSIONS	10
Article	Election Commissions for Elections in the	
	Republic of Moldova	10
Article	Formation of the Central Electoral Commission	11
Article	Composition of the Central Electoral	
	Commission	11
Article	Expanded Membership of the Central Election	
	Commission	13
Article	Responsibilities of the Central Electoral	
	Commission	14
Article	Formation of District Electoral Commissions	15
Article	Representative Membership on District Election	
	Commission	16
Article	<i>Responsibilities</i> of District Election	
	Commissions	17
Article	Establishment of Precincts and Precinct	
	Election Commissions	17
Article	<i>Responsibilities</i> of the Precinct Election	
	Commissions	19
Article	<i>Changes in the Membership of Election</i>	

Commissions	20
Article . Organization of the Activity of Election	
Commissions	20
Article . Termination of Election Commissions	21
PART B. FINANCING AND SUPPORT OF ELECTIONS	21
Article . Financing Elections in the Republic of Moldova	
Funding and Support of Election	
Operations	22
Article . Prohibition on Foreign Support to Electoral	
Campaign	22
Article . Support for Political Campaigns	23
Article . Assistance to Election Commissions	24
PART C. VOTER ROLLS	24
Article . Voter Rolls	24
Article . Review of the Voter Rolls	25
PART D. NOMINATION OF CANDIDATES	26
Article . Nominating Candidates	26
Article . Collecting Signatures in Support of a Candidacy	
.....	27
Article . Submission and Review of Nominating Petitions	
.....	28
PART E. ELECTION CAMPAIGN	29
Article . Trustees of Electoral Associations and	
Candidates	29
Article . Guaranteed Rights of Candidates in Elections	
.....	30
Article . Pre-Election Campaigning	31
Article . Illegal Activities	31
PART F. BALLOT PREPARATION	32
Article . Form of Ballot-Papers for Elections in the	
Republic of Moldova	32
Article . Ballot Preparation of Ballot-Papers	33

CHAPTER III. VOTING

.....	34
Article . Time and Place of Voting	34
Article . Organization of Voting	34
.....	34
Article . Security of Voting	35
Article . <i>Balloting Procedure</i>	37

CHAPTER IV. COUNTING THE VOTES

Article . Counting of Votes by the Precinct Election Commission	37
Article . Invalid Ballots	39
Article . Protocol and Minutes of the Precinct Election Commission	39
Article . Tabulation of Votes by the District or Territorial Election Commission	41
Article . Announcement of Preliminary Results	42
Article . <i>Retention of Election Records</i>	43

CHAPTER V. OBSERVATION AND PRESS COVERAGE

Article . Observers	43
Article . <i>Press Coverage of Elections</i>	44

CHAPTER VI. JUDICIAL AND ADMINISTRATIVE PROCEEDINGS .

Article . Judicial Review	45
Article . Criminal Acts	46
Article . Administrative Offenses	46
Article . Penalties for Administrative Violations	48
Article . Initiation of Administrative Proceedings	48

CHAPTER VII. ELECTION OF THE PRESIDENT OF THE REPUBLIC

.....	48
-------	----

Article .	<i>Applicability of this Chapter</i>	48
Article .	Determining Elections for the Presidency	48
Article .	Nomination of Candidates for the Presidency	49
Article .	Citizens Group Proposing a Candidate	50
Article .	Results of Election to the Presidency	50
Article .	Second Round of Voting	51
Article .	Confirmation and Publication of the Results of Elections for the Presidency	52
Article .	Taking the Oath	52
Article .	Repeat Elections	53
CHAPTER VIII. ELECTIONS TO PARLIAMENT		53
Article .	Applicability of this Chapter	53
Article .	Method of Election	53
Article .	Basis, Term and Conditions of Parliamentary Mandate	53
Article .	Declaration and Date of Elections	54
Article .	Parliamentary Districts and Mandates	54
Article .	Qualifications for Candidacy	54
Article .	Nomination of Candidates	55
Article .	Limitation on Candidacies	55
Article .	Candidate Lists and Independent Candidates	55
Article .	Replacement of Candidates on Lists	56
Article .	Complaints against Candidate Registration	57
Article .	Determination of Threshold for Representation	57
Article .	Calculation of Results for Proportional Representation	58
Article .	Award of Mandates	58
Article .	Communication and Publication of Results	58
Article .	Confirmation of Results by the Constitutional Court	59
Article .	Certification of Results by the Central Election Commission	59
Article .	Invalidity of Elections	60

Article .	Repeat Elections	60
Article .	By-Elections (Partial Elections)	61
CHAPTER IX. LOCAL ELECTIONS		61
Article .	<i>Applicability of this Chapter</i>	61
Article .	<i>Definitions</i>	61
Article .	Term of Office	61
Article .	Qualifications of Candidates	61
Article .	Qualifications of Voters	62
Article .	Councillor Mandates	62
Article .	Nomination of Candidates	62
Article .	Determination of Election	62
Article .	Electoral Districts and Precincts	63
Article .	Other Election Commissions	63
Article .	Incompatibilities	63
Article .	Candidates of Electoral Associations	63
Article .	Limitations on Candidacy and Membership in Electoral Blocs	64
Article .	Withdrawal of Candidacies	64
Article .	Independent Candidates	65
Article .	Registration of Candidates	65
Article .	<i>Ballot-Papers</i>	66
Article .	Tabulation of Results by District Election Commissions	66
Article .	Award of Council Mandates	66
Article .	Election as Mayor	68
Article .	Repeat Elections	68
Article .	Partial Elections	68
CHAPTER X. REFERENDA		69
Article .	Applicability of this Chapter	69
Article .	Definitions	69
Article .	Right to Initiate Referendum	70
Article .	Basic Considerations	70

Article .	Types of Referendum	70
Article .	Mandatory Referenda	71
Article .	Prohibited Issues	71
Article .	Constitutional Referenda	71
Article .	Other Republican Referenda	72
Article .	Administration of Republican Referenda	73
Article .	Preparation of Ballot-Papers	73
Article .	Amendment or Withdrawal of Proposals	74
Article .	Voter Information	74
Article .	Determining and Publication of the Results	75
Article .	Certification Validation of Results	75
Article .	Publication Announcement and Enactment Implementation of Results	76
CHAPTER XI.	FINAL PROVISIONS	77
Article .	Repealer	77
Article .	Effective Date	77

Law of the Republic of Moldova
“On the Conduct of Elections in the Republic of Moldova”¹

According to the provisions of
Articles 61-62, 78-79 and 141-142, and
Article 2 of the Final and Transitional Provisions
of the Constitution of the Republic of Moldova,
the Parliament adopts this Law:

CHAPTER I. GENERAL PROVISIONS

Article Basic Principles

Elections in the Republic of Moldova shall be conducted on the basis of universal, equal and direct suffrage, with free and secret voting.

Article Qualifications for Voting

(1) Citizens of the Republic of Moldova who, by the day of the elections, have reached the age of 18 have the right to vote in elections in the Republic of Moldova.

(2) Citizens of the Republic of Moldova shall fully enjoy voting rights irrespective of their race, nationality, ethnic origin, language, religion, gender, opinion, political affiliation, property or social origin. Any infringement of the right of citizens to participate in an election in the Republic of Moldova based on these criteria is prohibited.

(3) Citizens who are mentally ill *or otherwise* declared by a court to be incompetent, as well as individuals serving a sentence of incarceration based on a judicial decision, may not vote in elections.

Article Right to be Elected

Any person eligible to vote in elections also has the right to be elected, provided he or she meets any additional qualifications provided by law for candidates for certain offices, and also fulfills the requirements to be registered as a candidate.

Article Limitations on Voting

¹N.B. -- Material from current Moldovan laws is in normal type; new or modified provisions are printed in *italics*.

- (1) A voter *may vote cast only once a single ballot in an each election.*
- (2) A voter shall exercise his right to vote only in the electoral precinct in which he permanently resides, *unless he has received from the election commission of that precinct a certificate of voting enabling him to vote elsewhere.*
- (3) Citizens of the Republic of Moldova shall decide on their own whether to participate in elections or not and for whom to vote.

Article . Equality of Voting

Elections of the President of the Republic of Moldova shall be carried out by equal voting. Each citizen who participates in an election in the Republic of Moldova has one vote.

Article . Definitions

For purposes of this Law Code, the following terms have the indicated meanings:

- (1) *Unless specified otherwise, "election" refers to any election in the Republic of Moldova for the office of President, deputy in Parliament, or at the level of local public administration, for mayor or member of the council. Referenda proposed by the President or Parliament, or through popular initiative, pursuant to the provisions of the Constitution or under law, shall also be considered elections and subject to all relevant provisions of this Code.*
- (2) *"Central Elections Commission" refers to the commission of the same name which operates continuously under a law enacted for this purpose, or -- in the event such a commission has not been established -- to the Central Elections Commission created under the provisions of this Act Code.*
- (3) *"District" refers to an electoral unit created for representational or administrative purposes in order to conduct elections. Districts shall reflect the natural divisions of the country in terms of geographical, economic and other factors.*
 - a) *In the case of electoral units created as the basis for elections to Parliament, the districts shall be established by law and correspond to the second-level administrative-territorial units of the Republic.*
 - b) *In the case of elections for local councillors and mayors, each city, regional or other locality shall constitute an electoral district.*
 - c) *Otherwise, including for the purpose of conducting elections for the Presidency of the Republic of Moldova, districts may be established by the*

Central Elections Commission for administrative purposes.

(4) *Unless otherwise specified or made clear from the context, "election commission" shall refer to the Central Election Commission and/or to the district election commissions and precinct election commissions established pursuant to this Code.*

(5) *"Election period" refers to the time period commencing on the day the date of elections is officially announced and ending on the day the results of the election are validated certified by the Central Election Commission or the ~~Constitutional Court~~ district election commission exercising this power with respect to Parliamentary or local elections.*

(6) *The term "contestants" in an election refers to the candidates in a Presidential election; parties, socio-political organizations and electoral blocs which have registered lists of candidates, or independent candidates, in a Parliamentary election; and, with respect to elections to positions in local public administration, candidates for mayor of a municipality or other locality, or parties, socio-political organizations and blocs which have registered lists of candidates, or independent candidates in elections for positions on ~~municipal~~ or local councils. The associations and individuals described in this paragraph may also be referred to as "contesting" an election.*

(7) *The term "electoral associations" includes parties, socio-political organizations, or electoral blocs which are ~~qualified~~ entitled to nominate candidates to run in an election, or -- depending on the context -- such associations which have actually registered candidates in an election.*

(8) *The term "this Code" refers to this Law; other laws are generally referred to as "laws".*

(9) *The term "locality" shall refer to the area under the jurisdiction of a unit of local public administration, and shall include villages, towns, regions, municipalities and other localities. The term "local" shall mean of or pertaining to a locality.*

(10) *The term "campaign period" refers to the period of time between the day when a candidate or list of candidates is registered as such by the appropriate election commission, and the day prior to the election, inclusive.*

CHAPTER II. ORGANIZING AND CONDUCTING ELECTIONS IN THE REPUBLIC OF MOLDOVA

PART A. ELECTION COMMISSIONS

Article . Election Commissions for Elections in the Republic of Moldova

(1) *In order to organize and conduct elections in the Republic of Moldova the following*

commissions shall be formed:

- a) A Central Election Commission;
- b) District election commissions; and
- c) Precinct election commissions.

(2) *In the event a permanent Central Election Commission (CEC) has been established by law, it shall exercise the responsibilities assigned by this Code to the commission of the same name in addition to whatever other functions the permanent commission may otherwise be called upon to perform. During an election period subject to the provisions of this Code, the membership of the permanent CEC shall be expanded to include the other appointees and representatives as are specified herein.*

Article . Formation of the Central Electoral Commission

(1) *Unless specifically provided otherwise herein, a Central Electoral Commission established through a law enacted by the Parliament of the Republic of Moldova shall be formed no later than 90 days before the determined or otherwise required date of an election in the Republic which is subject to this Code.*

(2) *In the event the Commission has not been established pursuant to the previous paragraph, the members of the Commission who are judges or other state officials shall be selected in the manner described in the following article. Whereupon those members shall meet and begin to conduct the business of the Commission, including requesting the necessary financial and other support from the State to conduct the election.*

(3) ~~*In the event a permanent Central Election Commission is already in existence under another law, it shall constitute the Commission established through this Code, except that its membership shall be expanded during the election period in the manner prescribed herein.*~~ *A Central Election Commission formed under this Code for Parliamentary or local elections shall remain in operation in the event repeat or second-round elections are required. A Central Election Commission shall not be created under this Code in the event partial elections for Parliamentary or local public administration offices are declared, unless such elections are to occur in more than one district.*

Article . Composition of the Central Electoral Commission

(1) The Central Election Commission shall have the following composition:

[OPTION #1:

- a) three members of the Supreme Court of Justice;
- b) three prosecutors from the General Prosecutor's Office; and
- c) three representatives of the Supreme Council of Magistracy.

(2) The aforementioned three members of the Supreme Court of Justice shall be elected at a Plenum of the Supreme Court of Justice from among the members of the Supreme Court of Justice. The results of the voting *shall be* entered in a record signed by the Chairperson of the Supreme Court of Justice. The Chairperson of the Supreme Court of Justice shall announce the date of the Plenum of the Supreme Court of Justice through the mass media no later than 48 hours before the session.

(3) No later than the day of the Plenum of the Supreme Court of Justice, the Collegium of the General Prosecutor's Office and the Supreme Council of Magistracy shall nominate on the Central Electoral Commission through resolutions three Prosecutors of the General Prosecutor's Office and three representatives of the Supreme Council of Magistracy.

(4) Within 3 days from the date of the public session of the Plenum of the Supreme Court of Justice, the composition of the Central Electoral Commission shall be confirmed by a vote of the Parliament.]

[OPTION #2:

Five judges of the Supreme Court of Justice.

(2) The aforementioned five judges shall be elected from among the active judges of the Supreme Court by a secret vote at an open session within five days after the scheduling of the elections. The results of the voting shall be entered into a record, which shall be signed by the chairperson and the secretary of the meeting. The chairperson of the Supreme Court shall announce the date of the meeting through the mass media no later than 48 hours before it commences.]

(5) Within 3 days from the date of the confirmation by the Parliament of the composition of the Central Electoral Commission, the members of the commission shall elect, by secret vote from among themselves, a Commission Chairperson, Vice Chairperson and a Secretary. The persons who shall receive the majority of Commission members' votes shall be considered elected to these positions. The results of the voting shall be entered in the record, which shall be signed by all participants in the voting.

(6) If the candidate for the position of the chairman, vice chairman or secretary of the commission has not gained the majority of votes, another round of elections shall be organized in which the members that have been nominated for the same position in the previous round may participate.

(7) The Central Electoral Commission has the right to exercise its full authority even *before* the representatives of candidates for the position of the *contestants in an election* have been appointed to the commission.

(8) Within two days from the date of *its establishment*, the Central Electoral Commission

shall make public its members, the location of its office and the means of contacting it.

(9) The Central Electoral Commission shall adopt resolutions by a vote of the majority of members who have been confirmed by the date when the decision is adopted.

(10) The final composition of the Central Electoral Commission shall be confirmed by a Parliamentary vote taken within five days from the date of registration of the last *contestant participating in the elections*.

(11) *The Central Electoral Commission shall submit a list of its staff to Parliament.*

Article . Expanded Membership of the Central Election Commission

(1) *During an election period, the membership of the Central Election Commission shall be expanded to include one representative of each qualified contestant in the election as a nonvoting (consultative) member. The contestants shall qualify to place a consultative member on the Commission as follows:*

- a) *for each registered candidate for the position of President of the Republic in an election for the Presidency;*
- b) *for each electoral association which registered a sufficient number of candidates on their lists for election to Parliament to contest at least one-half of the total number of seats in Parliament; or*
- c) *- for each electoral association which has registered a candidate for mayor in at least one-half of the localities in the Republic, or has registered a sufficient number of candidates on their lists for election to council seats to contest at least one-half of the total seats available in local councils Republic-wide.*

(2) *Contestants in an election may submit the names of their proposed representative members on the Commission as soon as they qualify for proposing a consultative member under the preceding subsection. The Commission shall confirm the proposed representative within 48 hours, or give the contestant a statement of its reasons for not doing so.*

(3) *Representatives of electoral associations or candidates shall not be remunerated from the election fund for their activities as consultative members of the Commission. Upon request of the Commission, however, they shall be released from their normal employment without pay.*

(4) *If parties or socio-political organizations should join into an electoral bloc after they have nominated their representatives to the Commission, the latter shall be recalled by a decision of the bloc's leadership, with an exception of one representative of the electoral*

bloc. If the leadership of the electoral bloc has not issued a decision in this regard within three days from the day *the party or socio-political organization has joined the bloc*, the CEC shall suspend the ~~activities of the representatives of the party and or socio-political organization~~.

Article . Responsibilities of the Central Electoral Commission

(1) The Central Electoral Commission *shall* have the following responsibilities *with respect to elections conducted under this Code*:

- a) oversee the implementation of this *Code and other laws of the Republic of Moldova that affect the conduct of elections in the Republic*;
- b) *supervise* the activity of district electoral commissions;
- c) distribute funds allotted for conducting the elections in the Republic of Moldova; oversee the provision of electoral commissions with offices, transportation and telecommunication; and *deal with* other issues of technical and material support for the elections;
- d) establish the form of the ballots and voter rolls, the records of the meetings of the electoral commissions and other documents for conducting the elections in the Republic of Moldova; *and* design voting boxes and stamps of the electoral commissions;
- e) *receive and* consider communications from state and public bodies on issues *concerning* preparation and conduct of elections in the Republic of Moldova;
- f) resolve issues regarding participation in the elections in the Republic of Moldova of those citizens of the Republic who are outside the *country* at the time of voting;
- g) register candidates for the position of the President of the Republic of Moldova and their trustees, *and -- in the event Parliamentary elections are held based on a single election district -- register lists of candidates submitted by political parties and socio-political organizations, as well as independent candidates*, and issue them corresponding documents;
- h) sum up *the results of* elections in the Republic of Moldova and *prepare* the report on the results of the elections in the Republic of Moldova for *transmittal* to the Constitutional Court;
- i) *develop and issue regulations and directives concerning the operations of election commissions, election procedures, and technical and administrative matters*;
- j) *provide training for election workers and election information for voters*;
- k) consider statements and complaints regarding decisions and actions of district and precinct electoral commissions and make decisions regarding them.

(2) Decisions of the Central Electoral Commission made according to this *Code* may be appealed to the Supreme Court of Justice not later than five days after the day of adoption

of the decision by, or of receiving an answer from, the Central Election Commission.

Article . Formation of District Electoral Commissions

- (1)
 - a) District electoral commissions shall be formed by decisions of the respective authorities of local public administration within five days after general elections *for the Presidency, Parliament or local government* of the Republic of Moldova have been *announced*.
 - b) *Paragraph a) of this subsection shall not apply in the event Parliamentary elections are held based on a single electoral district, unless the Central Election Commission directs that district commissions be established for administrative purposes.*
- (2)
 - a) In regions in which the regional law-court is operating with up to four judges at the date of formation of the district electoral commission, there shall be formed a commission which shall *include* one judge of the regional law-court, two representatives of the regional Prosecutor's office, *and* three representatives of the regional council;
 - b) In regions in which the regional law-court is operating with five or more judges at the date of formation of the district electoral commission, there shall be formed a commission of two judges of the regional law-court, two representatives of the regional Prosecutor's office, and two representatives of the regional council;
 - c) In municipalities that are not divided into sectors, the district electoral commission shall be formed of two judges of the municipal law-court, two representatives of the municipal Prosecutor's office, and two representatives of the municipal council; *and*
 - d) In municipalities that are divided into sectors, the district electoral commission shall be formed of three judges of the municipal law-court and three representatives of the municipal and district Prosecutor's office.
- (3)
 - a) The names of judicial members selected for the district electoral commission shall be established by the regional, municipal and district law-court meeting no later than 48 hours before the date of the commission's formation.
 - b) The candidacies of the Prosecutor's offices members for the district electoral commission shall be nominated by the meetings of the corresponding Prosecutor's offices members no later than 48 hours before the date of the commission's formation.
- (4) Before the commission can be formed the names of *local* council representatives selected for the district electoral commission shall be established by the decisions of appropriate councils according to the laws on local public administration. The representatives of district and town councils in the district electoral commissions may not

be councilors.

(5) The district electoral commissions, within 3 days after their formation, shall elect by a secret vote from among their members a chairperson, vice-chairperson and secretary *from among the members appointed pursuant to subsection (2) of this article*. The district election commission shall promptly notify the Central Electoral Commission of the results of these proceedings.

(6) Within 2 days from the date of its formation, the district electoral commission shall make public the names of its members, the location of its office, and the means of contacting it.

(7) The district electoral commission *may* adopt decisions by majority vote of its members confirmed by the date of its approval.

(8) The staff which shall assist the district electoral commission shall be approved by the Central Electoral Commission.

Article . Representative Membership on District Election Commission

(1) *In addition to the members appointed pursuant to the previous article, the district election commission shall include one representative of each qualified contestant in the election as a nonvoting (consultative) member.*

(2) *The contestants shall qualify for consultative membership on the district election commission as follows --*

a) *all registered candidates in a Presidential election;*

b) *for each electoral association which has registered a sufficient number of candidates on their lists for election to Parliament to contest at least two-thirds of the total number of mandates available in the district; or*

c) *for each electoral association which has registered a candidate for mayor in two-thirds of the localities which are located in the district, or has registered a sufficient number of candidates on their lists for election to council seats to contest at least two-thirds of the total number of seats available in the local council elected from the district.*

(3) *Contestants in elections who qualify to place a consultative member on a district election commission may submit the name of their proposed representative as soon as they have qualified for representation under the previous subsection. The district commission shall inform them within 48 hours if the proposed representative has been confirmed for membership or, if not, give them a written statement indicating the reason*

why not.

(4) *Representative members of the district election commission shall not be remunerated for their work on the commission, but may upon request of the commission be released from their regular employment without pay.*

Article . Responsibilities of District Election Commissions

District electoral commissions *shall* have the following *responsibilities*:

- a) oversee the execution of this *Code and other laws of the Republic of Moldova which affect the conduct of elections in the Republic*;
- b) *supervise* the activity of precinct electoral commissions;
- c) distribute the allotted financial funds among precinct electoral commissions;
- d) *receive and examine* communications of local public administration bodies and directors of *State* entities regarding the preparation and implementation of the elections;
- e) exercise control over timely posting *and review* of the voter rolls;
- f) ensure supply of precinct *election* commissions with forms, *including* for voters lists, protocols and ballots;
- g) sum up the *results of the election in the district*, submit related documents to the Central Election Commission, *or if applicable, the Constitutional Court*, and *cause results to be published* in the local press;
- h) consider statements and complaints made about decisions and actions of precinct electoral commissions, and take decisions regarding them; *and*
- i) - exercise other authority in accordance with this *Code*.

Article . Establishment of Precincts and Precinct Election Commissions

(1) To conduct the voting and count the votes, the electoral *districts* will be divided into precincts.

(2) The precincts will be established by district electoral commissions on administrative and territorial principles, based on the recommendation by the mayors of villages (communes) and towns (cities), not later than 30 days before elections. Each precinct shall have not less than 3,000 voters.

(3) *Special* precincts may *also* be established at hospitals, sanatoriums, maternity wards, asylums for elderly and dormitories. *Such* precincts *must* have not less than 30 voters.

(4) *Persons* in the military will vote at the general precincts where the military units are located, *or in special precincts established on military bases if the district election commission agrees.*

(5) Precincts *shall* also be formed at Moldovan diplomatic and consular missions for the workers of these representatives and the members of their families, as well as for the Moldovan citizens traveling to these countries, regardless of their number. These precincts shall *be considered to belong to the election district of the Municipality of Chisinau*.

(6) The district *election* commission shall number its precincts and *make information available* about the decisions of each precinct commission, their address, the place where the polling station will be located, *and* a telephone number for additional information.

(7) The precincts will be numbered in alphabetical order in the locality where the district commission is situated and continuing with the ones in towns, villages and communes.

(8) The municipal government will provide data, information and the necessary assistance to precinct commissions to ensure a proper fulfillment by the latter of their duties *as stipulated in this Code*.

(9) The precinct commissions will be formed no later than 20 days before the election *and will consist of a chairman and seven other members*.

(10) The chairmen of precinct commissions, at the proposal of village, commune, town, *or city council* (or the mayor in the event the council has not been established), shall be confirmed by the district election commission within 5 days from the day of formation of the precinct.

(11) The members of the precinct electoral commissions will be appointed by a vote of the village, commune, town, city council (or the mayor in the event the council has not been established), within 10 days from the formation of the precinct.

(12) The precinct electoral commission will elect, within 3 days from its formation, from among its members a vice chairman and a secretary of the commission and will immediately notify the district *election* commission *of its decision*.

(13) At diplomatic missions and consulates, a chairman and the secretary of the precinct shall be elected to conduct voting for workers at these facilities, their families, and citizens of the Republic who are *located present* in the countries in which they are located. At diplomatic missions and consulates with less than three workers the voting will be done by diplomatic mail, *in which case* the ballots must be sent to the Central Electoral Commission by election day.

(15) Under the provisions of this *Code* the Central Electoral Commission may form precinct commissions and precincts in other places as well.

(16) The members of the precinct electoral commission may not be councilors in local *public administration* councils.

Article . Responsibilities of the Precinct Election Commissions

- (1) Precinct election commissions *shall have* the following responsibilities:
- a) make up the lists of voters *and provide for their review*, ensure integrity of the lists and of the electoral ballots, *and be* responsible for their correct and complete development;
 - b) consider statements about mistakes in the *voters* lists and make changes in them, *and* issue certificates of the right to vote to voters who, on the day of the elections, will *be away from* their place of residence;
 - c) develop supplementary voter rolls containing the names of the persons who have *been issued* a voting certificate because they will be absent *from* their place of residence on election day, and persons who, for various reasons, have not been included in the original lists of voters;
 - d) notify the *public residing within the precinct* of the day of the election and the location of the polling place, prepare the *polling station* premises for voting and ~~the~~ install the ballot boxes and booths, *and* organize the voting on the scheduled day in conditions of order *and tranquillity*;
 - e) *count the results of* the elections in the precinct, complete the protocols *and accompanying minutes*, and convey them along with all ballots to the district election commission;
 - f) consider requests and complaints regarding issues concerning preparing for the elections and organizing the voting, and make decisions regarding them which shall be *reflected in the minutes accompanying* the commission's protocols; *and*
 - g) ~~exercise~~ other authority in keeping with this Law.
- (2) The chairman of the Precinct Electoral Commission shall, not later than 15 days before the election, submit to the Central Election Commission samples of signatures of the members of the precinct commission. Otherwise, the Central Electoral Commission shall declare null the protocol on the results of voting in the precinct.

Article . Changes in the Membership of Election Commissions

- (1) A person who is a member of an election commission *during* elections in the Republic of Moldova may be relieved of duty on the commission at his own request or *upon being* recalled or relieved of his authority.
- (2) The public administration authority and the persons who have nominated or have appointed the person *to* the election commission shall have the right to remove the member.
- (3) A person who is the member of an election commission for elections in the Republic of Moldova shall be relieved from duty if he violates any provision of this *Code or other*

laws of the Republic of Moldova that affect elections in the Republic, or consistently fails to exercise his duties, as determined by the public administration authority or persons who have nominated or have approved his appointment to the election commission.

(4) If a member *leaves or resigns from* the electoral commission for the elections in the Republic of Moldova, a *replacement* can be nominated or appointed in the *same* manner established by this *Code*.

Article . Organization of the Activity of Election Commissions

(1) Meetings of election commissions *during* elections *in* the Republic of Moldova shall be called and *convened* by the chairperson, and, in case of his absence and at his request, by the vice-chairperson. *In addition, a meeting may be called at the request of at least one-half the voting members of the commission.*

(2) *A quorum for the conduct of business at a meeting of an election commission shall be two-thirds of its voting members. All decisions of election commissions established pursuant to this Act shall be taken in an open meeting based on a vote supported by a majority of its members. In the event of a tie vote, the chairperson's vote shall decide. The members of the commission who do not agree with the commission's decisions have the right to put in writing their own opinion, which shall be attached to the record of the meeting.*

(3) The decisions of election commissions *which are* adopted within *the scope of* their authority must be complied with by all public bodies, enterprises, institutions and organizations and all citizens. Such decisions can be appealed to the higher level electoral commission, which, within three days, *shall issue a decision and indicate the grounds for its decision.*

(4) With the approval of the Central Election Commission, some *or all the* members of that Commission or other election commissions may be released from their *normal* professional duties during *an the entire* election *period or a portion thereof*. *Such individuals* shall receive from the electoral fund a wage which is 25% greater than the average monthly wage at their normal place of employment.

(5) A member of *an* election commission *may not* campaign for or against candidates for office; *engage in any other political activity on behalf of a party, socio-political organization, electoral bloc or independent candidate;* be affiliated with any party, socio-political organization or electoral bloc; *make any financial or other contribution, directly or indirectly, to any party, socio-political organization or electoral bloc;* or be a relative by blood or by law with a candidate *contesting an election.*

Article . Termination of Election Commissions

(1) *Election commissions established under this Code shall terminate their activities and be dissolved as soon as practicable after the elections for which they were formed have been concluded.*

(2) *Ordinarily, district election commissions and precinct election commissions shall cease to exist as soon as the Central Election Commission (or relevant district election commission, the event a Central Election Commission has not been formed for the election) has certified the results of the elections and obtained all the necessary validations and confirmations required to do so.*

(3) *A Central Election Commission established under this Code shall terminate after it has certified and published the results of elections, and fulfilled any additional reporting or other requirements that are applicable under this Code or other law. In the event a permanent Central Election Commission has been created by law, the Central Election shall continue in operation under that law, but any additional members named to the Commission created under this Code shall no longer serve on the Commission.*

(4) *As soon as the main business of an election commission has been concluded, but before its dissolution pursuant to the preceding subsections of this Article, those members of the commission who are receiving compensation for their services shall cease to do so, and should return to their normal employment, unless the commission determines that some of all of them should continue to work on a paid or full-time basis. (This subsection shall not apply to members of the Central Election Commission if that Commission is operating on a permanent basis under another law.)*

PART B. FINANCING AND SUPPORT OF ELECTIONS

Article . ~~Financing Elections in the Republic of Moldova~~ *Funding and Support of Election Operations*

(1) Expenses connected with preparation and conducting of elections in the Republic of Moldova shall be borne by the State.

(2) a) The amount of these expenses shall be established by the Parliament within the limits of the provisions of the law on the state budget for the year when the elections are *announced* and conducted. The *proposed amount to be expended* shall be determined by the Central Election Commission and submitted to the Government. The Government shall examine them and then present a *proposal* to the Parliament for *consideration*.

b) Within 45 days after the elections the Central Electoral Commission shall submit to the Parliament a report on the management of the allotted sum along with the statement of the Court of Accounts.

(3) The method of distribution and spending of funds, as well as of publication of the final expense report, shall be established by the Central Electoral Commission under the conditions provided for by this Law. Public authorities, enterprises, institutions and organizations shall make available office space and the equipment necessary for the elections for use by the election commissions.

(4) State mass media shall, free of charge, publish *statements and materials* presented by the electoral commission; electoral programs of the parties, socio-political organizations, blocs or candidates participating in elections; and other *election-related materials, including materials designed for civic education or voter information purposes.*

Article . Prohibition on Foreign Support to Electoral Campaign

(51) Direct or indirect funding and material support in of any form kind for the electoral *nomination or campaign of the candidates for a contestant in an election in the Republic of Moldova* by foreign countries and international enterprises, institutions, organizations, including banks, is prohibited, as is funding *or support* by natural persons who are not citizens of the Republic of Moldova.

(92) In the event that a *contestant in an election* has transferred undeclared funds from abroad or has *knowingly* used such funds, the Central Electoral Commission shall ask the Supreme Court to suspend the registration of the *contestant*. The Supreme Court shall examine the complaint *and render its judgment within five days; or if brought within five days of election day, prior to election day; or if brought on election day itself,* immediately.

Article . Support for Political Campaigns

(61) Direct or indirect financing and material support in any form for the electoral campaign of a *contestant in an election in the Republic of Moldova* by enterprises, institutions and organizations, including banks, of the Republic of Moldova, as well as by natural persons *who are* citizens of the Republic of Moldova, ~~shall may be made only after the announcement in local media about these sources and after the candidate for the position of President of Moldova has filed a copy of the sources at the Central Electoral Commission. be used, but only under the following conditions:~~

- a) *for activities of electoral associations or others nominating candidates in an election, prior to the campaign period, if the financing or other support is first announced in the press, including a newspaper of Republic-wide circulation in the case of a proposed candidate for President of the Republic, or a newspaper with regional circulation in the appropriate district, in the case of proposed candidates or lists of candidates in Parliamentary or local elections. Except that, the announcement of support received for a Parliamentary*

candidate or list of candidates shall be made in a newspaper of Republic-wide distribution in the event that Parliamentary elections are organized based on a single national electoral district;

- b) if, as soon as the appropriate election commission under the previous paragraph is formed, electoral associations or others proposing candidates in an election shall also report any funds or other support they obtain from the sources described in this Article to that commission, prior to making use of them. If a Central Election Commission is in permanent operation under law, electoral associations or citizens groups seeking to nominate candidates in an election for the Presidency shall report to that Commission prior to using such funds or support; and*
- c) for activities of registered candidates or lists of candidates during the campaign period, subject to the provisions of the following subsection with respect to any funds received from these sources, and subject to the provisions of the preceding paragraph with respect to any other form of support, including material assistance or services.*

(72) Within 5 days after registration, participants contestants in elections shall open an account at the Bank of Savings, which will be specified as an "Electoral Account." The participants shall transfer to this account their own money, funds granted by organizations, local commercial and private enterprises and Moldovan citizens. These funds may only be transferred into the account with the candidate's prior consent.

(83) The Bank of Savings will notify the Central Electoral appropriate commission of the funds transferred to a participant's account within 24 hours from the day of the transfer. (10) To check the sources of income, the correctness of the record and spending of funds by candidates, the Central Electoral commission may request that the Court of Accounts or the Fiscal Inspector review these documents.

(5) The appropriate election commission shall maintain a file of all notifications received under this Article, and make the file available to the public for inspection. In addition, the commission shall compile this information on a weekly basis and issue a weekly report on the amount of contributions received by each contestant in an election, and the nature of the sources from which it has been received. The Commission shall release its final pre-election report two days prior to election day, and shall also prepare a final report compiling all the information it has received concerning the amount and sources of contributions to the contestants in an election.

(6) Subject to allocation of funds for this purpose through the State Budget, the appropriate election commission may distribute funds to candidates for use in connection with their electoral activities during the campaign period. In the event such funds are received by a contestant, they shall be transferred into the electoral account described in

a previous subsection of this Article; and the candidate or electoral association shall keep a detailed record of their expenditure.

(7) For purposes of this Article, the term "appropriate election commission" shall refer to the Central Election Commission in case of a Presidential election, or a district election commission in case of Parliamentary or local elections. Except that the appropriate election commission in case of a Parliamentary election being conducted in a single national electoral district shall be the Central Election Commission.

Article . Assistance to Election Commissions

(1) Public bodies, enterprises, institutions and organizations, official persons, parties and other social-political organizations and their organs shall be obliged to provide support to election commissions in fulfilling their duties and supply information and materials necessary for their functioning.

(2) In matters relating to the preparation and conduct of elections, election commissions *may address requests to* public bodies, enterprises, institutions and organizations, official persons, parties and other social-political organizations and their organs which shall consider the matter and respond within three days *of receiving* the commission's *request*.

PART C. VOTER ROLLS

Article . Voter Rolls

(1) Local public administration authorities will provide the record of the voters and convey the data on the voters residing in the respective territory, necessary for compiling the voter rolls, to the precinct electoral commissions. *The mayor of the commune, village, town or city respective locality shall sign the records provided to precinct commissions.*

(2) Voter rolls of the precinct will be developed *by* the respective precinct *election commission*. *After being developed*, the rolls will be checked with voters who are on the lists, at their domicile. Then the rolls will be signed by the *chairperson and the secretary of the precinct electoral commission* and made public not later than 10 days before election day.

(3) The voter rolls will include the voters from each street in the order of numbering of houses located in the area of the respective precinct and will comprise the last name and first name of the voter, the year of his birth, his place of residence and type and number of the voter's identification document.

(4) The lists of the citizens of the Republic of Moldova in the military residing in military units, and members of their families, will be compiled on the basis of the data submitted by the head of the military unit. *Military personnel residing outside military bases, and the*

families of military personnel, shall generally be included in the voter rolls at their places of their residence.

(5) The voter rolls for the electoral precincts constituted in rest houses and resorts, hospitals and other curative institutions shall be compiled on the basis of the data presented by the above-mentioned institutions. The precinct electoral commission will verify this information at the residence of voters.

(6) The voter rolls for the electoral precincts constituted outside the Republic of Moldova shall be compiled on the basis of the data *collected* by the heads of diplomatic missions and consular officers who operate on the soil of the respective countries.

(7) A voter may be included in only one voter roll and at only one electoral precinct, based on the address indicated in the residence visa.

(8) In the event that the voter changes his residence within the period between the day of determining the rolls and election day, the precinct commission, at the voter's request and upon the presentation of his passport or some other identity license, will issue the voter a voting right certificate. Based on the voting right certificate, the voter *shall be* included in the supplementary list at the respective precinct. The voter who receives such a certificate shall sign in the *supplementary* list next to his name *when obtaining a ballot at the precinct where his new residence is located.*

Article . Review of the Voter Rolls

(1) Twenty days before the elections the voter roll shall be *announced by the precinct election commission* and made available for inspection in a public place within the precinct. *No less than 10 days prior to the elections*, voters shall be notified of the *location of the* precinct at which they must vote.

(2) Citizens shall be provided with an opportunity to become familiar with the voter rolls and to verify the correctness of their compilation. They have the right to appeal *the failure of their own names* to be included *in the list*, or *other* incorrect inclusions on the lists or exclusions from it, as well as mistakes made in indicating the data on voters. Complaints from voters shall be considered by the precinct electoral commission, which must within no more than two days and, on the day before and the day of the elections, immediately make the necessary corrections in the list or issue to the applicant a copy of the justified decision to reject his complaint.

(3) A decision of the precinct electoral commission may be appealed no later than two days before the elections to the court in the place where the electoral precinct is located. The court decision may be appealed to *a higher court*. A correction in the voter rolls in keeping with the court decision shall be made by the precinct electoral commission immediately. *In the event the voters roll has been finalized, the voter will be permitted to*

vote on the supplementary list maintained by the precinct commission, and a notation shall be made in the precinct voting record of this fact.

PART D. NOMINATION OF CANDIDATES

Article . Nominating Candidates

(1) *The process of nominating candidates for office commences as soon as the election is announced and ends thirty days before election day.*

(2) *The following have the right to nominate a candidate for election, provided they fulfill the applicable requirements for nominations:*

- a) *Parties and other socio-political organizations which are officially registered and, by the day elections are announced, have been established in accordance with their statutes and the laws of the Republic of Moldova;*
- b) *Electoral blocs formed on the basis of decisions adopted according to the statutes of parties and other socio-political organizations, register within 15 days from their formation -- or, if they have been formed prior to the election period, within 15 days of the commencement of that period -- with the appropriate (Central or district) election commission, and meet any other applicable requirements under this Code; and*
- c) *Citizens of the Republic of Moldova, either on their own behalf (independent candidates) or on behalf of others.*

(3) *Nominating petitions on behalf of candidates shall be submitted to the appropriate election commission, as follows --*

- a) *Petitions to nominate candidates for the office of President of the Republic shall be submitted to the Central Election Commission;*
- b) *Petitions to nominate candidates for Parliament shall be made to the relevant district election commissions, except in case parliamentary elections are conducted on the basis of one a single district, in which case they shall be submitted to the Central Election Commission;*
- c) *Petitions to nominate candidates for local office (mayor or council member) shall be made to the district election commission.*

Article . Collecting Signatures in Support of a Candidacy

(1) *The petitions for collection of signatures for the support of a candidate or candidate*

list of an electoral association must contain the last and first name, year of birth, profession, position (occupation), place of work, place of residence and party membership of the candidate(s), as well as the last and first name, year of birth and place of residence of the voter who collects the signatures. Individual sheets of the petitions shall contain only signatures of voters who live in a single locality (town, region or municipality).

(2) Voters who support the candidacy *or candidacies on a list* shall indicate on the petition their first and last names, year of birth, place of residence, type and number of identification document, date of signing, and signature.

(3) Each voter *may* sign the petition of only one candidate *or candidate list in any particular election*.

(4) The *individual* who gathers the voters' signatures must sign every *sheet of the* petition in the presence of the head of the local public administration authority in which territory the signatures have been collected. *Above the signature collector's signature at the end of each sheet of names shall appear an attestation to the effect that the collector personally collected the signatures and confirmed the identity of the persons whose names appear on that sheet.* The petition shall be certified by stamping it with the official stamp of the respective local public administration.

(5) No later than 45 days before the elections the appropriate election commission *shall begin to review the accuracy of the signature lists that are submitted to it, in terms of the eligibility of the persons whose names appear in the petitions to vote in the elections, their residence, and the authenticity of their signatures. The commission shall inform the submitters of such lists of the results of the commission's review within five days of receiving lists them.*

(6) *The commission shall periodically announce the total number of names included in nominating petitions submitted on behalf of each of the nominees for candidacy in the elections, as well as the number of names that appear to be valid, making its final announcement no later than five days after the close of the period during which such lists may be submitted. In case this information is developed by a district election commission, it shall also be immediately transmitted to the Central Election Commission.*

(7) *In applying the previous two subsections, the election commission shall not cause a petition to be invalidated on the basis that names on the list of supporters are not on the voter roll of the precinct in which they are supposed to reside, unless the commission determines as a result of investigation that the individuals in question are in fact not eligible to be voters in that district (town, region or municipality).*

(8) *Persons who collect signatures for nominating petitions shall be held responsible for the authenticity of the data on petitions, including the accuracy of names, addresses and identifying information about voters, and their signatures.*

(9) Petitions on which *names* have been entered before the official start of the nomination period or petitions which have not been signed by the *signature collector*, or have not been certified by the stamp of the local public administration authority, shall be considered null and void.

Article __. Submission and Review of Nominating Petitions

(1) To register a candidate for an election in the Republic of Moldova the following documents must be submitted to the Central Electoral Commission no later than 30 days before election day:

- a) *in cases in which a candidate is nominated by an electoral association, an official record of the meeting of the supreme body of the association regarding the nomination of the candidate;*
- b) *voter petitions with a sufficient number of signatures in support of the candidate;*
- c) *biographical data about the candidate;*
- d) *the candidate's declaration of commitment to run for the office for which his candidacy is being supported;*
- e) *a declaration by the candidate stating his income over the 2 years preceding the year when the elections are conducted, and the sources of that income;*
- f) *a certificate of the candidate's health issued by a licensed doctor in the Republic of Moldova.*

(2) The relevant election commission shall register candidates for elections within five days from the date of submission of the above-enumerated documents.

(3) Candidates in an election may not *serve* on any electoral commission during the period of that election.

(4) Within two days after registration, the *relevant election commission* shall issue a certificate of *candidacy* to registered candidates.

(5) Refusal *by an election commission* to register a candidate may be appealed to the courts as provided in *Chapter V, Article __ of this Code*, except that the court receiving an appeal under this subsection shall examine the complaint and render its decision, with justification, within three days.

(6) The *relevant election commission* shall *cause to be published* in the state mass

media *its* rulings *on whether* to register a candidate for the position of President of Moldova or list of candidates, within three days from *their* adoption.

(7) Upon the expiration of the term *for registration of candidates*, the relevant election commission shall publish the list of candidates *that it has registered*, providing their names, surnames, *locality of residence*, political affiliation, professions, *and* occupations, *and* the party or the social-political organization, *if any*, that has nominated them.

PART E. ELECTION CAMPAIGN

Article . Trustees of *Electoral Associations and Candidates*

(1) *Contestants in an election* may designate a single trustee in each precinct. The trustees *may assist the contestants* in conducting their electoral campaign, campaign for *them* and represent *their* interests in relations with public bodies, the voters and election commissions.

(2) *The contestants shall* independently choose *their* trustees and notify the relevant election commission, *which shall* issue them certifications. For candidates for the position of President of the Republic of Moldova, the Central Electoral Commission shall register the trustees; *for candidates for Parliament or local office (including mayor or council member), the district election commission shall register them.*

(3) *Contestants in an election* may, at any time before the elections, suspend trustees' authority, *and* replace *them* with other persons in the manner laid out in this article.

(4) *Trustees of candidates shall upon request be granted leave from their normal place of employment, and they may not be dismissed or transferred from their usual job responsibilities during the election period without their consent.*

(5) *If the Central Election Commission determines that some of the candidates in a Presidential election would not have the benefit of the usual level of support to their candidacy by an electoral association, the number of trustees of candidates in such an election may be increased to five per precinct, and they may be paid a salary from the election fund equal to that of the average salary in their normal place of employment.*

Article . Guaranteed Rights of Candidates *in Elections*

(1) Once registered with the *appropriate election* commission, candidates *in elections* in the Republic of Moldova shall participate in the election campaign on an equal basis and have equal access to the mass media, including radio and television.

(2) All registered candidates shall be guaranteed equal opportunities for technical and material support and funding of the electoral campaign.

(3) *Once registered*, candidates shall be relieved from their job duties at their *normal* place of employment throughout the electoral campaign and shall be paid the average salary at their place of employment from the electoral funds allotted by the state.

(4) Candidates *in an election* may use all *state-owned* means of transportation (except taxi) on the soil of the Republic of Moldova free of charge.

(5) During the election *period*, ~~the~~ candidates *in elections* in the Republic of Moldova ~~and their trustees~~ may not be fired or transferred to another place of work or position without their consent.

(6) Candidates *contesting elections* in the Republic of Moldova may not be charged with criminal, administrative or disciplinary violations, arrested, detained or subjected to administrative sanctions the establishment of which is under jurisdiction of the court, without the consent of the *election commission which registered their candidacy*.

(7) Candidates *in an election* in the Republic of Moldova may, any time before the elections, withdraw their candidacy by addressing in writing a declaration to this effect to the *election commission which registered their candidacy*. *Electoral associations which have put forward candidates or lists of candidates in an election may withdraw a candidate any time before the election, in similar manner.*

(8) *If a candidate in an election withdraws his candidacy (or is withdrawn by the electoral association upon whose list the candidate is included) after ballot-papers have already been printed on instructions from the relevant election commission, the candidate or association shall not be entitled to request that new ballot-papers be prepared; the commission shall, however, inform the public of the action of the candidate or association, and if time permits deliver appropriate material to this effect for posting by the precinct election commissions at voting places.*

(9) A candidate *or electoral association which* has withdrawn a candidacy before the election is obliged to return back the material and financial supplies which *it has* been allotted from the state budget to conduct *the* electoral campaign *of that candidate*.

Article . Pre-Election Campaigning

(1) Citizens of the Republic of Moldova, parties, social-political organizations, electoral *blocs, candidates* and trustees of the candidates have the right to put forward for free discussion all aspects of the candidates' electoral programs, and the political, professional and personal qualities of the candidates; *and* to campaign for or against the candidates *in elections* at meetings, reunions, meetings with the electorate, using means of mass information and other forms *of communication* that do not disturb public order.

(2) Candidates *in elections* may organize meetings with the electorate. Election

commissions and local public administration bodies shall ensure that the *opportunity to* organize such meetings is provided on equal *terms and* conditions.

(3) After registration of candidates *in elections* by the *relevant election commission*, the parties, social-political organizations, electoral blocs or *other groups which have registered candidates shall* have the right to post their slogans, declarations, electoral graphics, *etc. and other materials* (hereinafter referred to as "posters"). The content of posters *may be* determined without *prior authorization by the an election commission or any other state authority*.

(4) The local public administration must, within 5 days from the registration of the candidate, establish special places for electoral posters. The area *provided* for electoral posters shall be equal for all candidates.

(5) *All forms of* campaign activity on the day of elections are prohibited.

Article . Illegal Activities

(1) Individuals who, by violence, fraud, threat or other actions violating the law, hinder the free exercise of the right of citizens of Moldova to elect and to be elected and conduct a pre-election campaign; and members of election commissions and other official persons who commit falsification of the electoral documents, have deliberately counted votes incorrectly, have disclosed voting secrets, or have committed other violations of this ~~Law~~ *Code* shall bear penal, administrative, civil or disciplinary responsibility in accordance with *the laws in effect*.

(2) Individuals who have published or broadcast by other means, false information about candidates *in an election* shall bear penal, administrative, civil or disciplinary responsibility in accordance with the laws *in effect*.

(3) If a candidate *in an election* violates the provisions of this *Code*, his registration shall be suspended *or terminated* in the method established *elsewhere in this Code* and, in *addition*, the candidate shall *subject to* punishment according to *this Code and other laws in effect*.

(4) Any person who prevents either directly or indirectly the collection of signatures from candidate supporters, conducted according to this *Code*, shall be *liable to* punishment in accordance with *the laws in effect*.

(5) Representatives from the local public administration authorities who, directly or indirectly, refuse to certify *nominating* petitions, or delay their certification, shall be *liable to* punishment in accordance with *the laws in effect*.

PART F. BALLOT PREPARATION

Article . ~~*Form of Ballot-Papers for Elections in the Republic of Moldova*~~

(1) The design and the text of the electoral ballot for the election of the President of the Republic of Moldova shall be approved by a vote of the Central Electoral Commission, and the ballots for Parliamentary and local elections by the relevant district election commission.

(2) The ballot shall be divided into as many rectangles as there are candidates *or lists of candidates* for the positions *which are being contested in the election*. The size of the rectangle must be large enough to include the first and last name, the date of birth, occupation and place of employment of the candidate(s), as well as the name of the ~~party, social-political organization or electoral bloc association~~, *if any*, that has nominated him or the specification "independent candidate".

(3) On the left of the rectangle there shall be printed the electoral sign or the symbol of the ~~party, social-political organization or electoral bloc association~~ that has nominated the candidate or the electoral sign of the independent candidate at his desire. Identical signs or symbols shall be avoided. The electoral signs and symbols shall be presented to the *relevant election commission by the contestants not later than* the day of registration of the last candidate.

(4) On the right of every rectangle, and at an equal distance from the top and bottom margins, there shall be printed a 15 mm diameter circle in which the voter who is voting "for" a candidate draws two crossed lines.

(5) Electoral ballots shall be drawn up in accordance with the Law of the Republic of Moldova "On the functioning of languages spoken in the Republic of Moldova".

Article . *Ballot Preparation of Ballot-Papers*

(1) The electoral ballots shall be printed on the basis of ~~a decision~~ *instructions* by the ~~relevant responsible district election commission (or, in case elections are run based on a single electoral district, the Central Election Commission)~~. *For purposes of this Article, the responsible election commission is the Central Election Commission with respect to a Presidential election, unless the Central Commission delegates its functions in this respect, in whole or part, to district election commissions; and the appropriate district election commission with respect to Parliamentary elections (except in case such elections are conducted on the basis of a single national electoral district, in which event the responsibility shall be as set forth for Presidential elections) and local elections.*

(2) Ballots shall be printed in a *quantity not to exceed* the number of voters in the district, plus ten five percent.

(3) *After being received from the printer, the ballots shall be stored in by the district responsible election commission and delivered to the precinct election commissions two days before the elections.*

(4) *The premises of the district responsible election commission and precinct election commissions in which ballots are stored prior to the election shall be guarded by the police. Only the chairman of the relevant district or precinct election commission, accompanied by at least two other members of the same commission, shall have access to them during this period.*

(5) *Representatives of parties, socio-political organizations and electoral blocs participating in the elections, as well as any other voter, shall have the ability to inspect sample ballots at the district election commission.*

(6) *The ballots for Presidential elections (and Parliamentary elections, in the event they are conducted on the basis of a single national electoral district) will be delivered to district electoral commissions by the Central Election Commission five days before the elections, unless the Central Commission has created districts election commissions for administrative purposes and delegates the task of arranging for printing of the ballots to the district commissions.*

CHAPTER III. VOTING

Article . Time and Place of Voting

(1) *Voting is carried out on the day of elections between 07:00 a.m. and 08:00 p.m. The precinct electoral commission shall publicly announce the time and place of voting no later than 10 days before the day of the elections.*

(2) *If necessary, by a decision of the district electoral commission the time for conducting the voting in individual electoral precincts may be extended but by no more than two hours.*

(3) *By a decision of the Central Election Commission the time for conducting the voting shall may be extended even longer, but only until midnight.*

(4) *During the time allotted for voting It shall not be allowed to close the polling place or terminate voting, with the exception of cases of mass disorders, natural disasters, or other foreseen circumstances which make conducting the elections impossible or dangerous for the voters. In these cases the chairperson of the precinct electoral commission may suspend the voting for more than two hours in order to put the electoral precinct into the proper condition or move it to another place, having notified the voters of this fact.*

- (5) Individuals with the right to be in attendance at the voting may not be compelled to leave the polling place during a time when voting has been suspended

Article Organization of Voting

- (1) a) Voting shall be carried out at specially equipped places with *desks* for ballot issue, voting booths or rooms for secret voting and voting boxes which must be placed in such a way that to approach them the voters shall go through the voting booths to vote in secret. The premises shall have a sufficient number of booths so as to avoid a large accumulation of voters.
- b) For purposes of maintaining order in the electoral precinct and in order to avoid a large accumulation of voters, the precinct electoral commission shall establish a path for the movement of the voters, beginning with the entry to the tables where the ballots are passed out and then to the secret voting booths, and on to the ballot boxes.
- c) *To the extent practicable, the polling station shall be laid out in a way which permits the members of the precinct election committee and other authorized persons present at the precinct (including candidate and party representatives, and accredited observers) continuously to observe all aspects of the voting process, including voter identification and issuance of ballots, and voters' placing of ballots into the ballot boxes.*
- (2) a) The provision of the electoral precinct with booths, ballot boxes, and other necessary materials shall be the responsibility of organs of local government.
- b) Precinct commissions shall be responsible for the organization of the voting, the secret expression of the voters' will, the equipping of premises and the maintenance of order at polling stations.
- (3) Every voter *must* vote in person; voting for other individuals is not allowed. The precinct electoral commission shall hand in ballots to voters based on the voter roll, *only* upon the presentation of an identification document. Voters shall confirm the receiving of the ballot by signing the voter roll.
- (4) Citizens residing on the territory of the electoral precinct who have not been included on the voter rolls and also citizens who have arrived with a certificate of the right to vote shall be entered on an additional voter roll upon presentation of an identification document *showing their place of residence within the precinct.*
- (5) The chairperson and members of the precinct election commission shall vote at the precinct, *if necessary* after their names have been added to the supplemental list.

(6) *The chairperson of the precinct election commission will keep a written record of significant events which occur during the period of voting or later, during the counting of ballots. Upon request of another member of the commission, any other person who is authorized to be present at the precinct, or any voter, the chairman shall make note of any comments or objections. The written record, when completed at the time of preparation of the protocol of results of the count, shall be referred to as the "minutes" of the precinct commission.*

Article . Security of Voting

(1) At 07:00 on the day of the election the chairperson of the precinct electoral commission, in the presence of no fewer than half the members of the commission, shall check the ballot boxes and seal them. The chairman shall also check the voter rolls, ballots, and seals, and announce the beginning of the voting. The chairman shall *invite the other members of the commission, any other persons who are authorized to attend operations at the polling station, and any voters who may be present at the time of opening to observe his actions.*

- (2) a) Unused ballots shall be stored in a secure place in the election precinct, packed in bundles of 100, and issued *by the precinct chairman* in the necessary quantity *to members of the commission* for distribution to voters at various time intervals.
- b) Ballots issued to voters must bear on the reverse side a control stamp of the electoral precinct. *The stamp shall not be applied to ballots by a member of the commission until shortly before their distribution to voters.*

3) The chairperson, deputy-chairperson, secretary, and other members of the precinct electoral commission shall be obliged to have *and display* identification badges. *Similarly, accredited party and candidate representatives and other observers, who have the right to be in attendance in the electoral precinct, shall display proper identification at all times. Persons who are authorized to enter polling stations shall be prohibited from carrying displaying any emblems, badges or other symbols having to do with the election campaign.*

- (4) a) If because of health or any other factors the voter is unable to be present in the polling place, the precinct electoral commission, at his request, shall send no fewer than two members of the commission with a special ballot box and everything necessary for voting in the place where the voter is located in order to conduct the voting.
- b) Individuals being detained on the basis of an arrest order until a court sentence is handed down, individuals sentenced to incarceration under a court decision which has not taken legal force, and individuals serving terms for committing an administrative legal violation *shall also vote using the*

procedure described in paragraph (a) of this subsection.

- c) *In the event the chairman of the precinct commission authorizes a special ballot box to leave the polling station, he shall announce this fact beforehand to the accredited representatives and observers present at the station and give them the opportunity to accompany it, using their own transportation if necessary.*

(5) The responsibility for maintaining order on the day of the elections in the polling places and territory adjacent to it within a radius of 300 meters shall be assigned to the chairperson of the precinct electoral commission. The decisions he makes in order to maintain order shall be mandatory for all. *Members of the security forces may not enter the polling station, except to vote, unless requested by the chairman of the precinct commission.*

(6) Nobody other than members of the precinct electoral commission and accredited representatives and observers may remain in the polling place longer than the time necessary to vote.

(7) It shall be *strictly* prohibited for anyone to enter a polling place with a firearm or bladed weapon, *except for a security officer who comes to vote or a security officer responding to a request by the chairman of the precinct election commission to assist in re-establishing order.*

Article . - Balloting Procedure

(1) The ballot shall be filled out by the voter in the secret voting booth or room. A voter who is unable to fill out the ballot himself has the right to invite another individual into the booth, with the exception of members of the electoral commission, representatives of candidates, and *other* accredited individuals.

(2) The voter shall place within the circle of only one of the rectangles on the ballot two intersecting lines signifying that he has voted for the *indicated* corresponding party, socio-political organization, electoral bloc, or candidate. The circles in the rest of the rectangles should be left blank.

(3) It shall be prohibited *for any person to accept a ballot outside the polling place.*

(4) A voter may not vote for *more than one* party, socio-political organization, electoral bloc, or candidate (~~in the case of an election for President of the Republic or mayor of a municipality or other locality~~).

(5) If a voter has inadvertently spoiled a ballot, the precinct electoral commission shall

issue a new ballot just once. *In this event, a note shall be made in the minutes of the voting.*

- (6) The voter shall deposit the completed ballot in the ballot box.

CHAPTER IV. COUNTING THE VOTES

Article . Counting of Votes by the Precinct Election Commission

(1) At the time of the completion of the voting, the chairperson of the precinct electoral commission shall announce the *closing end* of the voting and give instructions to close the *premises*. *Voters who have arrived at the precinct prior to closing time shall be permitted to cast their votes notwithstanding that the period for voting at the station has closed.*

(2) Upon expiration of the time allotted for conducting the voting, the precinct election commission shall begin to sum up the results of the elections. First, prior to opening of the ballot box, all unused ballots shall be counted, and canceled by the precinct electoral commission by stamping them "canceled".

(3) After checking the seals on the ballot boxes the chairperson of the commission in the presence of members of the commission and other individuals with the right to attend shall open the ballot boxes.

- (4) a) The electoral precinct must be provided with a sufficient number of tables so that all the ballots taken from the ballot boxes may be counted in one place *visible to* all members of the precinct commission and the others in attendance.
- b) On the table for counting the votes shall be installed *markers* with the names of the parties, socio-political organizations, electoral blocs, or candidates *contesting* the election.

(5) *Prior to counting the votes for the various contestants in the election, the precinct election commission shall count the total number of ballots which were deposited in the ballot boxes. The commission shall also count the number of voters who were issued ballots, as determined by the number of names on the voter roll and supplementary list which were counter-signed by voters.*

(6) *In the case of mobile ballot boxes, the number of ballots contained in these boxes shall first be counted separately, and reconciled with the number of ballots that were issued for this purpose, prior to ~~examination of the ballots for inclusion~~ including them in the count of votes for the various contestants in the election.*

(7) Using a procedure determined by them, or upon instructions of the Central Election Commission or relevant district election commission, members of the precinct electoral commission shall unfold the ballots and determine for which party, socio-political organization or candidate the ballot was cast. The ballots for each shall be counted and bound together separately, and the results of the counting shall be entered on a special *counting form as they are determined*.

(8) Before the number of votes obtained by each party, socio-political organization, electoral bloc, or candidate is entered in the *official protocol*, observers and other accredited individuals shall be granted an opportunity to recheck the figures entered on the *counting form*.

(9) In counting the *total* number of votes, *or the number of votes for each contestant* in the election, ~~or if applicable the number of votes against a candidate~~, the precinct election commission shall not include invalid ballots.

(10) *From the time of closing of the polling place, the precinct election commission shall remain in continuous session during the count and until the preparation of the protocol and minutes. All members of the precinct commission shall remain at the precinct and participate in the operations of the commission during this entire period, unless prevented from doing so by physical inability or other extraordinary circumstances.*

Article . Invalid Ballots

(1) *The following types of ballots shall be considered invalid:*

- a) ballots on which there is no control stamp from the electoral precinct,
- b) ballots of the wrong form,
- c) ballots on which circles have been crossed *through* in several rectangles,
- d) ballots on which no circle has been crossed *through* in any rectangle,
- e) ballots upon which the voter has added the name of an additional party, socio-political organization, or candidate, and
- f) spoiled ballots.

(2) *Ballots shall be considered spoiled if they have been mutilated or defaced, and the voter's intention for whom to vote for cannot be determined.*

(3) *A ballot shall not be considered invalid solely because the voter drew the crossed lines through the voting circle more than once, or the lines are drawn imperfectly, so long as the intention of the voter is reasonably clear.*

(4) Prior to declaring a ballot invalid, the chairman of the precinct election commission shall *provide* all members of the commission, observers, and other accredited individuals present at the precinct the opportunity of inspecting it.

(5) If members of the precinct electoral commission have doubts about the validity of a ballot, the question shall be decided by a vote, *and a notation made in the minutes to that effect.*

Article . Protocol and Minutes of the Precinct Election Commission

(1) The precinct electoral commission shall draw up in two copies a *protocol*, which shall include:

- a) the number of voters included on the voter rolls;
- b) the number of voters added on supplementary lists;
- c) the number of voters who participated in the voting, including —
- d) the overall number of valid votes;
- e) the number of electoral ballots declared invalid or spoiled;
- f) the number of valid votes cast for each list of candidates or independent candidate in the case of Parliamentary elections or elections to ~~municipal or~~ local councils, or for each candidate in elections for President of the Republic or mayor of a ~~municipality or~~ locality;
- g) the number of ballots received by the electoral precinct; and
- h) the number of unused and canceled ballots.

(2) *A form for the protocol shall be prescribed by the Central Election Commission in the case of Presidential elections, and by the relevant district election commission in the case of Parliamentary or local elections. The responsible election commission shall ensure that the necessary forms are provided to the precinct election commission prior to election day.*

(3) The results of the counting of the votes shall be considered at a meeting of the precinct electoral commission and entered into the *protocol*, which shall be signed by the chairperson, deputy chairperson, secretary, and *other* members of the commission. The absence of signatures of individual members of the precinct electoral commission shall not make the protocol invalid. However, the reasons for the absence of these signatures shall be indicated in the *minutes* of the commission.

- (4) a) The protocol shall be prepared in two *equally authentic* signed copies, *one for retention in the records of the precinct election commission, and the other for communication to the district or territorial election commission;*
- b) *In addition, upon request the chairperson of the precinct commission shall provide a certified copy of the protocol to each member of the precinct commission, and to each authorized contestant representative or other accredited person who is present at the precinct at the time of the preparation of the protocol.*

(5) *The chairperson of the precinct commission will also prepare the minutes of the commission based on the written record of the commission's activities during the period of voting and thereafter. The minutes will include a brief account of statements and complaints and decisions adopted regarding them made by the commission. The chairperson shall also provide the other members an opportunity to provide written comments and additions to the minutes. The chairperson shall then sign the minutes and request the other members of the commission to do so.*

- (6) a) *The chairperson of the precinct electoral commission shall deliver to the district or territorial election commission the protocol, minutes, invalid, unused, or protested ballots, and the stamps of the electoral precinct, in a sealed box. The sealed box shall be transported under police guard, with the chairperson of the precinct commission in attendance at all times.*
- b) *The Chairman shall deliver the sealed box to the district or territorial election commission as soon as possible after preparation of the protocol and minutes by the precinct election commission, but in no event later than 18 hours after announcement of the closing of the electoral precincts.*

Article . Tabulation of Votes by the District ~~or Territorial~~ Election Commission

- (1) a) *After receiving from the precinct election commissions the protocols showing the results of the vote in the precincts, the district ~~or territorial~~ election commission shall first establish the number of voters who participated in the election. The district ~~or territorial~~ election commission shall promptly report this figure to the Central Election Commission.*
- b) *In the event the number of votes cast throughout the entire electoral district was less than that which was required for the validity of the elections in that district, the district commission should also indicate that fact to the Central Election Commission. Either the Central Election Commission or the district election commission should promptly announce publicly that the election in the Republic or that district was invalid.*
- c) *In the event the number of votes cast throughout the Republic of Moldova was less than that required for the validity of a Presidential election, the Central Election Commission should publicly announce that fact as soon as it can be reliably be determined.*

(2) On the basis of the records of precinct electoral commissions, the district electoral commission shall determine, with respect to the entire district --

- a) the overall number of voters included on the voter rolls;

- b) the number of voters who participated in the voting, including voters on supplementary lists;
 - c) the number of ballots declared invalid;
 - d) the number of valid votes cast for each party, socio-political organization, electoral bloc, and candidate participating in the elections, except for those that had been excluded by a decision of the Central Election Commission; and
 - e) the number of unutilized and canceled electoral ballots.
- (3) a) The district election commission shall then draw up a record which indicates the information specified in the previous subsection with respect to voting throughout the entire electoral district. This record shall be signed by all members of the district election commission, who shall also have the opportunity to have whatever comments they wish to make attached in writing to the record.
- b) The district election commission shall submit the record of its tabulation of the votes within the district to the Central Election Commission *as soon as possible, but no later than 24 hours after the scheduled closing of the voting places.*

Article . *Announcement of Preliminary Results*

(1) *Prior to the receipt of all the results in an election from subordinate election commissions, the commission which is responsible for determining the results of an election shall periodically announce partial results as soon as practicable after they have been received. Except that, the commission which is responsible for determining the results of an election may decide not to release the results received from subordinate election commissions which are the subject of an appeal to it or the competent court, if the commission determines that the appeal is likely to result in the invalidation or nullification of those results.*

(2) *The commission which is responsible for determining the results of an election shall publicly announce the overall results of that election as soon as practicable once all the results have been received from the subordinate election commissions, unless the commission determines that appeals filed with it or the competent court are likely to affect the outcome of the election. In the event there are outstanding appeals that are not likely to affect the outcome, the commission may release the other results but withhold those which are subject to an appeal which it determines is likely to result in their invalidation or nullification.*

(3) *For purposes of this Article, the commission which is responsible for determining the results of an election shall be --*

- a) *the Central Election Commission with respect to a Presidential election; or, with respect to a Parliamentary election, the attainment of the Republican threshold of votes for Parliamentary representation, or the results of the elections themselves, and the assignment of mandates, in the event of elections conducted in a single national electoral district; or*
- b) *the appropriate district election commission, in the case of Parliamentary elections not described in paragraph (a) of this subsection, or local elections.*

Article . Retention of Election Records

(1) *The Central Election Commission — or if there is no permanent central election Commission, then the Constitutional Court — shall retain for an indefinite time the record of Central Election Commission proceedings during an election period and the records provided by the district election commissions to the Central Election Commission during that period.*

(2) *Upon their dissolution after an election, district election commissions shall dispose of their records in the following manner:*

- a) *District election commission records and unused/canceled, invalid and contested ballots, protocols and minutes received from precinct election commissions, to the Central Election Commission -- or if there is no permanent Central Election Commission, to the local court of the population point at which the district election commission is located;*
- b) *Voted ballots received from the precinct election commissions to the local court of the population point at which the district election commission is located;*
- c) *Other sensitive voting materials, such as stamps of precinct commissions and the district election commission, to the Central Election Commission or local court, similarly to paragraph a);*
- d) *The materials described in this subsection may be disposed of by the entity which is holding them after a period of five years.*

(3) *The Central Election Commission -- or if there is no Central Election Commission, then the Constitutional Court — shall issue regulations permitting access to the materials described in this article for historical research, inquiries into election administration, investigations of election practices, and other legitimate reasons.*

CHAPTER V. OBSERVATION AND PRESS COVERAGE

Article . Observers

(1) At the request of any ~~party, socio-political organization or electoral bloc association which is contesting the an election~~, the district election commission shall accredit for ~~every~~ any precinct a representative ~~a representative of that association to for observing the election. The trustee of a contestant in the election designated pursuant to Article __ of this Code may also be accredited as that contestant's observer under this Article. In the event the district commission finds that an individual proposed for accreditation under this subsection is unacceptable, it shall promptly inform the sponsoring associations of its reasons.~~

(2) The Ministry of Foreign Affairs will accredit representatives of *international organizations, foreign governments, and international nongovernmental organizations* as observers.

(3) a) *If the Central Election Commission so directs, the district election commissions shall also accredit representatives of qualified socio-political organizations of the Republic of Moldova to observe the election at the precincts.*

 b) *For purposes of this subsection, a "qualified" socio-political organization is one which under its statute is unable to nominate candidates for election, not formally associated with any party, socio-political organization or electoral bloc which has contested elections in the Republic of Moldova, committed under its statute to work for human rights or democracy, and found by the Central Election Commission (or, in the case of regional organizations, the district election commission) to be capable of exercising civic functions with respect to the election.*

(4) Observers and accredited representatives have the right to attend any electoral operation and, on election day, to be present during the *voting and counting of ballots*, without interfering with the voting process *or other election operations* carried out by election commissions, and have the right to report to the chairperson of an electoral commission any irregularities they have observed.

Article . Press Coverage of Elections

(1) *The press and media in the Republic of Moldova shall strive to cover elections, and particularly the campaign period, in a fair and objective manner. The press and media shall refrain from news or public affairs reporting which is prejudiced for or against a contestant in any election, or constitutes a commentary in favor of or opposed to the program of any contestant.*

(2) *The press (including mass media and television representatives) shall be accorded*

the same rights as accredited observers.

(3) On election day, prior to the closing of all polling places in the Republic of Moldova, the press and media shall refrain from publishing or broadcasting material, including interviews with voters, indicating how the contestants in the election are faring in the election or how likely they are to obtain votes.

(4) On election day and the two days prior to election day, the press and media may not publish or broadcast the results of any poll or survey conducted among voters or a sample of the population, and which is supposed to indicate the likely outcome of the vote.

CHAPTER VI. JUDICIAL AND ADMINISTRATIVE PROCEEDINGS

Article . Judicial Review

(1) Any citizen whose name is on a voter list, or any electoral association or candidate which is participating in an election, may appeal a decision or action by an election commission to court. Such appeal must be submitted within 72 hours of the action complained of, and if the action occurred within 72 hours of election day, before election day, and if on election day or afterward, as soon as practicable after the action is discovered.

(2) Appeals against decisions by the Central Electoral Commission may be taken to the Supreme Court of Justice. Such appeals filed during ~~the period of an election period~~ shall be acted upon by the Supreme Court within a five day period.

(3) Except as otherwise provided in this Code, appeals based on actions of district or precinct election commissions shall be submitted to the regional, municipal or district court in the population point nearest to the location at which a violation is alleged to have occurred. The court shall have 72 hours to hear and decide the case, except if the case is brought within 72 hours of prior to election day, in which case the court shall act on the case forthwith.

(34) During an election period the courts shall consider all statements, complaints, and other appeals related to organizing and conducting the elections as quickly as practicable. Decisions of higher judicial instance shall be final and subject to execution from the moment they are made.

(45) The activity of the courts during an election period shall be organized in such a way that voters, parties, socio-political organizations, electoral blocs and candidates shall have an opportunity to submit statements, complaints and appeals freely and without delay.

(56) Appeals to court against decisions of election commissions pursuant to this article

shall be conducted in the manner established by the Code of Civil Procedure, unless specifically provided otherwise herein.

(67) The provisions of this article shall not apply to proceedings by the courts which are specifically described elsewhere in this Code.

Article . Criminal Acts and Penalties

(1) The following acts or attempts to commit them by individuals and also persons authorized to take actions related to the elections or officials of state administrative organs shall constitute crimes and be punished in keeping with the law, according to the following provisions:

- a) using any means to stand in the way of free exercise of the right to vote or be elected — by incarceration for a period of from six months to five years; and if the same actions are combined with causing serious bodily harm or a threat to human life — incarceration for a period from six months to 10 years;*
- b) falsifying the results of the voting -- incarceration for a period from six months to four years;*
- c) opening ballot boxes before the termination of the voting as established by law -- incarceration for a period from six months to three years;*
- d) - damaging or forcibly entering the premises of the electoral precincts, or stealing ballot boxes or electoral documents -- incarceration for a period from three to 10 years unless the action is deemed to be a state crime, in which case it shall be punished more severely, as provided for such crimes.*

(2) Criminal cases for crimes described in the previous subsection shall be pursued by the procuracy organs.

(3) The chairpersons of electoral commissions and other officials are obliged to inform the procuracy organs immediately whenever they become aware of evidence that a crime related to conducting the elections has been committed.

Article . Administrative Offenses

(1) The following shall constitute administrative legal violations and punished in accordance with the existing legislation applicable to such violations, unless they also constitute crimes described in the previous article:

- a) destroying, smudging, or making unusable by other means voter rolls, posted*

election programs and platforms, or other posters and announcements pertaining to election campaigning;

- b) posting campaign material in places other than those assigned *for this purpose*;
- c) organizing *public meetings at which* the sale and consumption of alcoholic beverages *is permitted, or failing to take measures for conducting such meetings in a orderly manner*;
- d) deliberately entering on the voter rolls individuals who do not have the right to vote in accordance with the present *Code*, individuals who do not really exist, or intentionally including the same individuals on *more than one* list;
- e) unjustifiably refusing to accept and consider complaints pertaining to actions related to the elections;
- f) *knowingly* agreeing for an individual to be entered on *more than one* lists of candidates *in a district, or as a candidate in more than one district*;
- g) failure on the part of members of the electoral commission to make public proposals for the *registration* of candidates;
- h) using funds *which have been* obtained from abroad or not publicly declaring *funds which have been received*;
- i) preventing people who have the right of vote from entering the polling place *or exercising their right to vote*;
- j) refusing to follow the instructions of the chairperson of the precinct electoral commission for providing for order in the polling place and the area adjacent to it;
- k) unjustifiably failing to issue a ballot to a voter who is included on the lists or issuing one and the same individual more ballots than *he is entitled to cast in the election*;
- l) unjustifiable departure by members of the precinct electoral commission from the polling places before the results of the election are summed up and they have signed the record;
- m) continuing to campaign on the day of elections;
- n) taking *an* electoral ballot issued for voting out of the premises of an electoral

precinct;

- o) falsifying signatures on lists in support of a *list of candidates or candidate*.

Article . Penalties for Administrative Violations

The administrative legal violations specified by points a), b), d), f), g), i), j), l) and m) of the *previous* article *shall* entail a fine in the amount of from 10 to 20 times the minimum wage, those specified by points c), i), j), n), and o) from 15 to 25 times the minimum wage, and that specified by h), confiscation of the sums into the state budget and a fine in the amount of 30 times the minimum wage.

Article . Initiation of Administrative Proceedings

(1) *Proceedings against the* administrative legal violations specified by points a), c), g), i), l), and m) of Article ___ *shall be based on* records drawn up by the prefect and administrative officials of the communes, cities, and municipalities; *under* points a), b), c), d), e), f), h), i), j), l), m), n) and o), *on* records drawn up by chairpersons of electoral commissions; and *under* points a), b), c), f), j), m), *on* records drawn up by officers, subofficers, and sergeants of police units.

(2) Records concerning the establishment of administrative legal violations specified by the preceding part *shall be presented* to the court in the location of the population point in which the legal violation was committed.

CHAPTER VII. ELECTION OF THE PRESIDENT OF THE REPUBLIC

Article . Applicability of this Chapter

This part shall be applicable only to elections for the Presidency of the Republic of Moldova.

Article . Definition

Unless otherwise specified or made clear by the context, the "election" for the Presidency or the "election day" upon which the election is held refers to the first round of elections under which a new President may be elected pursuant to Article 78(3) of the Constitution of the Republic of Moldova.

Article . Determining Elections for the Presidency

(1) The election for President of the Republic of Moldova *shall be held the first Sunday of the period commencing 75 days prior to the end of the term of the incumbent President,*

or if there is no incumbent (due to the resignation, death, indefinite incapacitation or removal from office of the former incumbent), on a date no later than 90 days after the position of President has become vacant.

(2) Elections for the Presidency of the Republic of Moldova are declared through a resolution adopted by the Parliament of the Republic of Moldova ~~through a resolution adopted~~ no later than three months before the scheduled day of the election.

Article . *Qualifications for Candidacy*

(1) Any citizen of the Republic of Moldova over 35 years of age that has been living in the country for at least 10 years and speaks the state language can run for the office of President of the republic of Moldova.

(2) Individuals who are mentally ill or otherwise declared by the court to be incompetent, and those who are sentenced to incarceration based on a judicial decision are not qualified to be candidates for the position of President of the Republic.

Article . *Nomination of Candidates for the Presidency*

(1) The nomination of candidates for the position of the President of the Republic of Moldova starts as soon as an election for President is determined, and ends 30 days before election day.

(2) The following have the right to nominate a candidate for the position of the President of the Republic of Moldova:

- a) parties and social-political organizations officially registered and, by the day of determination of elections, established in accordance with their statutes and the current laws of the Republic of Moldova;
- b) electoral blocs, formed on the basis of decisions adopted according to the statutes of parties and social-political organizations, and, within 15 days from their formation, registered with the Central Electoral Commission; and
- c) citizens of the Republic of Moldova.

(3) The associations and individuals listed in the previous subsection shall be required to submit at least 20,000 voters' signatures gathered in at least one-third of the localities of the Republic, and to fulfill the other applicable provisions of this Code.

(4) For the purposes of the previous subsection of this Article, localities in which no less than 1,000 signatures have been collected shall be not be considered in calculating the number of regions and municipalities of the Republic in which signatures have been

collected.

Article . Citizens Group Proposing a Candidate

(1) When the initiative for proposing a candidate for *the Presidency* comes from citizens, an initiative group for proposing a candidate for the position of the President of the Republic of Moldova shall be formed including no less than 25 individuals with the right to vote. *Such a group may not seek to nominate more than a single candidate in the elections, nor may any member of such a group also be a member of another such group, nor may any member of such a group be a member of another such group.*

(2) No later than 55 days before the elections, the person nominated as candidate by a citizens group shall submit the list of members of the citizens' initiative group to the Central Election Commission *together with a designation* of the leader of the group. The list must contain the last and first names, year of birth and place of residence of the members of the group.

(3) *If these conditions are met*, the election commission shall register the citizens' initiative group and, within 5 days from the presentation of the list of members, issue them certifications.

Article . Results of Election to the Presidency

(1) a) Elections *for the Presidency* shall be considered valid when more than half of voters entered on voter rolls have voted.

b) - The candidate who receives at least half of votes of the voters who have participated in the elections shall be considered elected President of the Republic of Moldova.

(2) Elections shall be declared null *and void by the Central Electoral Commission* in the event that fewer than half of the voters on voter rolls have participated in elections, as well as in the event that all candidates for the position of the President of the Republic of Moldova have withdrawn their candidacies.

(3) a) The decision to declare the elections null *and void* shall may be appealed to the Supreme Court of Justice of the Republic of Moldova within three days after the publication of election results.

b) Candidates for the position of the President of the Republic of Moldova have the right to appeal the decision to declare the elections null and void.

(4) The Central Election Commission shall submit to the Constitutional Court a report on the results of the elections within three days after the record of the results of the

elections has been signed adopted.

Article . Second Round of Voting

(1) If none of the candidates to the position of President of the Republic of Moldova has gained at least half of the votes of those who participated in the elections, then a *second-round* election shall be organized between the two candidates who received the *highest number of votes* in the first round. *If two candidates both finished second with the same number of votes in the first round, then they may agree among themselves which candidate should participate in the second round, or if they fail to agree the second participant shall be decided from between them by lots.*

(2) *For the second-round election, the candidate who received the highest number of votes during the first round shall be listed first on the ballot papers. If the two candidates running in the second round both received the same number of votes during the first round, the order of their names on the ballot-papers shall be decided by lots.*

(3) The second round of voting shall be carried out within two weeks after the day of the first round of election, in accordance with the provisions of this Law Code. Information on conducting the second round of voting shall be published *by the Central Election Commission* within three days after the determination of the day of voting. *If the date for a second round was not included in the Parliamentary resolution that determined the elections, the Commission itself shall establish the date for the second round.*

(4) A candidate who has received more votes *in the second round* shall be declared elected ~~on the condition that the number of votes received is larger than the number of votes against him. For the purposes of this subsection, all valid ballots cast on which the circle corresponding to a candidate is not crossed through to show the voter's intent to vote for that candidate shall be counted as votes against him.~~ In the event that both candidates have received *exactly* the same number of votes, the candidate *shall prevail who has the fewest votes against him, or if that is also equal, the candidate* who gained more votes in the first round of voting.

(5) In the event that a candidate withdraws his candidacy, the candidate who remains shall be elected if he receives at least half of the votes of the voters who participated in the elections.

(6) Second round elections for the presidency shall be considered valid if more than one third of voters listed on voter rolls have participated in them. *Invalid ballots shall not be counted toward establishing the number of voters who voted in the second round.*

Article . Confirmation and Publication of the Results of Elections for the Presidency

(1) Within seven days after *confirming the results* of the elections, the Central Electoral Commission shall submit a report on the results of the elections to the Constitutional Court.

(2) In a public meeting the Constitutional Court shall examine the report submitted by the Central Electoral Commission and adopt a decision *whether to validate the results of the election*. The Constitutional Court shall make public its decision on the results of the elections for the position of the President of the Republic of Moldova in a special communiqué, *issued within seven days of receipt of the report from the Central Election Commission described in the previous subsection*.

(3) a) If the Constitutional Court decides to validate the result of a regular Presidential election, *it shall confirm the results 45 days prior to the expiration of the term of the incumbent President, or if there is no incumbent, then immediately*.

a) The candidate whose election for the position of the President of the Republic of Moldova has been confirmed by the Constitutional Court shall take the oath in the presence of the Parliament and the Constitutional Court on the day when the term of the incumbent President of the Republic of Moldova expires, *or if there is no incumbent, then immediately*.

c) The Constitutional Court may not *validate* the results of the elections for the position of the President of the Republic of Moldova if *substantial* violations have occurred during the voting or *counting process*, and if these violations have affected the final results of the elections ~~for the position of the Republic of Moldova~~.

Article . Taking the Oath

(1) The candidate whose election has been confirmed by the Constitutional Court, shall, in the presence of the Parliament and the Constitutional Court and within the period of time described in the Constitution and this Law, take the following oath: "I swear that I will devote all my power and knowledge to secure the prosperity of the Republic of Moldova, to respect the Constitution and the laws of the country, to protect the democracy, the fundamental human rights and freedoms, sovereignty, independence, unity, and territorial integrity of Moldova."

(2) Commencing on the day of taking the oath, the President of the Republic of Moldova *shall* begin the execution of his mandate.

Article . Repeat Elections

(1) If no more than two candidates have run for the position of the President of the

Republic of Moldova and neither of them was elected, if the second round of elections does not determine who was elected President, or if the Constitutional Court has not validated the results of the election for the position of the President of the Republic of Moldova within *30 days after the conclusion of the elections*, the Parliament shall *declare* repeat elections.

(2) *A repeat election shall be scheduled no later than 90 days after the event which has led to them under the previous subsection, and Parliament shall establish the date for the election by resolution no later than 75 days before the date of the repeat election.*

(3) *Except as otherwise provided in this article, all applicable provisions of this Chapter and Code will apply to repeat elections for the Presidency undertaken hereunder.*

CHAPTER VIII. ELECTIONS TO PARLIAMENT

Article . Applicability of this Chapter

This Chapter shall be applicable only to elections for mandates to serve in the Parliament of the Republic of Moldova.

Article . Method of Election

(1) Elections to parliament shall be conducted in multiple-seat electoral districts based on voting *for lists of candidates submitted by electoral associations and for independent candidates*, according to the principle of proportional representation.

(2) Parliamentary mandates *may only* be obtained by *electoral associations* which have obtained in the elections no less than four percent of the valid votes in the country as a whole.

Article . Basis, Term and Conditions of Parliamentary Mandate

(1) The norm for representation for elections to parliament shall be one deputy for 28,000 voters. *This norm shall be reduced accordingly by the Central Election Commission if its application would result in the creation of more mandates than that specified in the Constitution (101). It shall be raised by the Commission if its application would lead to a reduction in the number of mandates below that specified by the Constitution.*

(2) Parliament shall be elected for a term of four years and shall be permanently active. *The term of deputies' parliamentary service can, however, be limited through dissolution of the Parliament pursuant to Article 85 of the Constitution of the Republic of Moldova.*

Article . Declaration and Date of Elections

(1) The day of the elections to Parliament shall be scheduled by a decree of the President of the Republic no later than four months before the expiration of the term of office of Parliament. The decree shall be made public through the mass media.

(2) In the event that Parliament is disbanded *prior to the end of its term*, elections shall be held within three months. In the event that *Parliament declares itself disbanded*, new elections shall be scheduled by the Parliament itself within the same period of time.

(3) Elections shall be conducted in all electoral districts on the same day, a Sunday.

Article . Parliamentary Districts and Mandates

(1) For elections of deputies to Parliament, multi-seat electoral districts shall be formed which correspond to the second-level administrative-territorial units of the republic, *unless by law it is provided that the elections will be conducted in districts established in a different way, including in a single national election district.*

(2) The number of *parliamentary mandates* for each electoral district shall be established by the Central Election Commission through dividing the number of voters in the district by the norm of representation *established in Article __ (1) in of this Chapter.*

(3) Figures on the number of voters in the population points of the electoral district *on the basis of* which the number of seats is determined shall be submitted *to the Central Election Commission* by the State Department for Statistics *calculated* as of 1 January of the year in which the decision to schedule the elections was made.

(4) Lists of *election* districts with an indication of their boundaries, the number of voters, the number of *parliamentary mandates* and the locations of the electoral commissions shall be *announced* by the Central Election Commission within 15 days after the scheduling of the elections.

Article . Qualifications for Candidacy

Only a person who has reached 25 years of age, is eligible to vote and resides in the district may become a candidate for a Parliamentary mandate.

Article . Nomination of Candidates

(1) *Nominations* of candidates shall be submitted to the district electoral commissions, *except if the elections are run on a single-district basis, in which case submissions shall be to the Central Election Commission.*

(2) Nominating petitions shall be presented no earlier than the third day after the district electoral commissions are formed *(21 days after the elections are announced, in case the*

elections are to be held based on a single electoral district) and no later than 40 days before the elections. The district electoral commission shall determine whether to register candidate lists and independent candidates within no more than five days after the receipt of the corresponding documents.

(3) Within three days after registration, the district electoral commissions shall publish the list of candidates and information about *all* the candidates.

(4) *Electoral associations* that are officially registered by the day of the scheduling of elections according to legislation in effect have the right to *obtain registration for their list of candidates provided they file complete nomination petitions including a list of supporters containing 500 valid voter names from the district, together with accompanying signatures, per candidate on their proposed list.*

(5) Parties and socio-political organizations that have joined into electoral blocs may not at the same time be members of other blocs or participate in the elections independently.

(6) Citizens of the Republic of Moldova may propose themselves as independent candidates *in that district provided they file complete nomination petitions including lists of supporters containing 1,000 valid voter names from the district, together with accompanying signatures.*

Article . Limitation on Candidacies

(1) A candidate may run in only one electoral district *and* as a representative of only one party, socio-political organization or electoral bloc or as an independent candidate.

(2) The number of candidates included in the list of a party, socio-political organization or electoral bloc may exceed the number of seats *allocated* to the corresponding electoral district by two candidates, who *shall* have a reserve status.

Article . Candidate Lists and Independent Candidates

(1) The procedure for including candidates on lists shall be determined by the *electoral associations* themselves, *in accordance with their statutes and applicable provisions of law.*

(2) The lists *of candidates submitted by electoral associations shall* indicate the last name and first name of the candidate, his date of birth, his occupation, his position (kind of employment), and place of residence.

(3) *Electoral associations* shall submit to the *appropriate* district electoral commission *their* list of candidates in three copies certified by *the* leading individuals of the parties *or* socio-political organizations, *and including copies of the* decisions of the management organ of the party, socio-political organization, or electoral bloc concerning the proposal

of candidacies and statements from candidates included on the list concerning their consent to run *for election on the list*.

(4) The first copy of the lists of candidates submitted by *electoral associations* shall be *retained by* the district electoral commission, the second copy shall be *forwarded* to the Central Election Commission, and the third copy shall be *made available for public inspection* in the premises of the district electoral commission.

(5) *Independent candidates must submit to the appropriate district election commission, along with the required signatures, a single copy of a statement of their intention to run as a candidate, and information on the candidate's last and first name, date of birth, occupation, position (kind of employment), and place of residence.*

Article . Replacement of Candidates on Lists

(1) An *electoral association* shall have the right to recall *its entire* list of candidates or reverse its decision to include any *particular* candidate on the list. A party or socio-political organization *also* has the right to withdraw from a electoral bloc.

(2) A decision to withdraw an *entire* list of candidates or one *or more individual* candidates from a list or to withdraw from an electoral bloc shall be made only by the management organ of the party or socio-political organization *in accordance with its statute and in compliance with applicable law*, and *must* be submitted to the district electoral commission. *The commission shall promptly* inform the voters of the decision.

(3) An independent candidate *or* candidates included on a list may withdraw their candidacies at any time before the day of the elections by applying to the *appropriate* district electoral commission.

(4) *In the event a party, socio-political organization or electoral bloc removes a candidate from its list, it may designate one of its additional (reserve) candidates to replace the candidate who was removed. The district election commission will promptly inform the voters of this decision.*

(5) *Replacement of a candidate removed from a list by another candidate not on the list may be undertaken prior to expiration of the period of registration of candidates, but the nominating organization must accompany its application to this effect with the names and signatures of 500 qualified voters who support the inclusion of the new candidate on the list. If the new candidate proposed under this paragraph is registered by the district election commission as a candidate on the list, the commission shall promptly inform the voters of this fact.*

Article . Complaints against Candidate Registration

(1) Any citizen of the Republic of may appeal proposed candidacies, *provided the complaint is filed in accordance with this Article* no later than 25 days before the elections.

(2) Complaints regarding questions of registration of candidates shall be *submitted to a court in the location of the population points included in the electoral district. If the elections are conducted on the basis of a single electoral district, complaint shall be made to the Supreme Court of Justice. The court will consider the complaint* within two days after it is received.

(3) In response to the decision *of a court on a complaint made under this article*, it shall be possible to submit an *appeal to the Supreme Court of Justice* within 24 hours after the decision is made. The *Supreme Court* shall be consider *the appeal* within two days after it is received.

Article . Determination of Threshold for Representation

(1) Upon receiving the records *of the results of the voting* from all the electoral districts, the Central Election Commission shall *total* the number of votes cast for each *electoral association* in order to establish whether or not they have obtained no less than four percent of the valid votes in the country as a whole.

(2) Within 24 hours *of receiving records from all the election districts*, the Central Election Commission shall send to the district electoral commissions information about the results of the voting in the country as a whole and its decision to exclude *electoral associations from representation* if they have not obtained four percent of the valid votes in the country as a whole.

(3) After receiving the decision from the Central Election Commission concerning exclusion from the process of distribution of *mandates* to *electoral associations* that have not garnered 4 percent of the *valid* votes in the country as a whole, the district electoral commission shall begin to distribute the parliamentary *mandates* among the *electoral associations* that have a right to them, and *also to independent candidates, in accordance with the following two articles.*

Article . Calculation of Results for Proportional Representation

(1) The distribution of parliamentary seats among the parties, socio-political organizations, and electoral blocs shall be conducted by the district electoral commission through sequential division of the number of valid votes cast for each party, socio-political organization, and electoral bloc by 1, 2, 3, 4... and so forth up to the figure that corresponds to the number of seats in the electoral districts.

(2) From the results of all the divisions and the number of valid votes cast for independent candidates they shall select in declining order as many numbers as there are

mandates that are to be distributed in the electoral district. The quantity of numbers chosen in declining order at the disposal of the party, socio-political organization, or electoral bloc shall correspond to the number of seats that are due to them.

(3) An independent candidate shall be considered elected if the number of votes cast for him is included in the numbers selected in declining order.

Article . Award of Mandates

(1) The distribution of *mandates* among candidates proposed by *electoral associations* shall be conducted according to the procedure of *awarding them to the candidates on their lists*, beginning with the first number.

(2) Candidates *on the list of an electoral association who are not elected* shall be declared candidate deputies. A candidate deputy may *subsequently* be declared elected by the Constitutional Court if for any reason a *mandate held by an electoral association* which he represented *becomes vacant*.

Article . Communication and Publication of Results

(1) Within 24 hours after summing up the results of the elections and distributing the *mandates from the electoral district*, the district electoral commission shall send under police guard to the Central Election Commission a record containing the *results of the election in the district* and also a list of deputies *who were elected from each electoral association and among independent candidates*.

(2) Within 24 hours after *determining* the results of the elections and distributing the *mandates from the electoral district*, the district electoral commission shall send to the Constitutional Court a report on the conduct of the elections to which is appended a copy of the lists of candidates, the record of the election, and all complaints *submitted to the district commission* accompanied by an account of the decisions adopted *by the commission* regarding them.

(3) Within three days after *determining* the results of the elections and distributing the *mandates*, the district electoral commission shall *make public* the *results* contained in the record. The press and the audio-visual media *shall be expected to convey the information as soon as possible*.

Article . Confirmation of Results by the Constitutional Court

(1) The Constitutional Court shall study the records of the district electoral commissions and within *five days after the expiration of the period established for submitting statements, complaints and appeals* about violations during the process of organizing and conducting the elections, give *its* conclusion about the *validity* of the elections for each

electoral district and within 24 hours send it to the Central Election Commission and the relevant district electoral commission.

(2) *Any citizen of Moldova may submit a statement, complaint or appeal to the Constitutional Court concerning the validity of elections to Parliament in one or more election districts. Such an action must be taken within 10 days after the district election commission has made public the results of the elections.*

(3) If the Constitutional Court ~~establishes~~ *determines that* a gross violation of the present Law *has occurred*, and has affected the results of the voting, the Central Election Commission shall conduct a repeat *election* in accordance with Articles ___ and ___ *hereof*.

(4) In electoral districts in which the elections have been declared valid, the elected deputies shall be recognized as legally elected and the Central Election Commission shall issue them the corresponding certificates.

Article ___ Certification of Results by the Central Election Commission

(1) On the basis of the records received from the electoral districts the Central Election Commission shall draw up a record which shall include:

- a) the overall number of voters on the voter rolls in the country as a whole;
- b) the overall number of voters who participated in the voting, including voters on supplementary lists;
- c) the overall number of valid votes;
- d) the overall number of electoral ballots declared invalid;
- e) verification of the *correct* application by district electoral commissions of the provisions of Articles ___ and ___ *hereof*;
- f) the distribution of seats among parties, socio-political organizations, electoral blocs, and independent candidates throughout the country; *and*
- g) decisions regarding statements and complaints that were received.

(2) The record should be signed by the chairperson and members of the Central Election Commission in whose presence it was drawn up, and within two days after the receipt of *the determination by the Constitutional Court that the election was valid*, should be *issued by the Commission, together* with copies of the lists of candidates *declared elected* by the district electoral commissions, the records of the summing up of the results of the elections in all electoral districts, and *the conclusions of the Constitutional Court* regarding recognition of the *validity of the elections*.

(3) The Central Election Commission shall *cause* the results of the elections *to be published* throughout the country.

Article ___ Invalidity of Elections

(1) Elections *under this Chapter* shall be null and void if less than one-third of the voters of the district included on the voter roll have participated in them. *Invalid ballots shall not be counted in determining whether the necessary number of voters have participated.*

(2) Elections in individual electoral districts may be declared invalid by the Central Election Commission, and for individual electoral precincts, by the district electoral commission, if during the course of the elections and when counting the votes there were violations of *this Code or other Laws that affect the conduct of elections in the Republic of Moldova* which affected the award of Parliamentary mandates.

Article . Repeat Elections

(1) If elections in individual electoral districts or precincts have been declared null and void, repeat elections with the same candidates *and* using the same voter rolls shall be conducted within two weeks.

(2) In the event of a repeat vote the results of the election for the electoral district shall be added to the results obtained in the country as a whole, *in terms of determining whether the threshold for parliamentary representation has been achieved by an electoral association.*

(3) If repeat elections in the electoral district are declared null and void *for failure to reach the minimum number of votes cast*, further elections shall not be conducted *in that district for the current Parliamentary elections, and the mandates available to represent the district shall not be awarded.*

(4) If a repeat *election in a district or a precinct thereof* is again declared invalid, the corresponding district or precinct electoral commission shall be disbanded. In this case *additional repeat elections* shall be held within two weeks after the formation of a new commissions *for the district or precinct in question.*

Article . By-Elections (Partial Elections)

(1) If a parliamentary seat *is vacant* but there is no candidate deputy *eligible to fill it*, *by-elections* (partial elections) shall be conducted *in the district.*

(2) Partial elections shall not be conducted for a parliamentary seat that *becomes vacant* during the 12 months before the expiration of the term of office of Parliament.

(3) Partial elections shall be conducted *pursuant to this article and* in accordance with *this Code* within a period of no more than three months *after the day the seat in Parliament has become vacant.* *By-elections shall be called through a decree of the President.*

(4) If partial elections are conducted in only one electoral district, *and a Central Election*

Commission is not in existence, then that Commission shall not be formed and its functions shall be performed by the district electoral commission established for this purpose.

CHAPTER IX. LOCAL ELECTIONS

Article . Applicability of this Chapter

The provisions of this Chapter shall be applicable only to elections for mayor or member of the council of local public administration bodies.

Article . Definitions

For purposes of this Chapter:

- (1) The term "district" used for electoral purposes shall encompass the same area occupied by a locality (including a village, town, region, municipality or other locality) of the Republic of Moldova subject to self-government by a unit of local public administration.*
- (2) The term "local elections" shall refer to elections for the mayor and/or members of the council of a locality, unless it is clear from the context that it applies only to an election for mayor or councillors of a locality.*

Article . Term of Office

The mayors and counselors of local public administrations shall be elected to four year terms.

Article . Qualifications of Candidates

- (1) The right to be elected as mayors is granted to the citizens of the Republic of Moldova who are eligible to vote in elections in the Republic, have reached 25 years of age and who have been living in the respective district for at least five years.*
- (2) The right to be elected as councillors shall be granted to the citizens of the Republic of Moldova who are eligible to vote in elections in the Republic, have reached 21 years of age and have their place of residence in the respective territory for at least two years.*

Article . Qualifications of Voters

- (1) The right to vote in a local election shall be exercised by a voter only in the city or locality of his residence.*
- (2) Active-duty military personnel do not have the right to vote in local elections.*

Article . Councillor Mandates

The number of councillors at all levels shall be established by the Law of the Republic of Moldova on Local Public Administration.

Article . Nomination of Candidates

- (1) Candidates for district councils and district mayor shall be nominated by parties and socio-political organizations legally established before the date of election has been set, and by electoral blocs *registered prior to the last election in the Republic of Moldova*.
- (2) Independent candidates may also be nominated, under the *provisions contained in the present Chapter*.
- (3) One person can run only for one council and for one mayor's position.

Article . Determination of Election

- (1) Elections of councillors and mayors shall be conducted simultaneously. The day of the elections shall be selected through a *law of the Republic of Moldova adopted* no later than 90 days before the elections are held. The *law* appointing the date of the elections shall be published in the *State* press.
- (2) The elections *shall* be conducted simultaneously in all districts on a Sunday.
- (3) *The provisions of this Article shall only apply to general elections; other elections may held pursuant to the Articles in this Chapter on Repeat Elections and Partial Elections.*

Article . Electoral Districts and Precincts

- (1) For conducting elections for *local* counselors and mayors, each *locality* shall constitute one electoral district.
- (2) The boundaries of electoral districts for city and district counselors shall be *published by the Central Election Commission* within five days after *establishment of the date of elections*, or if a *Central Election Commission* does not exist at that time, then five days after its establishment.
- (3) *To the extent practicable, electoral precincts shall correspond to existing administrative/territorial units, such as villages and communes.*

Article . Other Election Commissions

- (1) *The district election commission may form other election commissions at the*

municipal or other level in order to coordinate the administration of the elections in multi-precinct areas with dense populations.

(2) In the event the district commission decides to form an additional commission described in the previous subsection, it shall promptly inform the Central Election Commission and obtain the approval of the Central Commission for the proposed structure and functions of the additional commission.

Article . Incompatibilities

(1) An individual may serve on only one election commission.

(2) Election commissions may not include candidates for election as local counselors or mayors, or for elected positions at any level.

Article . Candidates of Electoral Associations

(1) Electoral associations which are eligible to participate in the election shall present their lists of candidates for the elections of the counselors and their nominee for representative on the district election commission no earlier than 5 days after the date of the establishment of the commission, and no later than 30 days before the elections.

(2) The procedure for being included on the lists of candidates for the local council or put forward as candidate for mayor shall be determined by electoral associations themselves.

(3) The lists of candidates for local council or the submission of a candidate for mayor shall indicate the last name and first name of the candidate, his date of birth, his occupation, his position and his place of residence.

(4) The number of candidates included in the list of candidates for local council submitted by an electoral association may exceed the number of seats in the corresponding electoral district by two candidates, who have a reserve status.

(5) Electoral associations may each propose only one candidate for the mayor in each electoral district.

(6) As part of their nominating petition for lists of candidates for election as councillors and candidates for election as mayor compiled by either the local or central leadership of the electoral association, the association shall present to the appropriate district election commission a copy of the decision of the electoral association to nominate the list or candidate and written declarations by the candidates expressing their commitment to run in the elections.

(7) The district election commissions shall publish the lists of candidates *for local councillor and candidates for mayor submitted by electoral associations* within 5 days of receiving them.

Article . Limitations on Candidacy and Membership in Electoral Blocs

(1) Parties and socio-political organizations that have joined into electoral blocs may not at the same time be members of other electoral blocs and *also* may not participate in the *any of the elections for local office* independently.

(2) Candidates for election *as councillor or mayor* may run as *candidates of only one electoral association*, or as an independent candidate, *during local elections*.

(3) One and the same person *may, however*, run simultaneously as a candidate for election *as mayor and as member of the corresponding local council*.

Article . Withdrawal of Candidacies

(1) *Electoral associations* may reverse their decision to include any candidate on the list for elections as councillors or as mayor. The candidate shall be withdrawn from the list *by the district election commission* on the basis of a declaration signed by the leadership of the party *or social political organization of which the candidate is a member*, or by the leadership of *an electoral bloc as a whole*.

(2) Candidates for the elections of counselors and mayors may *also* withdraw *their candidacies themselves*. In this case, they shall submit their application to the appropriate district electoral commission.

(3) The replacement of the recalled candidates *put forward by an electoral association* by another candidate after the time provided for registration shall not be allowed.

Article . Independent Candidates

(1) Citizens of the Republic of Moldova may propose themselves as independent candidates for election to the local council if they are supported by two percent of the district voters, divided by the number of positions *available to be filled through the election*, but not fewer than 50 persons; and, for election as mayor, if they are supported by four percent of the district voters, divided by the number of *seats on the respective Council*, but not fewer than 150 persons.

(2) An independent candidate for elections as councillors *or mayor* shall submit a statement of his *intent* to run and the lists with the necessary number of signatures of the voters supporting his candidacy.

(3) Any voter who resides in the district where the local election shall be conducted has the right to initiate and organize collecting of signatures supporting a candidate.

(4) The last and first name of the candidate, the *declaration of support*, the last and first name of the person supporting the candidate, his place of residence, his identification certificate number and date when the signatures *were collected*, shall be indicated at the beginning of each list of signatures supporting the independent candidate.

(5) A voter may sign a *declaration of support for the candidacy* of only one candidate for election as councillor and *one candidate* for mayor.

Article . Registration of Candidates

(1) The appropriate *district* election commission shall register the lists of candidates for election as councillors and *the candidates for mayor presented by electoral associations* no later than 3 days from the day *the nomination petition containing their name(s) has been submitted*, and the *names of independent candidates* no later than five days *after submission*. The *period for registration* shall end ~~20~~ 21 days before the day of the elections.

(2) Any citizen of the Republic of Moldova *or any electoral association or independent candidate contesting the elections* may challenge ~~candidacies~~ a candidate or list of candidates put forward by an electoral associations or an independent candidacy by filing a complaint with the appropriate district election commission within five days of the submission of the list or candidate for registration ~~any time prior to 20 days before the day of elections~~.

(3) ~~Any challenge to~~ An appeal from the registration of candidates shall be presented to the local Court of the respective district within ~~five~~ three days from the date the *candidacies were registered by the district election commission*. An adverse decision by the local court may be appealed to a higher Court within ~~three~~ two days from the day of the decision; the appeal shall be heard within three days.

(4) Following their registration, candidates shall be given *certificates of candidacy* signed by the chairperson of the *district* electoral commission.

Article . Ballot-Papers

(21) The elections of councillors and mayors shall be *conducted through* separate ballots.

(32) The election ballot shall be printed in the state language or any other language spoken by the voters of the electoral district, *as determined by the district election commission*.

Article . Tabulation of Results by District Election Commissions

- (1) *Tabulation of the results of the elections and distributing seats on the local councils shall be performed by the district election commissions or other commissions established by them to perform tasks related to the voting in municipalities and or other localities.*
- (2) Each appropriate commission will determine the overall number of voters who received ballots and *the number of voters who participated in the voting. Invalid ballots shall not be counted toward the number of voters participating in the voting.*
- (3) If less than one half plus one vote of the overall number of voters from the voter rolls *in the district or locality thereof* participates in the voting, the elections *in that district shall be invalid. In this case, the district electoral commission shall prepare a record to this effect.*
- (4) If the number of votes is *sufficient to make the election* valid, the district electoral commission shall proceed to distribute the *offices* after it determines the number of the valid votes obtained by *each electoral association and independent* candidate for the elections of councillors and the number of the votes obtained by each candidate for mayor.

Article . Award of Council Mandates

- (1) The distribution of council seats among parties, social political organizations, and electoral blocs shall be conducted by the district electoral commission through sequential division of the number of valid votes cast for each *electoral association* by 1,2,3,4, etc., up to the number of *mandates from* the respective electoral district.
- (2) From the results of all the divisions and the number of valid votes cast for independent candidates, *the district commission* shall select in declining order as many numbers as there are seats that are to be distributed in the electoral district. The quantity of numbers chosen in declining order at the disposal of the *electoral association* shall correspond to the number of seats that are due to them.
- (3) An independent candidate shall be considered elected if the number of votes cast for him is included in the numbers selected in declining order.
- (4) The distribution of council seats *to candidates on lists* shall be made in the order of their registration on the lists, beginning with the list for which *the most* votes have been received.
- (5) If for the last non-distributed seat there is more than one candidate with the same number of votes, the *winner shall be chosen by lots.*
- (6) If only independent candidates were included in the elections of councillors, the

district electoral commission shall draw up a list with the number of votes obtained by them in the declining order.

(7) If, as the result of distribution *under this article*, there are vacant seats, the district electoral commission shall appoint the date of the partial elections for the vacant seats *pursuant to this Chapter and the remainder of this Code*.

(8) The candidates on lists *submitted by electoral associations*, who have not been elected, shall be declared candidate deputies of the corresponding *electoral associations*, and if *the seat of any of the councillors elected from that list becomes available before the term expires*, repeat elections shall not be conducted but the seats ~~shall be distributed in order to the~~ *may be claimed by candidate deputies from that list*.

(9) If an *electoral association* obtains a number of seats greater than the number of candidates on *its* list, the *remainder of its votes* shall be removed *from the tabulation*, and *the distribution of seats shall continue with the declining numbers other associations*.

(10) If independent candidates, who obtained a number of votes but were not elected, were included on the ballot, then *they* shall be declared *candidate deputies for seats on the council*, as *described in subsection (8) of this article, in descending order as to the number of votes they obtained*.

Article . Election as Mayor

(1) Candidates running for mayor shall be considered elected if they obtain more than half of the votes of all the voters who participated in the voting.

(2) If neither one of the candidates for the mayor gathered the necessary number of votes, in two weeks a second-round election shall take place *between the two candidates who gathered the greatest number of votes*. If more than one of the *second-place finishers in the first round* obtained an equal number of votes, the *selection of which shall run in the second round shall be decided by lots*.

(3) *For the second-round elections, the name of the candidate who obtained the most votes during the first round shall be placed first on the ballot. If the two first-place finishers in the first round obtained the same number of votes, the choice as to whom will appear first on the ballot during the second round shall be decided by lots.*

(4) In the second round of the elections, the candidate who gains *the greatest number of votes* shall be considered elected.

(5) If a candidate is elected to both a counselor and a mayor seat, *and chooses to accept the mayoralty*, then the district election commission shall select an additional candidate to be seated on the Council by continuing to apply the procedures for

assignment of mandates contained in this Chapter.

Article . Repeat Elections

(1) If *local elections in a district* have been declared null and void by the decision of the corresponding district commission or by a higher electoral commission, repeat elections shall be conducted within two weeks with the same candidates *and* using the same voter rolls.

(2) *Except as specified in this article, the applicable provisions of this Chapter shall apply to repeat elections conducted pursuant to this article.*

(3) If after the repeat voting has occurred the elections are declared null and void, further elections shall not be conducted *in districts where the election was invalid*. In this case, the President of the Republic of Moldova *shall* appoint *an* administrative council *and/or* mayor, *according to whether the entire elections were invalid in the district or just those for council or mayor separately.*

Article . Partial Elections

(1) Partial elections shall be *declared for a district* if --

- a) *as a result of* elections, the established number of councillors was not elected;
- b) *-* the mayor resigns or is unable to exercise his duties; *or*
- c) the local council has resigned, been dissolved, or *become only half as many in number.*

(2) In cases described in *paragraph a) of the previous subsection*, new elections shall be appointed by the district commission within two weeks. Proposal of candidates for vacant seats *and other matters related to the election* shall be undertaken according to the procedure established *this Chapter and elsewhere in this Code*. If during the new elections at least half plus one from the established number of the councillors *is* not elected then corresponding council shall not be formed or created and the local public administrative body shall *instead* be appointed according to the provisions of *subsection (3) of the previous article*.

(3) In cases described in *paragraphs b) and c) of the first subsection of this article*, elections shall be appointed by the Parliament of the Republic of Moldova within the time and in the conditions as envisioned by *this Chapter*. ~~In order to conduct the elections, district and precinct electoral commissions shall be formed.~~ If the mayor is not able to fulfill his duties until the date of the new elections, the President of the Republic of Moldova

shall appoint an mayor ad interim for this period of time.

CHAPTER X. *REFERENDA*

Article . *Applicability of this Chapter*

The provisions of this Chapter shall be applicable only to the conduct of referenda in the Republic of Moldova.

Article . *Definitions*

For purposes of this Chapter --

- (1) The term "Central Commission" shall be used to refer to the Central Election Commission or the Central Commission for conduct of the referendum, whichever is applicable.*
- (2) The terms "district commission" and "precinct commission" shall refer to the district commissions established for the conduct of the referendum and the precinct commissions established for the conduct of the referendum.*

Article . *Right to Initiate Referendum*

- (1) In fulfillment of the rights of the citizens of the Republic of Moldova to participate directly in the administration of public affairs, as guaranteed by Article 39(1) of the Constitution, and to popular initiative to revise the Constitution itself, as guaranteed in Article 141(1)(a) of the Constitution, the citizens of Moldova are hereby empowered to initiate Republican referenda pursuant to the provisions of this Chapter and other applicable provisions of this Code.*
- (2) Members of the Parliament, the President and the Government shall also have the power to initiate a referendum in accordance with the provisions of this Chapter and other applicable provisions of this Code.*

Article . *Basic Considerations*

- (1) The referendum is a vote of the people on the most important problems of the state and society. If adopted as Constitutional referenda, the decisions adopted through Republican referenda have supreme juridical power, do not require confirmation, and have binding effect everywhere on the territory of Moldova.*
- (2) A referendum may cannot be held in territories under a state of war or emergency, or under a special form of administration, nor within 90 days after the respective state is*

suspended or terminated. If the referendum was already fixed *prior to* the first day of the state of war or emergency *being declared*, then *the referendum shall be countermanded or postponed, pursuant to this Article.*

(3) A referendum cannot take place in a period within 90 days before or after the day of *general elections* for deputies of the *Parliament of the Republic of Moldova* or *mayors and counselors of local public administration* or the day of another referendum *in the Republic or in the same locality*. If the referendum is scheduled for *such a day*, it *shall be postponed or countermanded, pursuant to this Article.*

(4) The decision to postpone or countermand a referendum in situations established by the second or third subsection of this Article shall be *adopted by the Parliament through resolution.*

Article . Types of Referendum

(1) *Any issue pertaining to the exercise of supreme state power or local public administration affairs can be the subject of a referendum.*

(2) According to the importance and *nature* of the issues, a referendum can be Republican or local.

(3) The procedure *for local referenda shall be established through a law on local referenda.*

Article . - Mandatory Referenda

The Republic of Moldova shall not join or leave a political union with other states unless that issue has first been decided through a Republican referendum.

Article . Prohibited Issues

The following may not be questions for Republican referendum:

- d) Issues related to the *state budget, taxes, territorial-administrative division, or amnesty or pardon;*
- e) An extraordinary or emergency measure for establishing public order, health or security;
- f) Electing, naming or dismissing a *state official.*

Article . Constitutional Referenda

(1) A proposal to call a referendum to revise the Constitution, pursuant to Article 141 thereof, shall be submitted to the Central Election Commission. If there is no permanent Central Election Commission in existence, then the submission shall be made to Parliament.

(2) Proposals for a referendum under the previous subsection shall include the following --

- a) The text of the question proposed to be put to the people by referendum; and
- b) In the case of a proposed referendum initiated by the people directly, a petition accompanied by a list of 200,000 supporters who are eligible to vote in the Republic of Moldova. The supporters included in the list shall come from at least half of the localities in the Republic, with at least 5,000 supporters included from each of those localities;
- c) In the case of a referendum proposed by one-third of the members of Parliament, a petition signed by them to this effect;
- d) In the case of a referendum proposed by the President of the Republic of Moldova, a letter signed by him to this effect; or
- e) In the case of a referendum proposed by the Government of the Republic of Moldova, a resolution of the Parliament to this effect.

(3) The Central Election Commission (or the Parliament, in the event no permanent Central Election Commission is in existence) shall examine a proposal for a referendum made pursuant to this Article and decide within 30 days whether the referendum shall proceed.

(4) If a decision is made to proceed with a referendum pursuant to the previous subsection, the body which made that decision shall announce the date for holding the referendum, which shall be the first Sunday after a period of sixty days following its decision.

(5) If a decision is made not to proceed with a referendum on the proposal, the body which made that decision shall publicly state its reasons at the time of indicating its decision. In that case, the person or persons proposing the referendum may appeal the decision to the Constitutional Court of the Republic of Moldova. In the case of proposals brought by popular initiative, the appeal may be brought by any of the citizens whose name was validly included on the list of supporters of the proposal.

(6) After receiving an appeal pursuant to the previous subsection, the Constitutional Court shall consider the matter forthwith, and render its judgment within 15 days. The

judgment of the Court shall be final. In the event the Court determines that the referendum should proceed, then the Central Election Commission (or if there is no permanent Central Election Commission, then Parliament) shall immediately announce the date for the conduct of the referendum in manner described in subsection (4) of this Article.

Article . Other Republican Referenda

- (1) Proposals to call referenda on issues other than those which are the subject of the previous subsection may be addressed to Parliament.*
- (2) There shall be no appeal from a failure by Parliament to consider or act upon, or a decision by Parliament to reject, a referendum proposed under this Article.*
- (3) If Parliament approves the conduct of a referendum under this Article, it shall enact a law to that effect, including announcing the date of holding the referendum and if necessary establishing a Central Commission for that purpose.*

Article . Administration of Republican Referenda

- (1) Republican referenda are administered by the Central Election Commission, or if there is no permanent Central Election Commission in existence at the time a referendum is proposed, by a Central Commission for the conduct of the referendum.*
- (2) The membership and method of establishment of the Central Commission for the conduct of the referendum shall be in accordance with the general provisions of this Code related to the establishment of a Central Election Commission for elections in the Republic of Moldova and, in the event of conflict between those provisions and the requirements for the conduct of a referendum, with the provisions ~~related to~~ on the Central Election Commission contained in the Chapter related to Elections for the Presidency of the Republic of Moldova. Except that, the membership of the Commission shall not be expanded to include representatives of persons or organizations in favor of or opposed to the referendum proposal.*
- (3) The Central Commission shall not be required to form district commissions for the conduct of the referendum, but may direct their establishment for administrative purposes. District commissions established pursuant to this subsection may be formed for districts that correspond to individual localities, or to larger administrative-territorial areas.*
- (4) The establishment of precinct commissions and all other aspects of administration of the conduct of a referendum — including the review of signature lists, if applicable -- shall be in accordance with the general provisions of this Code concerning elections in the Republic of Moldova. In the event additional statutory guidance is required, or there is a conflict among applicable provisions, the provisions in the Chapter ~~related to~~ on Elections for the Presidency shall prevail.*

Article . *Preparation of Ballot-Papers*

(1) *Ballot-papers for referenda shall conform to the provisions of this Code applicable to ballot-papers for candidates running for the Presidency of the Republic of Moldova, except that --*

- a) *the ballot-papers shall only contain a single rectangle, along with two circles labeled to represent voting "for" the referendum question (or "yes"), and the other "opposed" (or "no"); and*
- b) *within the rectangle there shall appear, in addition to the circles that should be crossed-through in order to vote for or against, the text of the referendum question.*

(2) *In case the referendum proposal contains more than one separate question, each question shall be printed in appropriate form on a different ballot-paper.*

(3) *In the event the text of the referendum question is too lengthy to be placed on the ballot-paper, the Central Commission shall propose a summary to be placed on the ballot, subject to the following provisions --*

- a) *If any person who would be entitled to appeal a decision of the Commission (or the Parliament) concerning whether to proceed with the referendum is dissatisfied with the summary, he may within three days of the Commission's decision, demand that it adopt a different summary;*
- b) *If the Commission fails to adopt a summary according to the wishes of the complainant, he may appeal to the Supreme Court of Justice within three days, and the Court shall decide within five days how the summary shall be phrased. The decision of the Court in this matter shall be final and the Central Commission shall accept the text of the summary provided by the Court.*

(4) *Within the rectangle on the ballot-paper, the circle for voting in favor of the referendum question shall come first, either to the left or above the circle for voting against. Both circles shall be clearly marked as circles for voting "in favor", "for" or "yes", or "opposed", "against" or "no".*

Article . *Amendment or Withdrawal of Proposals*

(1) *Proposed referenda questions may be amended, or the proposal for a referendum withdrawn, by the same person or class of persons who requested it initially, and following the same procedures.*

(2) *Proposed amendments to a referendum question may not be submitted after the ballot-papers for the referendum have been ordered printed.*

(3) *A proposed referendum can be withdrawn any time before the day the referendum is conducted. In the event a referendum proposal is withdrawn, the same issue may not be the subject of another referendum for one year following the termination of the referendum proceedings.*

Article ____. Voter Information

(1) *No later than thirty days prior to the date of conducting the referendum, the Central Commission shall publish the full text of the referendum question. It shall also prepare posters on which the full text of the referendum question is reproduced, for display at all voting precincts in the Republic. In the event a referendum question is amended after the Commission has published the text, it shall publish the amended text as soon as practicable but in no event later than the day prior to conduct of the referendum.*

(2) *At least fifteen days prior to the date of conducting the referendum the Central Commission shall adopt concise summaries of the arguments in favor of and against the referendum question. The summaries shall fairly state the arguments of the proponents and opponents of the referendum question, and shall be approximately equal in length.*

(3) *The Commission shall release the summaries described in the previous subsection to the press for publication throughout the Republic of Moldova, and shall also distribute copies in poster form for display at all voting precincts in the Republic.*

(4) *Prior to adopting the summaries described in subsection (2), the Commission shall circulate them among interested persons for a period of seven days.*

(5) *An appeal from the decision of the Commission under this Article may be appealed using the procedures specified in subsections (5)-(6) of Article ____, on Constitutional Referenda.*

Article ____. Determiningation and Publication of the Results

(1) *The counting of votes by the precinct commissions, and the tabulation of votes by the district commissions and central commission, shall be as described in the general provisions of this Code. In the event additional statutory guidance is required, reference shall be made to relevant provisions of the Chapter on Presidential Elections.*

(2) *As soon as practicable, the Central Commission for conduct of the referendum shall publish the results of the referendum, in accordance with the provisions of Article ____ of this Code, on Announcement of Preliminary Results.*

(3) Once the period for appeals has passed, the Central Commission shall confirm the results of the referendum.

Article . Certification Validation of Results

(21) a) In the case of a Constitutional referendum, the results ~~validated~~ confirmed by the Central Commission for the conduct of the referendum shall be submitted to the Constitutional Court for confirmation, in accordance with the relevant provisions of the Chapter on Presidential Elections.

b) In the case of a non-Constitutional referendum, the results confirmed by the Central Commission shall be transmitted to Parliament.

(2) a) In the case of a Constitutional referendum, the Constitutional Court will decide whether to validate the results, in accordance with the relevant provisions of the Chapter on Presidential Elections.

b) In the case of a non-Constitutional referendum, the Parliament shall determine whether to validate the results within seven days of receiving the report from the Central Commission.

(3) After their validation pursuant to the previous subsection, the certification of the results by the Central Commission shall ~~also~~ be in accordance with the relevant provisions of the Chapter on Presidential Elections.

(4) Application of the relevant provisions of the Chapter on Presidential Elections of this Code shall be in a manner consistent with first-round presidential elections contested by two candidates.

(5) A Constitutional referendum proposal shall be considered adopted if it gains the votes of more than one-half of the eligible voters of the Republic.

(6) Referendum proposals other than Constitutional referendum proposals shall be considered accepted if they obtain more than half of the number of valid votes cast.

(7) In order for the vote on a referendum question to be valid, at least sixty percent of eligible voters must cast votes Republic-wide. In determining the percentage of voters who cast votes in the referendum, invalid ballots shall not be counted.

(8) In the event a referendum proposal is unsuccessful, either because the referendum was invalid due to failure to meet the minimum number of votes cast, or failure or the referendum proposal failed to achieve a majority of the votes counted, then the same or a substantially similar proposal cannot be submitted for Constitutional referendum for a

period of one year after the results of the referendum have been announced.

Article . *Publication Announcement and Enactment Implementation of Results*

(1) ~~If the Constitutional Court confirms that a referendum proposal has passed, the Central Commission~~ Once the Central Commission for the conduct of the referendum certifies the results of a referendum, it shall immediately publish ~~the results~~ them, in accordance with the relevant provisions of the Chapter on Presidential Elections.

(2) In case of a referendum proposal made pursuant to the Article on Constitutional Referenda, the proposal shall come into effect as soon as the results are published by the Central Commission.

(3) In the case of a referendum proposal made pursuant to the Article on Other Republican Referenda, the proposal shall come into effect only after Parliament has enacted it into law.

(4) For purposes of convenience, a referendum may be referred to as being adopted on the day upon which the referendum was conducted.

(5) After a Constitutional referendum proposal is adopted --

- a) a proposal to repeal, modify or amend it may be submitted as a proposed Constitutional referendum proposal no sooner than six months after the effective date of the original proposal; but*
- b) the resulting provision may be repealed, modified or amended at any time -- through adoption of a Constitutional amendment or Constitutional law.*

CHAPTER XI. FINAL PROVISIONS

Article . Repealer

The following laws of the Republic of Moldova are hereby repealed:

- a) Law on the Election of the President of the Republic of Moldova (16 May 1996), as amended 15 October 1996;*
- b) Law on Local Elections, 14 January 1995;*
- c) Law on Elections to Parliament, 14 October 1993;*
- d) Law regarding the Referendum, 26 May 1992.*

Article . Effective Date

This Code shall become effective on _____.

APPENDIX B

International Foundation for Election Systems

COMMENTARY
on the proposed
UNIVERSAL ELECTION CODE
for the
REPUBLIC OF MOLDOVA

**Daniel Finn,
Legal Consultant**

**DRAFT
June 14, 1997**

A. Introduction

Since the emergence of the Republic of Moldova as an independent and sovereign state, elections have been conducted under separate statutes applicable to the different kinds of elections (Presidential, Parliamentary and for Local self-government administrations)¹ and *referenda*². In addition, other laws -- particularly that regarding political parties and other socio-political organizations³ -- also directly affect election practice.

The International Foundation for Election Systems has conducted programs in Moldova for several years, and currently maintains an office in Chisinau. As a leading international nongovernmental organization (NGO) active in the area of elections and other aspects of the establishment of democratic institutions, IFES has monitored elections in Moldova, provided comments and suggestions, engaged in programs of technical assistance to government bodies, worked with indigenous NGO's, and published informative and analytic works concerning Moldovan election experience.⁴

Last year, in connection with the Presidential elections, IFES provided a range of assistance to the Moldovan Parliament and Central Election Commission (CEC). Prior to the election period, an IFES consultant provided commentary on the Presidential Election Law.⁵ IFES consultant Paul DeGregorio was in Moldova during the elections, and assisted in developing the legislative amendments that were adopted in October

¹Law of the Republic of Moldova "On the Election of the President of the Republic of Moldova", adopted 16 May 1996 and amended on 15 October 1996; Law on Elections to Parliament, 14 October 1993; Law on Local Elections, 14 January 1995.

²Law of the Republic of Moldova "Regarding the Referendum", 26 May 1992.

³Law of the Republic of Moldova "Regarding Parties and Other Socio-Political Organizations", September 1991.

⁴See, e.g., IFES, Republic of Moldova Presidential Elections, November 17 & December 1, 1996; IFES, Republic of Moldova Local Elections, April 16, 1995; IFES, Republic of Moldova Parliamentary Elections, February 27, 1994.

⁵L. Edgeworth, Consultant, IFES, "General Review: Law on Election of the President, Republic of Moldova", 25 February 1996.

1996.⁶ IFES also issued a preliminary assessment on the Presidential election.⁷

IFES's experience with elections in Moldova -- particularly last year's Presidential election, in which legislative changes had to be made in the midst of the election period itself -- has led it to conclude that it would be desirable for current Moldovan election laws to be reviewed by Parliament, for necessary modifications to be adopted, and for the results to be included in a single Universal Election Code (UEC). Adoption of a UEC would enable the current complex of statutes to be simplified and remove redundancies and conflicts among them. It would also enable the best practices to be adopted consistent with Moldovan experience and practices.

IFES accordingly requested the present Consultant to undertake a review of Moldovan election laws and related authorities, including the Republican Constitution⁸, and attempt to assemble a single draft UEC for consideration by the Moldovan Parliament. The proposed UEC itself is contained in a separate document,⁹ with provisions carried over from current laws presented in regular text and proposed changes in *italics*. The current Commentary is intended to present further information and analysis concerning the provisions included in the proposed UEC.

It immediately became clear to the Consultant, after having the opportunity to review the Moldovan Constitution, election and related laws, and assessments of past elections in Moldova, that the Republic already has a considerable base of law and administrative experience regarding elections at all levels. While various issues have been raised with respect to the formulation of the current laws, it is clear that they provide a substantial legal basis for the election system. In addition, the problems that have been noted with respect to implementation of the laws do not detract from the fact that there is already an established body of election practice.

As a result, the Consultant has drawn the provisions of the current document largely from existing Moldovan legislation. Provisions from the Presidential, Parliamentary and Local Election laws were reorganized and integrated into a more coherent and universal form. At the same time, numerous technical refinements and other changes were made in order to improve the operation of these provisions.

⁶Paul S. DeGregorio, Election Administration Consultant, IFES, "Preliminary Report on IFES Technical Assistance" (5 November 1996).

⁷IFES, "Preliminary Assessment of the 1996 Presidential Elections in Moldova", 19 November 1996.

⁸Constitution of the Republic of Moldova, 29 June 1994.

⁹Daniel Finn, Legal Consultant, IFES, "Proposed Universal Election Code for the Republic of Moldova", __ June 1997.

Beyond integrating and modifying existing provisions, the Consultant also incorporated new material on a large number of points. This material (which, as noted previously, is indicated in italics) is intended to address inadequacies and gaps in the current laws, as well as the issues that have been raised by Moldovan and international commentators.

One of the main objectives in composing the draft UEC was to consolidate the treatment of the general aspects of election administration in one place in the Code. This step alone would reduce considerably the confusion that now arises out of the different treatment of election administration issues in the existing laws, especially those on Presidential, Parliamentary and local elections, and on the conduct of *referenda*. For this reason, every effort has been made to reconcile and incorporate generally-applicable provisions, especially in the first several chapters (Chapters I-VI, but also Chapter XI, of this version) of the draft Code. The provisions in these Chapters, accordingly, are intended as proposed provisions applicable to all elections (and *referenda*) in the republic of Moldova, at every level. The provisions of chapters VII-X of the draft, on the contrary, apply only to the specific types of elections that they describe — Presidential, Parliamentary, local and Republican *referenda*, respectively. (It is made clear in each of these chapters its provisions apply only to the specific type of election in question.)

Finally, it must be noted that the draft UEC which has resulted is a lengthy document, drawn from a number of sources. As with any lengthy and complex document, there are bound to remain a number of inconsistencies (including contradictions, gaps and overlaps) among the many detailed provisions. In addition, the Consultant was disadvantaged by the fact that he did not have the opportunity to first visit Moldova and obtain further information about the electoral, political and social situation. The Consultant will be continuing to work on the detailed provisions, however, and expects to visit Moldova in the near future to consult with interested and knowledgeable persons in the government, Parliament and the community as to the best way to address various issues.

B. Commentary

CHAPTER I. GENERAL PROVISIONS

Article . Basic Principle

This article, which reflects Article 38(1) of the Constitution, is based on Article 1 of the Parliamentary Election Law. Similar provisions may be found in Article 1 of both the Presidential and Local Election laws.

Article . Qualifications for Voting

This article is based on Article 2 (1)-(3) of the Presidential Election Law. It is similar to Articles 2, 3 and 4 of the Parliamentary Election Law and relevant parts of Articles 2 and 3 of the Local Election Law.

Article . Right to be Elected

This article has been added at this point in lieu of the existing provisions in the Presidential, Parliamentary and Local Election laws, which all address specific qualifications for being elected to those offices.

Article . Limitations on Voting

Paragraphs (1)-(2) of this article have been adapted from Article 5 of the Parliamentary Election Law. Paragraph (3) is from Article 2(8) of the Presidential Election Law.

Article . Equality of Voting

This article is adapted from Article 2(5) of the Presidential Election Law.

Article . Definitions

This article has been added to standardize terminology within the Code and make clearer and more consistent the terms used to refer to election practice. The explanation for the individual terms defined is as follows:

Paragraph (1) is required mainly for convenience in drafting, by making it clear that the provisions of the bill on elections refer to elections at all levels, unless otherwise specified. This paragraph also makes clear that the same provisions apply to *referenda*, unless otherwise provided.

Paragraph (2) is formulated to take account of the possibility that Parliament will enact a law establishing a Central Elections Commission, which -- during an election period -- would exercise the functions assigned to the CEC under existing elections laws, as well as this bill.

Paragraph (3) is drawn from Article 21 of the Parliamentary Election Law, but generalized to provide for the creation of districts (territories) for administrative purposes during Presidential elections.

Paragraph (4) introduces the general term "election commission" to make it possible to refer to all the different election commissions — Central, district and precinct — collectively.

Paragraph (5) introduces the term "election period", which makes it possible to formulate rules to apply within this period but not beyond it.

Paragraph (6) introduces the terms "contestant" and "contesting" an election, making it possible to refer collectively to the parties, socio-political organizations, electoral blocs, and candidates participating in an election.

Similarly, paragraph (7) introduces the term "electoral associations", making it possible to refer collectively, and concisely, to parties, socio-political organizations and electoral blocs, but not independent candidates.

Paragraph (8) helps to reduce confusion by referring to this election code as "this Code" and, generally, to other laws as "laws".

Paragraph (9) introduces the use of the term "locality" to refer to the area subject to a unit of local public administration.

Paragraph (10) introduces the term "campaign period", which runs from the time of registration of a candidate or candidate list through the day before the election.

CHAPTER II. ORGANIZING AND CONDUCTING ELECTIONS IN THE REPUBLIC OF MOLDOVA

This Chapter, which contains the basic provisions for organizing and conducting elections in Moldova, is largely adapted from the corresponding chapter of the Presidential Election Law.

PART A. ELECTION COMMISSIONS

Article . Election Commissions for Elections in the Republic of Moldova

This article is adapted from Article 8 of the Presidential Election Law. A new paragraph, (2), has been added to reflect the possibility that a permanent Central Election Commission will be established, and would also exercise the functions assigned to the CEC under other election laws.

Article . Formation of the Central Electoral Commission

Subsection (1) is based on Article 9 of the Presidential Election Law, but language has been added to require -- consistent with Separation of Powers doctrine -- that legal establishment of the CEC for an election should be based on a law enacted by Parliament (with the approval of the President).

Subsection (2) has been added to take care of the case in which for some reason the political branches of the government have failed to establish the CEC in a timely manner.

~~Subsection (3) has been added to clarify the relationship of a permanent CEC to its composition and functions during elections conducted pursuant to this Code.~~

Subsection (3) reflects provisions of the Parliamentary Election Law and the Local Election Law. It has been added to provide that a CEC established under this Code should remain in operation in repeat elections are required for Parliament or local public administrations, but should not be established for partial elections at this level unless they occur in multiple districts.

Article . Composition of the Central Electoral Commission

This article is based on Article 9 of the Presidential Election Law, and incorporates the method of choosing CEC members in that law and also the method in Article 10 of the Parliamentary Election Law, as two different options for consideration.

In the last paragraph, the language has been changed so that the staff of the Commission would be subject to review by Parliament, not the government. The Consultant believes that this would increase the practical autonomy as well as appearance of independence of the Commission.

Article . Expanded Membership of the Central Election Commission

This article reflects the expansion of CEC membership to include representatives of the contestants in an election as established through Article 9(1)(d) of the Presidential Election Law and similar provisions in the Parliamentary and Local Election Laws. Specific requirements have been added with respect to the seating of representatives of electoral associations (parties, socio-political organizations and electoral blocs) contesting Parliamentary and local elections; these would qualify for membership if they put forward a certain number of candidates for office in the election. The final two subsections were suggested by Article 11 (7)-(8) of the Local Election Law.

Article . Responsibilities of the Central Electoral Commission

This article is based on Article 10 of the Presidential Election Law, with the indicated word changes and other modifications. Language has been added assigning the functions of district election commissions directly to the CEC in the event Parliamentary elections are held on the basis of a single election district, as occurred in 1994. (Still, however, under the Chapter of this draft Code on Parliamentary elections, the CEC could form district commissions on an administrative basis for such an election, in order to perform various election operations more efficiently.)

Paragraphs (1) (i)-(j) are new. They were added to make clear that the Commission has the ability to issue regulations, and also undertake training and information programs.

Article . *Formation of District Electoral Commissions*

This article is largely drawn from Article 11 of the Presidential Election Law, with numerous modifications to make it possible to apply the same provisions to DEC's formed for purposes of conducting a Parliamentary or local as well as Presidential elections.

Article . *Representative Membership on District Election Commission*

This article derives from Article 11 of the Presidential Election Law and similar articles of the Parliamentary and Local Election Laws. Specific criteria have been added with respect to how electoral associations (parties, socio-political organizations and electoral blocs) participating in Parliamentary and Local elections may qualify to place a representative member of the district election commission by registering a sufficient number of candidates in the district. Subsection (4), on the work and salary status of representative members of DEC's, is suggested by similar provisions in the Parliamentary and Local Election laws.

Article . *Responsibilities of District Election Commissions*

This article is based on Article 12 of the Presidential Election Law.

Article . *Establishment of Precincts and Precinct Election Commissions*

This article is based on Article 13 of the Presidential Election Law. Material has also been incorporated from Article 24 of the Parliamentary Election Law.

Numerous other changes have also been made throughout this article. For example, in subsection (4), a provision has been added indicating that military personnel may be required to vote either at special precincts established at their bases, or nearby regular polling stations. (International practice has tended to move away from special stations on military bases, due to concern that military authorities could influence their troops' vote in a variety of ways — not the least of which is psychological, and related to the concept of military discipline.) A question that has been left unresolved at this point is whether military personnel should be required to vote as if they were permanent residents of the area where they are located, or should be permitted to cast ballots that would be effective in other locations. If the latter, then the further question arises whether voting should be at polling stations or through absentee ballot.

Article . Responsibilities of the Precinct Election Commissions

This article is based on Article 13 of the Presidential Election Law.

Article . *Changes in the Membership of Election Commissions*

This article is based on Article 15 of the Presidential Election Law.

Article . Organization of the Activity of Election Commissions

This article is based on Article 16 of the Presidential Election Law. In subsection (1), a provision has been added to permit a majority of the (voting) members of election commissions to demand a meeting of the commission.

Article . Termination of Election Commissions

This article is new. It provides for the termination of election commissions established under this draft Code after their responsibilities with respect to the elections for which they were established have been concluded.

PART B. FINANCING AND SUPPORT OF ELECTIONS

**Article 5. ~~Financing Elections in the Republic of Moldova~~
Funding and Support of Election Operations**

This article is based on Article 5 of the Presidential Election Law, but has been generalized to apply to other kinds of elections as well. Most of the remainder of Article 5 has been placed into the next article of this draft Code, so that a clear distinction can be made between funding and support of election operations by election commissions and other state organs, and contributions toward the activities of the contestants in an election.

Article . Prohibition on Foreign Support to Election Campaign

This new article consolidates subsections (5) and (9) of Article 5 of the Presidential Election Law, subject to the indicated changes.

Article . Support for Political Campaigns

This article, on support to election activities by candidates and electoral associations, is drawn from the corresponding subsections of Article 5 of the Presidential Election Law. Subsection (1) of this article has been redrafted to clarify and differentiate the cases in which support to a candidate or electoral association is received prior to or during the campaign period.

A new subsection, (5), has been added which provides that the CEC will make available for public inspection the reports it receives from the Bank of Savings about contributions to contestants in an election, and also compile this information periodically for publication.

Finally, a new subsection (7) has also been added. This subsection would govern the allocation of State funds to contestants in an election, assuming that such funds are made available from the State Budget for this purpose.

Article . Assistance to Election Commissions

This article is based on Article 17 of the Presidential Election Law. Numerous minor changes have been made, as indicated by the italics.

PART C. VOTER ROLLS

Article . Voter Rolls.

This article is adapted from Article 18 of the Presidential Election Law.

Subsections (1) and (2) have been reversed to reflect the chronological order of the role of the local authorities and precinct election commission in preparing the voter list. Since the list is ultimately issued by the precinct commission, subsection (2) has been modified by returning to an older formulation than that which is in the current law; instead of the local mayor, the lists would be signed by the chairman and secretary of the commission. The idea of having the mayor certify the voter records provided to the commission has been retained, however, by adding it to subsection (1).

Article . Review of the Voter Rolls.

This article has been drawn from the Parliamentary Election Law, with the changes indicated. Subsection (1) is from Article 27(4) of that Law, and the remainder repeats Article 28 of the Law. Some word changes have been made for the sake of clarity.

In subsection (1), no further particulars have been supplied as to how voters should be notified of the location of their voting precinct. Many NIS countries preserve the practice of sending individual notices (sometimes incorrectly referred to as "invitations") to voters before election day. Under the language retained in this subsection, it would appear sufficient for a public announcement to be made, but the Central Election Commission or relevant district election commission could presumably impose additional requirements through directive.

Subsection (2) provides for "citizens" to review the voter list (voter roll) and gives

them the right to lodge complaints about irregularities. Presumably, party representatives and other persons assisting in the campaigns of political candidates could avail themselves of this right in order to assure themselves of the overall accuracy of the voter list. It might be desirable to provide in the statute that the conditions under which the list is reviewed should facilitate this form of review. In addition, the CEC should implement appropriate regulations to do so. For example, it might be a good idea to permit candidate representatives to copy pages of the list for examination and verification.

PART D. NOMINATION OF CANDIDATES

Article . Nominating Candidates.

This article is based on Article 19 of the Presidential Election Law. It has been generalized to apply to the nomination of candidates in all elections within the purview of this code, including at the Presidential, Parliamentary and local public administration (mayor and council) level. The specific nominating procedures applicable in the various types of elections are taken up in the special sections on these topics.

Article . *Collecting Signatures in Support of a Candidacy*

This article is drawn from subsections (4)-(12) of Article 20 of the Presidential Election Law.

The requirement of the old subsection (4), that collection of signatures on behalf of a candidate supported by a citizens' initiative group may only be by certified members of the group, has been deleted. Instead, at the appropriate place in this draft improvements have been suggested to the measures applicable to collection of signatures to support candidacies overall.

The primary change in this regard is to require individuals who collect voter signatures to sign a written attestation, on every page of signatures, that they have personally collected them and checked identification, as required. The article also makes it clear that these persons can be held responsible for inaccuracies that appear in lists submitted above their signatures.

Changes have been made to indicate that the role of the relevant election commissions in reviewing signature lists submitted as part of candidate nominating petitions is normally based on a review of the lists based on the information available to the commission — *i.e.*, mainly the voter list. The purpose of this review is first and foremost simply to determine whether the supporters of a nominee are likely to have submitted a sufficient number of names — after inaccurate names have been struck — to qualify him or her for candidacy.

It is only when allegations are received concerning improprieties or illegalities in

the way that signatures have been collected, or a large number of inaccuracies appear in the lists, that the commission would normally inquire further into the circumstances that may have led to the inclusion of false names in petitions. In this case, further action against a nominee could be undertaken despite the fact that his supporters had gathered a sufficient number of names to qualify him for candidacy. Such action would normally not be taken, however, unless the circumstances made it appear that the nominee was part of a fraudulent arrangement to compile false names, or at least that the nominee was seriously negligent in supervising those who were operating in his behalf as signature collectors.

With respect to the individual sheets of signature petitions, the language has been clarified so that the inclusion of non-voters' names is not in and of itself a grounds for nullification of a petition. This change is necessary in view of the fact that signature collectors would often not have voter lists available to them while collecting names in support of a candidacy.

In addition, the voter lists could be changed subsequently, so that names on them earlier might be deleted or moved to another residence, including outside the locality. (For this reason, subsection (6) has been added, which requires the relevant commission to investigate further prior to striking names from signature lists which do not correspond to names on current voter rolls.)

On the other hand, the provisions have been retained under which inclusion of signatures obtained prior to the nominating period, failure to have the petitions signed by the signature collector, and the absence of a certification stamp by local authorities would invalidate the corresponding pages of the petition.

New subsections (5) and (6) have also been added, under which an election commission receiving signature lists must begin reviewing submissions no later than 45 days before election day, and publish running tallies of the number of valid signatures being submitted, confirming or rejecting such submissions within five days of receiving them. Its final determination would be made no later than five days after the closing of the period for submissions.

Article . Submission and Review of Nominating Petitions

This article is based on Article 21 of the Presidential Election Law, and has been generalized to deal also with elections for Parliamentary and local government positions. The requirement in paragraph (1)(f) would modify the requirement of health certification for presidential candidates contained in the corresponding paragraph of the Presidential Law, so that any licensed doctor in the Republic of Moldova could provide the necessary certificate. (This provision has been criticized by many international as well as internal commentators as potentially infringing the rights of both the voters and potential candidates in presidential elections.) A similar requirement of health certification by a doctor has also been applied to candidates in other elections.

The paragraph does not specify exactly what information should be contained in a health certification. This matter would properly be addressed in regulations to be developed by the Central Election Commission. It would appear sufficient, however, that the certificate should simply indicate whether the proposed candidate is in good health and fit to conduct the duties of the office to which he or she might be elected.

PART E. ELECTION CAMPAIGN

Article . Trustees of *Parties, Socio-Political Organizations, and Candidates*

This article has been drawn from Article 22 of the Presidential Election Law. It has been generalized to apply to other elections as well. As the number of trustees (10) in each precinct permitted in the last Presidential election seems very high, it has been reduced to three for participants in elections at all levels.

A new subsection (4) has been added at this point, related to clauses that were originally in Articles 22-23 of that Law. This provides for trustees of candidates to be granted leave from their jobs upon request, and protects them from adverse job actions during the period of the election. A provision has also been retained, in subsection (5), which is applicable to Presidential races only, for there to be a greater number of trustees (five *per* precinct) in Presidential races and for them to be compensated from electoral funds, if the CEC determines that such assistance is necessary for a fair Presidential campaign.

Article . - Guaranteed rights of Candidates *in Elections* in the Republic of Moldova

This article has been drawn from Article 23 of the Presidential Election Law, but generalized to cover all types of elections. Subsection (8) has been added to deal with the case in which a candidate withdraws, or is withdrawn by the electoral association which put forward his nomination, including just prior to or even on the day of the election.

Article . Pre-election Campaigning

This article is based on Article 24 of the Presidential Election Law, but generalized to cover other types of elections as well.

Article . Illegal Activities

This article is drawn from Article 6 of the Presidential Election Law, but has been moved from the General Provisions chapter of the Code to the Campaign chapter.

PART F. BALLOT PREPARATION

Article . *Form of Ballot-Papers for Elections in the Republic of Moldova*

This article is based on Article 25 of the Presidential Election Law, but generalized so as to apply in other elections as well.

Article . **Ballot Preparation of Ballot-Papers**

This article is drawn from Articles 37, 38 and 39 of the Parliamentary Election Law, but has been generalized to apply to all types of elections ~~supplements the general provision on Ballot-Papers included earlier in the draft code.~~ Essentially, it ~~makes clear that preparation of ballots for parliamentary elections shall be carried out by the relevant district election commissions. (The form of the ballot, on the other hand, would be prescribed by the GEC.)~~ The number of excess ballot-papers to be printed under the direction of the responsible election commission has been reduced to 5%, from 10%, in order to limit the potential for their misuse as well as to encourage better planning for ballot distribution. An additional measure for ballot security has been proposed under which the chairman of a DEC or PEC could gain access to stored ballots only if accompanied by two other members of the same commission.

CHAPTER III. VOTING

Article . **Time and Place of Voting**

The language of subsection (1) of this article was drawn from Article 26 of the Presidential Election Law. The hours were changed to those in Article 48 of the Parliamentary Election Law, however. Even if elections are commonly held on Sunday, it would appear wise to lengthen the hours in order to accommodate voters who must work or fulfill other commitments on election day. It also seems justified to open the polls early since they do not stay open very late at night. Finally, the total number of hours for polling under the 0700 to 2000 time period, thirteen, still seems reasonable for the poll workers under international practice, especially in the Eastern European and Newly Independent States region.

In addition, subsections (2) and (3) of the Article 48 of the Parliamentary Election Law have been added, in order to accommodate the situation in which a substantial number of voters may not have entered the polling station prior to its normal closing hour, or in which some unforeseen situation (such as failure to secure deliveries of adequate supplies of voting materials or other materials, or a security situation) has caused a suspension of the voting.

Finally, subsections (4) and (5) of Article 48 have been included to deal with extraordinary situations which require suspension of voting.

Article . **Organization of Voting**

This article derives from both Article 27 of the Presidential Election Law, on this subject, and the much more detailed provisions of Article 29 of the Parliamentary Election Law. Numerous changes have been made throughout, which are mostly reflected in the italicized text. (Some materials has also been omitted.)

A new subsection has been added at the end to direct chairmen of the precinct election commissions to maintain a written record of significant events during the voting and counting periods, including any comments or complaints which are made by accredited persons at the precinct. This written record becomes the basis for the Minutes of the Precinct Commission, which are formally adopted by the Commission and communicated to the relevant district election commission. (See the provisions of Chapter IV, on Counting the Votes.)

Article . **Security of Voting**

The provisions in this article were mainly drawn from Article 50 of the Parliamentary Election Law. Some material was also inserted from the other existing articles referred to in the last section. In addition, changes were made which are reflected in the italicized text. For example, in subsection (4), material was added from Article 76 of the Parliamentary Election Law having to do with voting by detainees (persons being held during investigation without adjudication of guilt of an offense), and to improve the security of the mobile ballot box procedure.

Article . **Balloting Procedure**

This article is mainly based on Article 51 of the Parliamentary Election Law. A similar article is contained as Article 28 of the Presidential Election Law. Several changes were made, as indicated by the italicized text. In addition, security-related provisions in Articles 28 and 51 of those laws were consolidated in the previous article of this draft Code.

CHAPTER IV. COUNTING THE VOTES

Article . **Counting of Votes by the Precinct Election Commission**

This article is based on Article 55 of the Parliamentary Election Law. There is a similar article, Article 30, in the Presidential Election Law, but it is much less detailed and provides a much less satisfactory description of the responsibilities of the precinct election commissions during the counting phase, and the standards and procedures they should rely on in this regard.

Numerous changes have been made throughout the article, as indicated by the

italicized text. One of the most important of these, in subsection (5), is the requirement that the precinct commission count and "reconcile" the number ballots placed into the ballot boxes with the number of individuals recorded as having voted. A special provision, subsection (6), has also been added requiring separate reconciliation of the ballots in mobile boxes prior to their entry into the vote count.

The term "protocol" has been introduced in place of several other terms used in previous laws to refer to the results of the count prepared by the precinct commission. In addition, the term "minutes" has been adopted to refer to the official written record of precinct commission business.

Finally, a new subsection has been added at the end which requires that the precinct election commission — and to the maximum extent practicable, all its members — must remain in continuous business during the entire voting and counting process. While this is of course onerous for members of the commission, any gap in counting votes, reporting to superior election commissions, and communicating results that results from closing of the precinct or absence of a number of the members of the commission during the evening and early morning hours inevitably causes a great deal of suspicion concerning what is going on, as well as real concerns about the security of voting materials and records. (There is a mention of this issue in Article 70[k] of the Parliamentary Election Law — which has been retained herein as Art. __, on Administrative Offenses -- but the reference to this problem in the earlier was limited to the administrative violations section of that Law.)

Article __. Invalid Ballots.

A new section has been organized in order to bring greater clarity to this issue, although for the most part the rules applicable to invalid ballots are retained from both the Presidential (Article 29[3]) (Article 54[7]) and Parliamentary Election Laws. A new subsection, (2), has been added on "spoiled" ballots, which are a type of invalid ballot.

A new subsection has been added to clarify the meaning of ballot invalidity in connection with the crossing-through of a circle, which is the method through which voters in Moldovan elections express their preference. It is made clear that an imperfect or multiple effort by the voter to cross-through a single circle is valid, provided the voter's intention is reasonably clear.

Article __. Protocol and Minutes of the Precinct Election Commission

This article is based on Article 55 of the Parliamentary Election Law, but has been expanded as indicated by the italicized text.

First of all, the term "protocol" has been introduced in accordance with international standard terminology, and in order to clarify references. New subsection (2) provides that the form for the protocol should be provided by the appropriate

superior election commission.

New paragraph (4)(b) provides for certified copies of the protocol to be given to any accredited persons who may be at the precinct at the time the original protocol is completed. Obtaining such a certified copy would enable participating parties, socio-political organizations, candidates or independent observers to have a separate official record of the results at the precinct. This is useful in preserving the appearance of integrity, detecting fraud between the counting and tabulation phases, and enabling interested organizations to mount a parallel vote count should they desire.

New subsection (5) introduces the previously-defined term “minutes” to describe the narrative record of events at the precinct. It provides for signing of the minutes by all members of the precinct commission, and for the members to add written comments if they wish.

Subsection (6), on delivery of the results to the district election commission, has been made more detailed. The most significant change is the reduction of the number of hours — to eighteen, from twenty-four — permitted between the closing of the polls and delivery of the results to the DEC by the precinct election commission. This has been done to improve the appearance of the integrity of the counting process by avoiding unaccountable delays in reporting.

Article . Tabulation of Votes by the District or Territorial Election Commission

This article is based on Articles 56 - 57 of the Parliamentary Election Law. Numerous changes have been made to reflect the expanded purpose of this article, to deal with the various kinds of elections in the Republic of Moldova. Many other changes were also made, which are indicated in italics in the text.

Subsection (1) requires the precinct commission to begin the count by determining the number of voters who have cast ballots. This subsection has been expanded by inclusion of new paragraphs (b) and (c), which require immediate reporting of a vote total less than the required quorum for the election, to the superior election commission — and for an announcement of that fact by the relevant election commission to be made as soon as possible.

A new paragraph 3(b) has been added to expedite reporting of tabulated results to the Central Election Commission. To this end, the district commission would be required to deliver its tabulations to the CEC within 24 hours after the closing of the polls — or six hours after the final time for reports to be received by the DEC from the various precinct commissions. In addition, this change is made possible by the change, made previously in the draft Code, to require precinct commissions to stay in session continuously from the closing of the polls to completion of the count and finalization of the protocol and minutes.

Article . Announcement of Preliminary Results

This article is new. It provides for the announcement of partial results as they are received by the election commission which is responsible for determining the results of an election, and also for publication of overall results after all the returns have come in. The commission would, however, retain the power to withhold partial results that are subject to serious challenge(s), or even the overall results in the event that challenges could also lead to their invalidated. The terms of this article would apply to the Central Election Commission or a district election commission, depending on the type of election and the nature of the determination in question.

Article . Retention of Voting Records

Existing election laws do not contain any detailed provisions concerning retention, or archiving, of election records, or how interested persons may obtain access to such records for research or other purposes. This article is offered as a proposal to address these issues.

CHAPTER V. OBSERVATION AND PRESS COVERAGE OF ELECTIONS

Article . Observers

Most of the material in this article is drawn from Article 37 of the Local Election Law. The most significant addition is a proposal under which the CEC (and on a regional level, DEC's) would be empowered to accredit domestic monitors from non-partisan Moldovan socio-political organizations. Such monitors would have similar authority to that of other accredited persons, including to be present at the precincts during voting and counting of votes.

Adoption of a provision along these lines would permit Moldova to join the increasing number of countries that are allowing for domestic observers. Assigning regulatory authority primarily to the CEC would enable the Commission to assess the *bona fides* of organizations putting forward nominees to serve as domestic monitors.

Article . Press Coverage of Elections

Current Moldovan election laws address press issues, but primarily in terms of access to the press by candidates and other contesting an election. Indeed, most references to the press in these laws are phrased in terms of the state-owned press.

This article is proposed as a step toward a set of rules to govern press conduct during elections. The general rules in subsection (1) are intended to alert the press to its responsibilities with respect to fairness during elections. The access to election

operations for the press granted in subsection (2) is drawn from Article 37(2) of the Local Election Law.

Subsection (3) is proposed to address the issue of the nature of press reporting on election day. Subsection (4) deals with the issue of pre-election publication of polls and other quasi-scientific surveys about likely voter behavior. (Many countries limit the practices described in these subsections — particularly broadcasting of polling data — during the immediate election period.) The proposed subsections would be well within current international standards on this subject.

CHAPTER VI. JUDICIAL AND ADMINISTRATIVE PROCEEDINGS

Art. . Judicial Review

This article establishes the right of any voter or contestant in an election to appeal the decision of an election commission, provided the appeal is brought within 72 hours of the action. The level and *venue* (location) of the courts to which appeals should be referred are also specified, as are additional requirements on the timing of such proceedings during an election period. This article combines material from several places in the current election laws with new material, as indicated in italics.

Article . Criminal Acts and Penalties

This article is drawn from Article 69 of the Parliamentary Election Law.

Article . Administrative Offenses

This article is drawn from Article 70 of the Parliamentary Election Law; the paragraphs have been renumbered due to a minor reorganization.

Article . Penalties for Administrative Offenses

This article is drawn from Article 71 of the Parliamentary Election Law, with the paragraphs renumbered to correspond with the previous article.

Article . Initiation of Administrative Proceedings

This article is drawn from Article 72 of the Parliamentary election Law, with renumbering of paragraphs as explained previously.

CHAPTER VII. ELECTION OF THE PRESIDENT OF THE REPUBLIC

This chapter contains the special provisions applicable in Presidential elections, and is therefore mainly drawn from various articles in the Presidential Election Law.

Article . *Applicability of this Chapter*

This article makes clear that the provisions in this Part apply only to Presidential elections.

Article . *Definition*

This article includes a definition for “the election” and “election day” for the Presidency, as ordinarily referring to the first round of Presidential elections, in which a new President might well be selected. This measure helps to reduce confusion in drafting, especially with respect to time lines for election, confirmation and investiture of the President under this Chapter.

Article . *Determining Elections for the Presidency*

This article is drawn from Article 7, subsections (1), (2) and (7), of the Presidential Election Law. References to Presidential elections (and the transition from one Presidential administration to another) occurring at a certain time of year have been deleted, since the provisions of the Moldovan Constitution in fact make it likely that Presidential elections will occur at various times of year, depending on when an incumbent President’s term of office expires.

Article . *Nomination of Candidates for the Presidency*

This article is drawn from Article 19 of the Presidential Election Law, which has been reorganized and made subject to some changes as noted by the italicized text. In subsection (4), language has been added clarifying the meaning of the provision of the existing law that excludes relatively small numbers (under 1,000) of signatures collected in a region or municipality from the calculation of whether signatures have been collected in at least 1/3 of the localities (towns, regions or municipalities) in the country.

Article . *Citizens Group Proposing a Candidate*

This article is drawn from subsections (1)-(3) of Article 20 of the Presidential Election Law, to retain the special provision in that law for citizens groups to nominate presidential candidates. This procedure is akin to the independent candidacies provided for in the Parliamentary and Local Election laws. In line with the simplification of procedures for collecting voter signatures, related material has been deleted.

Article . *Results of Elections to the Presidency*

This article is drawn from Article 31, subsections (3)-(6), of the Presidential Election Law. The article has been reorganized and minor wording changes have been made.

Article ____ Second Round of Voting

This article is drawn from Article 32 of the Presidential Election Law. Technical changes have been made, as reflected in the italicized text. ~~In particular, a clause has been added giving definite meaning to the requirement that, to win the second round, a candidate must have more votes for than "against" him. Also, a~~ A procedure has been added to determine which candidates will contest the second round, and appear in what order on the ballot-papers during that round, in the event of tie votes during the first round. The provision in Article 32 that required a candidate to have more votes than those which were cast against him to win in the second round has been eliminated, since its meaning could not be determined.

Article ____ Confirmation and Publication of the Results of Elections for the Presidency

This article is primarily drawn from Article 33 of the Presidential Election Law. In addition, the provisions of Article 7(4)-(6) of that Law have been included at this point. This is because it seems more logical to locate the latter provisions, on validation of the results of a Presidential election by the Constitutional Court, in the article on confirmation and publication of the results.

Similar to Article ____, Determining Elections for the Presidency, of this draft Code, this article has been thoroughly reworked so as not to be linked in application to an election occurring at any particular time of year. Language about repeat elections has been removed, as there is another article later on this subject.

Article ____ Taking the Oath

This article repeats Article 34 of the Presidential Election Law.

Article ____ Repeat Elections

This article is drawn from Article 35 of the Presidential Election Law. A new timeline, in subsection (2), has been inserted regarding the scheduling of repeat elections, similar to that added in Article ____, Determining Elections to the Presidency, of this draft Code, but somewhat more expedited in order to respond to the circumstances in which a repeat election would be needed. The language on the applicability of the Code to such elections has been generalized and refined, in subsection (3).

CHAPTER VIII. ELECTIONS TO PARLIAMENT

Article ____ *Applicability of this Chapter*

This article specifies that the provisions in this Chapter relate specially to

elections to the Parliament of the Republic of Moldova.

Article ____ . Method of Election

This article repeats Article 6 (1)-(2) of the Parliamentary Election Law, and establishes the system of proportional representation and four percent national threshold for representation in Parliament.

Article ____ . Basis, Term and Conditions of Parliamentary Mandate

This article is drawn from Article 6 (3)-(4) of the Parliamentary Election Law. It establishes the norm for representation, the term and character of parliamentary service, and the incompatibility of other employment for deputies during their term. So that population changes do not affect the number of seats in Parliament (101) specified by the Constitution, a provision has been added giving the CEC authority to modify the norm of representation if necessary. A clause has also been added, in connection with the term of Parliamentarians elected under this chapter, that the normal four-year term can be shortened in the event of dissolution of Parliament according to the provisions of the Constitution. The second clause of paragraph (4) of Article 6 — on the incompatibility of Parliamentary service with other employment, has been deleted on the grounds that it is not strictly an election-related provision, and anyway does not appear to go beyond what is already in the Constitution (Article 70[1]) on this subject.

Article ____ . Declaration and Date of Elections

This article is drawn, with minor alterations, from Article 7 of the Parliamentary Election Law.

Article ____ . Parliamentary Districts and Mandates

This article consolidates the provisions found in Articles 21, 22 and 23 of the Parliamentary Election Law. A clause has been added to subsection (1) permitting Parliamentary elections to be run in a single national electoral district if provided for by law.

The reference in article 22(1) of the Parliamentary Election Law, directing the CEC to increase the number of mandates in a district by one if the remainder after dividing the voter population by the number of seats available is more than one-half of the norm of representation has been deleted, on the grounds that such action would cause the Constitutional provision on the number of Parliamentary seats (101) to be exceeded. (Instead, a provision was inserted earlier, in Article ____, on Basis, Term and Conditions of Parliamentary Mandates, under which the CEC may adjust the norm if necessary.)

Article . Qualifications for Candidacy

Neither the current Parliamentary Election Law nor the Moldovan Constitution appears to contain any provision on qualifications to be a candidate for, or member of, the Parliament. This article is therefore proposed for this purpose. The specified age (25) is the same as that required for candidacy for mayor of a local public administration under the current Local Election Law and the relevant Chapter of this draft Code. See the commentary below on the relevant Article of that Chapter, for further explanation.

Article . Nomination of Candidates

This article is taken from Article 30 of the Parliamentary Election Law. There is one major change, which is to require that parties, socio-political organizations and electoral blocs submitting lists of candidates must obtain a number of valid voter signatures equal to at least 500 *per* candidate on their list. This is half the number required of independent candidates under current law and this Article.

Article . Limitation on Candidacies

This article is drawn, with minor changes, from Article 31 of the Parliamentary Election Law.

Article . Candidate Lists and Independent Candidates

This article is drawn, with modifications, from Articles 32 and 33 of the Parliamentary Election Law. As usual, changes have been noted by italicized text. In the case of paragraph (5), italics have been used solely because various existing provisions were consolidated; there is no substantive change in the filing requirements for independent candidates.

Article . Replacement of Candidates on Lists

This article is drawn, with the indicated modifications, from Article 35 of the Parliamentary Election Law. Paragraphs (4) and (5) have been added to account for replacement of a candidate by another, reserve candidate on the list and for replacement of a candidate by another, not on the list, while the period for registration of candidates is still open. In the latter case, a requirement has been added that the new candidate registration should be accompanied by 500 signatures, the number that is generally required *per* candidate on a list. (This requirement is intended to ensure that the addition of a new candidate has the same sort of public support that the other candidates on the list had, and that nominating organizations would be prevented from engaging in sham nominations, only to replace some of their candidates later with others perhaps less known or acceptable to the public.)

Article . Complaints against Candidate Registration

This article is drawn from Article 36 of the Parliamentary Election Law. Some modifications have been made, as indicated in italics, and the final paragraph, (4), of the existing article was removed as unnecessary. The most significant change made is that an appeal from the action of a local court concerning a complaint against candidate registration would be taken to the Supreme Court of Justice.

Article . ~~Ballot Preparation~~

~~This article, drawn from Articles 37, 38 and 39 of the Parliamentary Election Law, supplements the general provisions on Ballot Papers included earlier in the draft Code. Essentially, it makes clear that preparation of ballots for parliamentary election shall be carried out by the relevant district election commissions. (The form of the ballot, on the other hand, would be prescribed by the CEC.) An additional measure for ballot security has been proposed under which the chairman of a DEC or PEC could gain access to stored ballots only if accompanied by two other members of the same commission.~~

Article . Determination of Threshold for Representation

This article is drawn from Article 38 (2)-(3) of the Parliamentary Election Law.

Article . Calculation of Results for Proportional Representation

This article is drawn from Article 58 of the Parliamentary Election Law.

Article . Award of Mandates

This article is drawn from Article 59 of the Parliamentary Election Law. Old subsection (3), on repeat elections, has been deleted, since it appears redundant with the provisions contained in the separate article on that subject (which appears below).

Article . Communication and Publication of Results

This article is drawn from Article 60 of the Parliamentary Election Law. Minor modifications are indicated in italics.

Article . Confirmation of Results by the Constitutional Court

This article is drawn from Article 61 of the Parliamentary Election Law. Various modifications have been made, as indicated by the italicized text. The language in previous subsection (1) dealing with appeals to the Constitutional Court has been separated out into a separate subsection, for clarify. In addition, the new subsection (b) on appeals permits any Moldovan citizen to file an appeal with the Court. (This is

similar to the appeal rights established elsewhere within existing election law.)

Article . Certification of Results by the Central Election Commission

This article is drawn from Article 62 of the Parliamentary Election Law. Some modifications have been made, as indicated by italics. The previous subsection (2) was unclear as to what the CEC was supposed to do with the record of the election and accompanying documentation, once it was finalized. New subsection (2) says simply that the Commission should "issue" this material — *viz.*, by releasing it publicly. Subsection (3) has been redrafted to say that the CEC should "cause" the results of the elections to be published; actual publication would presumably be by the press.

Article . Invalidity of Elections

This article, drawn from Article 63 of the Parliamentary Election Law, has been moved up from its previous location in that Law (where it was together with articles on Repeat Voting and Partial Elections), as it is actually more general and directly related to the issue of validity of election results. Some modification have been made, as indicated in italics — including resolution of the issue whether invalid ballots should be counted in determining whether a quorum of voters was reached in an election. (It would appear more sensible to exclude invalid ballots, as the draft article does, even though this might make it more difficult to achieve a quorum. This is true because many invalid ballots might actually be deliberately spoiled or made invalid by voters who are dissatisfied with the choices they have among candidates; these votes should therefore presumably not be counted toward the quorum for validity of the election.)

Article . Repeat Elections

This article is drawn from Article 64 of the Parliamentary Election Law. Substantial changes have been made, however, as follows:

Subsection (1), on holding repeat elections in district where results have been invalidated, has been generalized to apply to any case in which the results have been invalidated — including by the DEC itself, the CEC or the Constitutional or other court.

Previous subsection (2), on exclusion of candidates who were guilty of certain violations during elections being excluded from repeat elections, has been deleted on the grounds that this provision is better included in the general sections on enforcement actions by election commissions.

New subsection (2) has been made more specific to indicate that the national application of the results of new elections in a district is limited to establishment of the vote threshold for representation in the Parliament.

New subsection (3) — on terminating parliamentary elections in a district after a repeat

election has failed — has been made more specific by indicating that such action should be taken only if the failure has resulted from an inadequate number of votes cast. If the nullification was caused by another factor, say misconduct by a participant in the election in the district, it would appear unfair to deprive other participants of their ability to be elected in that district. (Doing so could create an incentive for provocations for participants who are likely to be unsuccessful, and who wish to deprive other participants of their victory.)

New subsection (4) continues to cover cases in which invalidity of results in a district or precinct thereof results from causes other than failure to achieve a vote quorum. In such cases, including cases in which participants in the elections engaged in misconduct that resulted in invalidation, the relevant DEC or PEC is disbanded, and new elections held. The term “additional repeat” elections has been introduced in place of “new” elections, so that it is clear that the provisions in this article, related to repeat elections, would apply in this case.

Article . By-Elections (Partial Elections)

This article is drawn from Article 65 of the Parliamentary Election Law, with numerous minor modifications. Language has been added in subsection (3) to indicate that Parliamentary by-elections, like general Parliamentary elections, are called by the President under the mandate of this law.

CHAPTER IX. LOCAL ELECTIONS

This chapter is largely based on the provisions of the existing Law on Local Elections (“Local Election Law”). The chapter is intended to serve as special legislation on this subject, with the more universal aspects of election administration being handled in the general sections of the draft Code.

Article . Applicability of this Chapter

This article indicates that the provisions in this Chapter are only applicable to local elections.

Article . Definitions

This article defines the terms “district” and “local elections”, for clarity and ease of reference. Recall that, in the definitions article at the beginning of the entire Code, the term “electoral associations” was introduced to refer to parties, socio-political organizations and electoral blocs.

Article . Term of Office

This article is drawn from Article 1 of the Local Election Law, with the indicated modification.

Article . Qualifications of Candidates

This article is drawn from Article 3 (2)-(3) of the Local Election Law. Reference to eligibility to vote in elections has been added to excluded candidates who for some reason have been deprived of their civil rights.

Article . Qualifications of Voters

This article is drawn from Articles 3(5) and 4(a) of the Local Election Law.

Article . Councillor Mandates

This article is drawn from Article 19 of the Local Election Law.

Article . Nomination of Candidates

This article is drawn, with the indicated modifications, from Article 6 of the Local Election Law. Former subsection (2), requiring electoral associations to submit applications to the Central Election Commission to participate in local elections, has been omitted as unnecessary.

Article . Determination of Election

This article is based on Article 7 of the Local Election Law. Subsection (1) specifies that local elections must be called through a law (enacted by Parliament, and signed by the President); this approach appears more consistent with Separation of Powers principles than the current procedure of relying solely on a Parliamentary "decree" (resolution). Former subsection (3), on partial elections, has been deleted as unnecessary, and instead a new subsection (3) has been added to clarify the relationship between general elections under this article and repeat and partial elections under later articles.

Article . Electoral Districts and Precincts

This article is drawn from Articles 8 (1)-(2) and 9 (1) of the Local Election Law. Modifications are indicated in italics.

Article . Other Election Commissions

In certain other national election systems in the CEE/NIS region, an intermediate-level election commission is established at the municipal or other level in densely-

populated areas such as cities. In addition to district election commissions, the Local Election Law — see, e.g., in Article 12 — occasionally also speaks of “city” and “locality” election commissions. This article is suggested as a means of creating such intermediate commissions in appropriate cases.

Article . Incompatibilities

This article is drawn from Article 13 (1)-(2) of the Local Election Law.

Article . Candidates of Electoral Associations

This article includes material from Articles 21 and 22 of the Local Election Law.

Article . Limitations on Candidacy and Membership in Electoral Blocs

This article is drawn from Article 23 of the Local Election Law.

Article . Withdrawal of Candidacies

This article is drawn from Article 24 of the Local Election Law.

Article . Independent Candidates

This article is drawn from Article 25 of the Local Election Law. The last two subsections, (6)-(7), of that Article have been omitted, as they relate to general issues concerning the verification of signature lists and enforcement of penalties against candidates which — in this draft Code — are dealt with in the general sections.

Article . Registration of Candidates

This article is drawn from Article 26 of the Local Election Law. A number of time limits have been changed, to make for a more orderly process of resolving complaints and appeals prior to election day. Subsection (4) of that Article has been deleted as unnecessary.

Article . *Ballot-Papers*

This article is based on Articles 31 ~~(1)~~-(2) and 33 (2)-~~(3)~~ of the Local Election Law. Numerous other provisions of these Articles and Article 32 of that Law have been omitted as unnecessary, as they are taken care of in the general sections of this draft Code.

Article . Tabulation of Results by District Election Commissions

This article is drawn from Article 50 of the Local Election Law. In subsection (2), a clause has been added to the effect that invalid ballots shall not be counted toward establishment of the voter quorum for the election. (This point was discussed previously, in connection with the chapters on Presidential and Parliamentary elections.)

Article . Award of Council Mandates

This article follows Article 51 of the Local Election Law. The method of distributing mandates under proportional representation is the same as that used in Parliamentary races.

Article . Election as Mayor

This article is based on Article 52 of the Local Election Law. Language has been added in subsection (2) and a new subsection (3) added, to provide a method of choosing second-round candidates and their order on the ballot in the event of tie votes during the first round. Subsection (5) would amend Article 52(4) of the Local Election Law to provide for a candidate who is elected both as mayor and a councillor to accept the mayoral position, but not also obtain a seat on the council.

Article . Repeat Elections

This article is drawn from Article 57 of the Local Election Law.

Article . Partial Elections

This article is drawn from Article 58 of the Local Election Law.

CHAPTER X. REFERENDA

The provisions in this Chapter are drawn from Articles 39(1) and 141(1)(a) of the Constitution of the Republic of Moldova, and also the Law of the Republic "Regarding the Referendum" (hereinafter referred to as "the Referendum Law"). Considerable modifications had to be made to the provisions of the latter, however, in order to improve its provisions and reconcile them with the other election laws incorporated into this draft Code.

Article . Applicability of this Chapter

This article makes clear that the provisions of this Chapter apply solely to the conduct of *referenda*.

Article . Definitions

The definitions provided in this article clarify the relationship between the Central Commission and district and precinct commissions for the conduct of a referendum, and the CEC, DEC and PEC's established under the remaining election laws.

Article . Right to Initiate Referendum

Citing the applicable Constitutional provisions, this Article indicates that citizens, members of the Parliament, the President and the Government of Moldova have the power to initiate *referenda* under the terms of this Chapter and the other applicable portions of this draft Code.

Article . Basic Considerations

The provisions of this article were drawn from Article 1 of the Referendum Law, with the indicated (in italics) modifications.

Article . Types of Referendum

The provisions of this article were drawn from Article 2 of the Referendum Law, with the indicated changes.

Article . *Mandatory Referenda*

The provision in this article was drawn from Article 4, paragraph 2, of the Referendum Law, with the indicated changes.

Article . Prohibited Issues

The provisions of this article were drawn from Article 4, paragraph 3, of the Referendum Law, with the indicated changes.

Article . *Constitutional Referenda*

The existing Referendum Law does not distinguish between referendum proposals which are made pursuant to Article 141(1) of the Constitution, which provides a mandatory procedure for the consideration of *referenda* which would have the effect of amending the Constitution, and other referendum proposals. This article has been drafted to deal specifically with this type of referendum; other Republican *referenda* are dealt with in the following article, on that subject.

Under subsection (1), a proposal to call a Constitutional referendum would be made to the permanent CEC, if one were in existence; otherwise, application would be

made to the Parliament. (The existing Referendum Law refers all such applications to Parliament, but if in fact a proposal is Constitutionally privileged it would appear inappropriate to require Parliamentary approval. It therefore appears preferable to create a direct route through the CEC, if that body is in existence as a permanent one.)

Most of the remaining subsections of this article deal with procedural matters, and partially reflect Articles 3 and 10 of the Referendum Law (which provides for Parliamentary consideration of whether to call a referendum, and to establishing the date to conduct it). Subsections (5) and (6) deal with judicial appeal of the refusal to hold a Constitutional referendum; the appeal has been referred to the Constitutional Court as the appropriate body for this type of determination.

Article . *Other Republican Referenda*

As mentioned previously, this article has been created to deal with the subject of proposed *referenda* which are not Constitutionally privileged. It gives the power to determine whether to conduct such *referenda*, and whether to implement their results, entirely to Parliament. In the event Parliament should decide to implement a successful referendum proposal, it would do so by the enactment of a law to this effect.

Article . *Administration of Republican Referenda*

The contents of this article are entirely new, and are intended to integrate the conduct of *referenda* into the general provisions of this draft Code. Since the conduct of a Republican referendum is structurally similar to an election for the Presidency of the Republic — in that the proceedings are held in a single national electoral district and the choice is between a small number of competing candidates (or positions, in the case of a referendum) — a provision has also been inserted to provide that the provisions of the Chapter on Presidential Elections should be followed in the event further specification is required.

Article . *Preparation of Ballot-Papers*

Article 22 of the existing Referendum Law addresses this issue, but does not provide much specificity about ballot-paper layout and does address a number of issues which are handled elsewhere in this draft Code. The provision of paragraph (3) of Article 22 -- dealing with multiple referendum questions -- has been incorporated into subsection (2) of the present article, however. Subsection (3) creates a procedure whereby the Central Commission conducting the referendum may create a summary of a lengthy referendum question, subject to appeal of its action to the Supreme Court.

Article . *Amendment or Withdrawal of Proposals*

This article creates a procedure, and time limits, for amendment or withdrawal of

referendum proposals. Under subsection (3), if a referendum proposal is withdrawn after being submitted to the appropriate body (Central Election Commission or Parliament, as the case may be), the same issue may not be resubmitted as a referendum proposal for a period of one year.

Article . Voter Information

This article requires the Central Commission conducting the referendum to publish the referendum question no later than 30 days prior to the date of the referendum, and also publish summaries of concise arguments *pro* and *con* the referendum question 15 days prior to the referendum. If the referendum question is modified prior to the day of the referendum, the Commission must publish the amended question no later than one day prior to the referendum. If the person or class of persons who sponsored the referendum is aggrieved by the summary of the arguments prepared by the Commission, it may appeal to the Supreme Court in a manner similar to that in a previous article.

Article . Determining and Publication of the Results

This ~~first part of this article, in subsections (1)-(4),~~ applies the general provisions of the draft Code ~~---and particularly the Chapter on Presidential Elections---~~ to the counting, tabulation, ~~validation,~~ publication and confirmation of the results of a referendum.

Article . Validation of Results

~~(by the Constitutional Court) and certification phases of the referendum process.~~ This article maintains the distinction in treatment between Constitutional and non-Constitutional *referenda*, providing that the results of the former are submitted to, and validated by, the Constitutional Court, and the latter, the Parliament. Since the process of certification of results for a Constitutional referendum resembles that in a Presidential election, the provisions of that Chapter are made applicable. In order to eliminate confusion, it is further specified that the latter provisions should be applied as if it were the first round of Presidential elections, and there were two candidates.

The second part, in subsections (5)-(7), reflects the provisions of Article 26, paragraphs five to seven of the Referendum Law, but has been redrafted. Under these provisions, 60% of eligible voters must participate in a referendum for its results to be valid; a majority of the votes cast shall decide the issue with respect to non-Constitutional *referenda*; and the vote of a majority of eligible voters shall be required to approve a Constitutional referendum.

The last part, subsection (8), of this article prevents another referendum on "the same or a substantially similar" referendum proposal within one year of a referendum

that was unsuccessful due to invalidity of the referendum proceedings or failure to obtain the necessary majority of votes. This differs from Article 26, paragraph nine, of the existing Law on this subject, which prevents another referendum for two years, apparently regardless of whether the proposal was successful or unsuccessful, but only “regarding the same issue”. The next provision of this Chapter, Article __, on Publication and Enactment of Results, also contains language in subsection (5), that deals with the question of certain additional *referenda* proposed after success of an earlier referendum proposal.

Article . Publication Announcement and Enactment Implementation of Results

This provision derives from Article 27 of the Referendum Law, but that provision does not distinguish between the effect of approving Constitutional vice non-Constitutional referendum proposals. Under subsection (2) of this article, a Constitutional referendum proposal, pursuant to the terms of Article 141(1) of the Constitution, enters into force immediately. Other referendum proposals are brought into effect through laws enacted by Parliament (with the approval of the President). Due to the importance of referendum proposals that are approved, the first clause of subsection (1) has been added to require the Central Commission for the conduct of the referendum to publish the results as soon as they are certified. (It is also necessary to specify this here, since in Presidential elections publication of results is sometimes deliberately delayed in order to comply with the timetable for Presidential inauguration required by the Constitution.)

As mentioned previously, subsection (5) addresses the issue of additional referendum proposals on the same subject, after a referendum has been successfully conducted and the proposal adopted. In this case, under paragraph a), a new referendum seeking to repeal, modify or amend the previous proposal may not be submitted within six months of adoption of the earlier proposal. Paragraph b) makes clear, however, that such a proposal may nevertheless be repealed, modified or amended — even during the six month period following its adoption — through a Constitutional amendment or Constitutional law on that subject.

CHAPTER XI. FINAL PROVISIONS

Article . Repealer

Self-explanatory.

Article . Effective Date

Self-explanatory.

APPENDIX C

INTERNATIONAL FOUNDATION FOR ELECTION SYSTEMS

Daniel Finn
Consultant

Draft
May 29, 1997

Resolution of the Parliament of the Republic of Moldova "On the Creation of a Permanent Central Election Commission"

Article 1. Purpose.

The purpose of this resolution is to create a permanent Central Election Commission to improve the quality of election administration in the Republic of Moldova by establishing a more autonomous and effective structure for the administration of elections at all levels.

Article 2. Establishment of the Central Election Commission.

(1) Permanent Commission

There is hereby established a Central Election Commission (hereinafter "CEC", or "Commission"), which shall operate on a continuous basis. The Commission shall commence its activities at such time as a quorum of its members is appointed and funds for its operations have been provided from the State Budget. After the announcement of elections for the Presidency, Parliament, or offices in local public administration, this Commission shall perform all the duties of the Central Election Commission that are provided for under the laws and directives of the Republic of Moldova with respect to such elections.

(2) Expanded Membership

(a) Candidate Representatives

During an election period established under the relevant laws, as referred to in the previous subsection, the membership of the CEC shall be supplemented by representatives of political parties and socio-political organizations which have put forward candidates in those elections, as well as representatives of independent candidates. These representatives shall be appointed in the manner and exercise the privileges specified in the relevant election law.

(b) Other Members

In the event a law related to a particular election or type of election provides for

additional members to be appointed to the CEC for that election, the Commission shall also include such members during that election period. In this case, the additional members will be selected in the manner and exercise the prerogatives provided for in that law.

Article 3. Composition of the CEC.

(1) Membership and Term of Office

- (a) The CEC established under this resolution shall include five Judges of the Supreme Court of Justice, who shall serve four year terms on the Commission.
- (b) In order to ensure an orderly rotation of membership, the initial list of members proposed by the meeting of Supreme Court judges shall specify that two of the original members are designated to serve a full term, and that the remaining members are designated to serve terms of three, two and one year respectively.

(2) Selection of Members

The Judges proposed to serve as members of the CEC shall be elected from among the active judges of the Supreme Court by secret vote, at an open meeting of the membership of the Court which is announced to the public not later than 48 hours before it is held.

(3) Appointment and Confirmation

After the judges of the Supreme Court have selected candidates for CEC membership in the manner described, the Court shall forward the list to the President of the Republic. If the President approves, he shall transmit the list to the Parliament for confirmation. If Parliament confirms the names of the membership, the President shall declare them appointed to the Commission.

(4) Replacement of Members

In the event a vacancy occurs among the five permanent positions on the CEC, either as a result of the expiration of a term or due to the departure of a member, the same method described in this article shall be used to appoint a replacement.

(5) Quorum

A majority of the members shall constitute a quorum for conducting the business of the permanent Commission.

Article 4. Qualifications and Incompatibilities.

(1) Qualifications

Persons appointed to the Commission shall be of outstanding character and have an exceptionally high reputation for personal integrity and professional objectivity.

(2) Incompatibilities

Members of the Commission may not be members of any political party or socio-political organization that has the right to nominate candidates for political office; may not engage in any political activity including expressing support for a party, socio-political organization, or candidate; and may not make any financial or other contribution toward activities by such persons and associations.

(3) Removal

In the event a member of the Commission engages in any activity described in the previous subsection or commits any other act that is likely to result in his being viewed as unable to exercise his responsibilities in a complete, honest and impartial manner, he shall be subject to removal. In order to remove a member, the Parliament must vote a resolution to this effect, which must be approved by the President. A request for Parliamentary consideration of a resolution to remove a member from the Commission may be submitted by anyone with the right to legislative initiative, or as a result of a request from a majority of the other members of the Commission itself. In the event a member is removed for cause in the manner described in this subsection, the resulting vacancy shall be filled in the way specified previously.

5. Appointment of Officers.

(1) Chairman

OPTION #1: The Chairman of the Commission shall be elected from among the members, in a public meeting which has been announced to the public at least 48 hours in advance. The Chairman shall be elected through a closed vote, or by acclamation (unanimous vote of the other members).

OPTION #2: The Chairman shall be appointed by the President of the Republic, from among the members of the Commission, subject to confirmation of his selection by Parliament.

Once selected in this manner, the Chairman shall continue to hold that post until the expiration of his term on the Commission, unless he is removed from the Commission for cause in the manner described in Article 4(3).

(2) Other Officers

The members of the Commission will also select from among their number a Vice Chairman and Secretary. The Vice Chairman and Secretary shall hold these positions until the expiration of their terms on the Commission, or until such time as a majority of the members of the Commission decide to appoint other members in their place.

Article 6. Release from Other Responsibilities; Compensation.

(1) Officers

The officers of the Commission shall be released from their professional duties on the Supreme Court of Justice for the duration of their term as officers.

(2) Other Members

The other members of the Commission shall be fully reimbursed by the CEC for any additional expenses incurred as a result of their service on the Commission. Upon request of the CEC, the other members shall also be released from their regular professional duties for such time as the Commission requires their services.

(3) Compensation

Compensation of the officers of the CEC and other members on active assignment with it shall be paid by the Commission, except with respect to short-term assignments by non-officer members undertaken with the consent of the Supreme Court of Justice. Except for an election period (during which time, under other provisions of law, they may be compensated at a different rate), the members of the Commission shall earn a salary equal to that of their regular employment.

7. Responsibilities of the Central Election Commission.

It shall be the responsibility of the CEC to take action and administer programs to prepare for and improve the conditions of all elections in the Republic of Moldova, including for the Presidency, Parliamentary mandates, and positions (including those of mayor and member of the council) of local public administrations, as well as for the conduct of any referenda that may be called by the President or Parliament in accordance with the Constitution and laws of Moldova. The responsibilities of the CEC shall be exercised by the Commission in addition to any other responsibilities it may have under other provisions of law, including election laws, and include the following:

() To study the administration of elections in the Republic of Moldova and elsewhere, with an eye toward improving election law and procedures in Moldova;

() To make recommendations to the Government and Parliament concerning the desirability of changes in election law;

() To develop and implement regulations to improve election procedures and practices;

() To maintain a roster of suitably-qualified personnel for appointment to positions on the District Election Commissions and Precinct Election Commissions, as well as in other positions in election administration, during the period of an election;

() To cooperate with other agencies of government at the republican and local level, as well as with other entities (including state enterprises, the state media and press, and other state bodies) to plan for and improve the implementation of election procedures. To this end, the Commission shall work with the Ministry of Interior with respect to establishing security procedures for protecting voting places and materials; with local authorities, with respect to maintaining residents lists and correcting them to function as accurate voter rolls; with state enterprises and other organizations with respect to future contracts for services such as ballot printing and furnishing of supplies; and with the media and press on civic education, voter information, and coverage of the elections process;

() To analyze the structure of election districts, in terms of the natural divisions of the country (including geographic, economic and other factors) and the existing structure of administrative-territorial units of the Republic;

() To undertake programs of civic education during the period between elections, in order to elevate the awareness of the citizenry of the importance of their active participation in the democratic elections process;

() To prepare for the implementation of voter information programs immediately prior to and during election periods;

() To provide information to state and independent media concerning elections in the Republic of Moldova, and the administrative practices which are used in this respect;

() To report on an annual basis to Parliament, and if specially requested by the President, Government or Parliament;

() To communicate with the press and the public concerning election matters;

() To conduct liaison with political parties and socio-political organizations which are entitled to put forward candidates for nomination to political office, to improve their understanding of the election system and enhance their ability to participate fully and fairly in the election process;

() To engage in consultations with other indigenous nongovernmental organizations which have an interest in exercising civic functions with respect to elections in Moldova; and

() To arrange for training courses and seminars for persons who are qualified to participate in the elections process as members of a District or Precinct Election Commission; representatives of political parties, socio-political organizations, or potential candidates; or in a staff or support capacity;

() To enquire into and investigate abuses of the election system, including into allegations of fraud perpetrated in connection with past elections or current or upcoming elections; to enforce election laws and procedures, by imposing election-related penalties or referring matters to the relevant authorities for disposition under the law; and, pursuant to Article 62 of the Constitution, to submit to the Constitutional Court proposals related to the validation or invalidation of a Parliament Member's mandate whenever electoral legislation has been transgressed.

Article 8. Staff of the Commission.

(1) Status

The CEC may recruit professional and administrative staff to assist it in fulfilling its responsibilities. The staff shall serve with the same privileges and on similar terms and conditions as the staff and personnel of other government agencies serving at a comparable level of expertise.

(2) Compensation

The salaries and expenses of the staff shall be paid by the Commission from its budget, including with respect to any staff of other government agencies who are on temporary assignment with the Commission.

(3) Qualifications and Incompatibilities

The staff shall be comprised of suitably qualified individuals who serve at the pleasure of the Commission. While serving with the Commission, staff members may not be members of political parties and must refrain from all political activities.

Article 9. Budget.

The funds for CEC operations shall be provided from the State budget. Each year, at the appropriate time, the Commission shall submit a budget request to the Government, for inclusion in the budget. The request shall include reasonable specification concerning the activities the Commission intends to undertake during the

course of the upcoming fiscal year.

Article 10. Meetings and Operations.

(1) Calling Meetings.

Meetings of the Commission may be called by the Chairman or upon request of a majority of the members. In the event a meeting has been requested by a majority of the members, it shall be convened within 48 hours of submission of the request.

(2) Open Meetings.

All meetings at which the Commission discusses electoral matters, including meetings at which the Commission shall be called upon to make a decision about election issues, shall be open to the press, and also to the public to the extent space permits. Meetings of the Commission shall be held only after 48 hours public notice has been given, except for meetings during election periods, in which case less notice may be provided if the matter to be discussed requires urgent consideration.

(3) Transparent Operations.

Consistent with the need for security and tranquillity of elections, the Commission shall ensure that election operations are conducted in a transparent manner that enables the press and public to follow and understand what is being done and why.

APPENDIX D

International Foundation for Election Systems

COMMENTS

on the

DRAFT ELECTORAL CODE

prepared by the

MOLDOVAN PARLIAMENTARY WORKING GROUP

**Daniel Finn,
Legal Consultant**

July 26, 1997

Introduction

The Draft Electoral Code ("Draft Code") prepared by a Working Group for the Moldovan Parliament is based in large part on the relevant portions (overall provisions and the chapter related to parliamentary elections) of the proposed Uniform Election Code (UEC), which was drafted by the current consultant at the request of the International Foundation for Election Systems (IFES). The Consultant believes that the Draft Code for the most part preserves the numerous refinements and alterations to existing Moldovan election laws in these areas that were proposed in the UEC.

The Draft Code would make an important contribution to election practice in the Republic of Moldova in several respects. First, the Draft Code includes the necessary provisions to establish a permanent central election commission (PCEC). This enables this body to be incorporated into the legislative scheme from the beginning and eliminates the necessity to refer to this issue throughout the Draft. Second, the Draft Code has made the relevant contents of the UEC more applicable to the actual situation in Moldova, which the Consultant was not in a position to achieve at the time he drafted the UEC from overseas.

With respect to the PCEC in particular, it is noteworthy that Articles 16-25 reflect the broad grants of authority to this body that were proposed by the Consultant in his separate proposed law on this subject. These grants are required to give the PCEC sufficient legal authority to achieve its long-range purposes, and not simply to organize particular elections on an *ad hoc* basis. (The election-specific functions of the CEC, based on current laws, are laid out in Article 26.) The inclusion of broader responsibilities for the PCEC lays the groundwork for ongoing improvements in the administration of elections in Moldova.

It must also be remarked, however, that the Draft Code is not in reality an entire proposed election code. The specific chapters related to non-parliamentary elections in Moldova -- for the Presidency, positions in local public administration, and for referenda -- have not been included at this time. The UEC contained additional chapters on these subjects. Nevertheless, the general provisions (Titles I and II) of the Draft Code are drafted in such a way that they could also serve as the foundation for additional chapters on the other types of elections.

The Consultant does not have any major issues to raise with respect to the general provisions (Titles I and II) of the Draft Code. Instead, he will provide in what follows a running commentary on the detailed provisions. It is to be hoped that during the process of legislative consideration of the Draft Code the necessary changes can be made in order to respond to these issues.

Finally, the part of the Draft Code (Title III) related to elections for mandates in parliament is based on the current method of election for that purpose — viz., election

through proportional representation (PR) based on party lists. In addition, the relevant provisions are written in a way that can only accommodate a continuation of the practice that was adopted (separately, through Parliamentary resolution) in 1994 in response to the Transnistrian situation; that is, a process in which the entire republic would be constituted as a single electoral district.

It is perhaps likely that the practice from 1994 will be retained for various reasons (including continuation of the problems in Transnistria, as well as the difficulty of adopting a fundamentally new parliamentary election law). At the same time, it might be undesirable to draft all the relevant provisions of the Code in a way which is based on this assumption. Different parties, groups and factions in Moldova advocate different approaches on the question of the method of election to Parliament, and there are different views even within particular parties.

The procedure used in 1994 to establish the single parliamentary electoral district (through resolution, not a law), involves Separation of Powers issues that could result in its invalidation. The relevant provision of the Draft Code would enact the single district into law, but it is not clear that there is enough support for this overall approach that it could command the necessary support in Parliament.

The Consultant wishes to express his thanks to the Working Group for accepting so much of material from the UEC, and also commends them for the numerous adjustments they made so that it would be most applicable to conditions in Moldova. He also wishes to offer the following detailed comments on the bill.

Detailed Comments

TITLE I — GENERAL PROVISIONS

The names of Title I ("General Provisions") and Title II ("General Principles") are confusingly similar. In addition, it would appear that the name of Title II is really more appropriate for Title I, and vice versa, therefore, the Consultant recommends that the names be switched.

Article 1 (Definitions)

The term "electoral association" is used in this Article and elsewhere in the Draft Code, without being itself defined. The Consultant originally introduced this term in the UEC, in order to create a verbal shorthand to refer to parties, socio-political organizations and electoral blocs that were entitled to nominate candidates for election. If this term is acceptable, consideration should be given to re-introducing its definition in this Article, and replacing references to the various kinds of electoral associations with this single phrase.

The definition of "district" refers only to an "administrative electoral unit", notwithstanding the fact that in certain elections (i.e. elections to local public administrations) such units would strictly correspond to existing administrative-territorial entities. Furthermore, even in other kinds of elections it would probably be desirable to have districts correspond for the most part to existing geographical and political divisions. The consultant therefore recommends that the original definition provided in the UEC, as well as the related provisions contained therein be re-examined for inclusion.

In the definition of "socio-political organizations", the phrase "and other organizations, including" should be inserted before the reference to various particular kinds of organizations, so that the list contained therein is not deemed to be exclusive.

Add the phrase "refers to" in the definition of "electoral bloc".

"Electoral posters" should have the commonsense meaning of referring to various "printed" materials, not other sorts of materials.

Article 2 (Principles)

Similar to the proposed Preamble, the provisions contained in Article 2 cover a lot of ground but do not contribute much from an operative point of view. Consideration might be given to deleting this article or splitting it up and providing more detail concerning the its various parts.

Article 4, Equality of Voting

The word "shall" should be added in the second sentence, to ensure that this article is given a mandatory interpretation.

Article 5, Direct Voting

This article might better be referred to as "Personal Voting".

Article 9 (Place of Voting)

The word "only" should be introduced in order to clarify that a voter has the right to vote only where he has his permanent residence.

Article 13, Limitations

Paragraph (2)(b), dealing with "incompatibilities", is unclear in scope.

TITLE II — GENERAL PRINCIPLES

See comment on Title I.

Article 16, Formation of CEC

The terms "formation" (in the title) and "establishment" (within the article) should be distinguished, as should the two senses of establishment, as formation of the legal entity and appointment of its members. The Consultant believes that it would be most appropriate to provide in subsection (1) that the PCEC is established under law, and that its members are appointed (see subsection [2]) through resolution of Parliament, after being selected by the responsible bodies.

Article 17 (Composition of CEC)

Tenure of CEC members is quite long — 6 years — and is subject to a single renewal. The Consultant believes that renewal after such a long term is inadvisable. Also, the Consultant continues to believe that some provision should be designed to see to it that the membership of the CEC turns over, or "rotates", on a regular basis.

Article 18, Sessions and Decisions of the CEC

In subsection (2), consideration should be given to permitting the CEC to make decisions based on a majority of its quorum rather than an absolute majority of its membership, at least in normal circumstances. In order to increase the flexibility of the Commission, particularly between election cycles, furthermore, the Consultant proposes the following additional subsection:

"(3) One-third of the deliberative members shall constitute a quorum for other proceedings by the Commission, including for taking testimony by experts or other witnesses, or discussing problems or proposed actions."

Article 19, Status of CEC Members

To cover a situation that was previously identified in the UEC, the Consultant proposes inclusion of a new subsection as follows:

"(3) In the event a member of the Commission is related by blood within the second degree of consanguinity to a candidate in a presidential election, that member shall be suspended from serving on the Commission during the period of that election, and a temporary replacement shall be selected in the same manner as that member. If a member of the Commission bears the same blood relationship to a candidate in an election to Parliament or local public administration, the member shall not participate in any decision concerning the rights of that candidate or the electoral association which nominated him."

Article 21, Release from Other Responsibilities; Compensation

In subsection (1), add at the end the phrase "or a part thereof".

In subsection (2), add the phrase "-- in the event they are State employees --" after the word "but" in the last sentence.

Article 22, Responsibilities of the CEC

The Consultant commends and endorses the broad grant of administrative power made to the PCEC by this article.

Article 23, Apparatus of the Commission

Add at the end of the second sentence: ", if they were previously State employees".

Article 25, Meetings and Operations

Make the following changes in the second sentence of subsection (1):

"In the event a meeting has been requested by a majority of the members, the meeting shall be convened within 48 hours of submission of the request."

Article 26 (Responsibilities of the CEC during elections)

Change the title of the article to read "election period" rather than election "campaign"; see the definitions in Article 1.

Make the same substitution in subsection (2).

Article 27, Formation of DEC's

In subsection (1), add at the beginning "Whenever possible, ...". (In certain instances elections might be announced little more than two months before their date.)

Reverse the order of subsections (3) and (4). Village and town DEC's, addressed in current subsection (4) are a special type of DEC. The basic principle is that members of DEC's are appointed by the CEC based on recommendations from local courts and public administrations.

Decide whether selection of local public administration recommendees to DEC's should be made by local councils or mayoralties, in cases in which there are both. Both situations are provided for in this article.

Article 28, Responsibilities of DEC's

In subsection (g), reference is made to registering candidates, despite the fact that DEC's would only exercise this power under this Code with respect to candidates for local office. *Compare* Article 75(2).

Article 29, Establishment of Precincts and PEC's

The size band for precincts (from 30 to 3,000 voters) contained in subsection (2) is overly wide and grants too much discretion to election administrators and local authorities. The case of special precincts is taken up separately in subsection (3). The Consultant recommends that the second sentence of subsection (2) should be redrafted to refer to the creation of "regular" precincts, and that the size range be reduced — perhaps to the range of 1,500 to 3,000 voters. If that is unfeasible, then another proviso could be drafted permitting creation of precincts in villages, *etc.*, which have fewer voters.

Subsection (7), dealing with the numbering of precincts, is unclear, at least in translation. It should be redrafted.

Subsections (9)-(12) contain a number of timelines which are not consistent with one another, or with the time available with respect to the formation of precincts and PEC's under other articles of the Code. These timelines should be reconsidered and reconciled.

Article 32, Organization of the Activity of Election Commissions

The drafting of this article has been made problematic by the fact that the Code now contains provisions creating a PCEC. Those provisions create separate rules for the CEC which are not always consistent with the procedures created in this Article. One way to handle this problem would be to add at the beginning of the Article: "Except as specified otherwise with respect to the Central Election Commission ...".

Please also consider the following suggestions:

(1), the phrase "during elections", in subsection, should be changed to "during an election period", for the sake of clarity. Note that the number of members required to request a special meeting of an election commission, presumably during this period, is 1/3 and not 1/2, as specified elsewhere for the CEC.

In subsection (4), the salary premium (25%) payable to members of election commissions should be limited to those who are normally state employees. Otherwise, the commissions could be criticized for paying too much to persons who are drawn from the private sector. In fact, the compensation for such persons should probably be limited to a certain state salary, and not be paid based on their normal salary in the private sector.

Article 33, Changes in the Membership of Election Commissions

This article also suffers from inconsistencies with earlier provisions in the Code related to the CEC. Once again, it may be desirable to add the phrase "Except as provided otherwise for the Central Election Commission, ..." at the beginning.

Article 35 (Support for Election Operations)

The title of this Article translates as "Supply of Materials", thus leaving the actual meaning of the term "materials" unclear. The translation should be reconciled with the original Romanian, and any persisting obscurity should be corrected.

Subsection (5) should be split into two separate subsections, (5) and (6). The last subsection is misnumbered and should be renumbered as (7).

Article 36, Prohibition on Foreign Support to Electoral Campaign

The title of this article is somewhat misleading, since as subsection (1) makes clear that foreign support is prohibited not only with respect to the election campaign but also pre-campaign activities like the nomination of candidates.

The prohibition on support by "international or joint enterprises, ... including banks," while understandable, is somewhat problematic. Some enterprises may have foreign direct investment which does not amount to a controlling interest in the company or foreign investment which is mainly passive in nature (so-called "portfolio" investment, such as stock ownership). Perhaps something should be added limiting the application of this provision to companies in which the foreign investment does not create a controlling interest or is passive.

Article 37 (Financial Support to Candidates by the State)

The title of this article, "Material Support", is unduly vague. A better title would be "Financial Support".

Article 38 (Other Support for Campaigns)

The provision in subsection (1), paragraph (a) — addressing financial contributions prior to the election period — is based on current Moldovan law, and was included in the UEC because the UEC did not contain the articles creating a PCEC. If a PCEC is created under the Code, would it be easier (as the UEC has proposed) to have potential contestants in an election report their pre-election period contributions to the PCEC. This would be easier than advertising them in the media? (The CEC is separately required to disclose and summarize regularly political contributions that are reported to it.)

The term "appropriate election commission" is used throughout this article, but it is never made clear which commission it is -- *e.g.*, the CEC or a DEC. The UEC addressed this problem by providing that, for purposes of this article, the term appropriate election commission is the one which registers candidates or candidate lists for the election in question. The Consultant recommends that this provision be reinserted.

Article 39, Voter Rolls

Subsection (1) makes the development of the voter rolls a joint responsibility of the PEC and the mayoralty of the various localities. The Consultant believes it would be preferable to make clear that the PEC is legally responsible for the voter roll, based on residence and other information supplied by the local public administration. In the first sentence, therefore, say "by the respective precinct election commission based on residence information provided by the mayoralty." In the second sentence, say that the PEC Chairman, not the mayor, should sign the voter list. (In the UEC, the Consultant also proposed that the mayor should sign the residents list furnished by him to the PEC.)

Subsection (2) states that, "The order [of information] on the [voters] lists shall be established by the mayors." For the sake of uniformity, and to prevent misunderstanding, the type of organization (i.e, alphabetical, residential) should either be specified therein or made subject to determination (regulation) by the CEC.

Article 42, Collecting Signatures ...

In subsection (1) the term "electoral association" is used to refer to parties, socio-political organizations and electoral blocs. If it is to be used in the text, this term should be defined in Article 1.

Article 44, Registration of Candidates

Subsection (1) calls for candidate or candidate list registration applications to be submitted to the CEC, despite the fact that in certain elections (such as local elections) application would probably be to the relevant DEC. Paragraph (a) correctly implies that, in case of nominations brought to a DEC, the decision of the territorial-level body of the electoral association would be required (not a decision by the supreme body of the association).

Subsection (1), paragraph (c) calls for "biographical data about the candidate" to be submitted, but does not make clear what is required. The exact nature of the required information should be specified, in order to avoid misunderstanding.

Article 45, Trustees of Electoral Contestants

Perhaps as a result of translation error, the English version of subsection (1) says that election contestants "may designate trustees in each precinct". This is undoubtedly unnecessary and unwise, and if trustees are to be designated it should presumably be for districts, not precincts. In addition, this article does not specify the exact number of trustees who can be designated by candidates.

Article 46, Guaranteed Rights of Candidates ...

In subsection (1), it is probably necessary to add the word "state" prior to the phrase "mass media", as it is desirable to avoid the governmental influence on media independence. (A separate part of the Code deals with the responsibilities of the press, including non-state organizations, during elections.)

Similarly, the phrase "by the State" should be inserted after the words "material support and funding" in subsection (2).

In subsection (3), the compensation paid to candidates should probably have a ceiling of a certain level of State salary. This would prevent election authorities from having to match the salaries of private sector employees. In addition, consideration should be given to limiting compensation to candidates to certain types of elections — e.g., paying candidates in presidential and perhaps parliamentary elections, but not local elections.

In subsection (4), replace the last two words ("election district") with "locality" or another term which refers to the actual administrative-territorial unit.

Subsection (6) prevents candidates from being charged of a crime or detained for an investigation without authorization from the relevant election commission. Current Moldovan laws which contain a better formula, may permit such actions to be taken only upon action of the Chief Prosecutor after notification of the commission. In any event, it is desirable to limit this subsection to exclude "brief detentions for investigatory purposes (such as checking identification) or public safety reasons".

Article 49, Preparation of Ballot-Papers

In subsection (3), the requirement of delivering ballot-papers to precincts forty-eight hours prior to election day may create security problems, since the ballots would have to be stored overnight twice. One full day would appear adequate to ensure delivery, and also permit the PEC to inspect the shipment.

In subsection (6), delete the clause "has created district election commissions for administrative purposes and" after the second occurrence of the phrase "Central Election Commission". Under this Code, districts would always be created for election administration purposes, so the additional clause is unnecessary.

Article 51, Voting Conditions

In subsection (1), add the word “no” before the words “more than two hours”, with respect to the power of the PEC Chairman to suspend voting at a polling station in certain circumstances.

Article 53, Voting

Subsection (2) is too permissive in permitting eligible citizens who were omitted from the voter roll to be added to the supplementary list at the polling station on election day. This would undermine voting security and deprive the provisions concerning review and correction of the voter list of its meaning. During the last Romanian national elections, this procedure led to a very large number of voters being registered on the supplementary list — upwards of 25% of the total number of voters in some polling stations!

The last three subsections are incorrectly numbered. They require revision.

Article 56, Counting of Votes ...

In subsection (6), regarding reconciliation of the number of votes in mobile ballot boxes, rephrase the final clause to read “ ... prior to including them in the total number of votes cast or the count of votes for the various contestants ...”.

Article 57, Invalid Ballots

In subsection (2), dealing with spoiled ballots, add the following sentence: “A spoiled ballot shall be considered an invalid ballot,” thus, preventing spoiled ballots from being counted toward the voter quorum, parliamentary threshold or other requirements contained in the Code.

Article 58, Protocol and Minutes of the PEC

Delete the word “valid” in subsection (1), paragraph (f).

In subsection (6), delete the two mentions of “territorial” election commissions. These would not be created under this Code.

Article 59, Tabulation of Votes by the DEC

In subsection (2), paragraph (d), delete the final phrase “and for each independent candidate”. Independent candidates are already considered “contestants” in an election under that paragraph.

Article 61, Retention of Election Records

This is an important new article, taken from the UEC, which does not exist in current Moldovan election laws. In its form in the Draft Code, however, subsection (1) is unclear and contradicts the following subsections. The Consultant recommends redrafting subsection (1) as follows: "The Central Election Commission shall ~~retain~~ be responsible for policies and procedures for the retention of all election materials."

In subsection (2), paragraph (c), add the phrase "shall be returned" before "to the Central Election Commission".

Article 62, Observers

This is another very important new article, which greatly expands the concepts of domestic observation that were applied previously in Moldovan elections.

In subsection (3), delete the two occurrences of the phrase "socio-political organization" and replace them with the words "public association". The Consultant understands that under Moldovan law socio-political organizations are inherently political bodies that may nominate candidates; this would make them unsuitable to propose independent observers in elections. The term "public association" is used for other non-political organizations of citizens. Accordingly, this term or another appropriate term should be used.

Article 63, Press Coverage of Elections

Subsection (2), carried over from existing Moldovan law, gives the press the same rights as election observers. Presumably, however, the press should be excluded from certain election processes open to observers, such as counting and tabulation of the votes. Accordingly, the Consultant recommends that the following clause be added at the end of this subsection: "... except that the press shall not be permitted to observe the counting of votes at precincts, or tabulation of votes at the district election commissions or central election commission."

Article 64, Complaints

Subsection (1) gives "any citizen whose name is on a voter list", the right to complain *inter alia*. This could be problematic in case an eligible voter's name was left off the list in his precinct for some reason. In addition, this provision could conflict with the provision related to citizens appealing their failure to be included on a voter list. The Consultant recommends, therefore, that subsection (1) be amended to read as follows:

"Any citizen who is eligible to vote, or any electoral contestant, may appeal a decision or action by an election commission to court."

TITLE III — ELECTIONS TO PARLIAMENT

As noted previously, this Title continues the current method of election to Parliament, based on proportional representation within a single national electoral district. Previously, however, the single district was created by a special parliamentary resolution, and not by a law. If it proves unfeasible to enact a law containing this method, or if another method of election is preferred, then numerous changes will have to be made not only to this Title but the provisions of the other titles of the Code. This is particularly true with respect to the level of election commission (Central or district) which would be responsible for exercising certain functions — such as registering candidates — with respect to parliamentary elections.

The Consultant also notes that, in general, this Title appears to have more drafting errors than the previous ones. He feels that the drafters need to go over this entire text more carefully, as well as consider the following detailed comments:

Article 73, Applicability ...

The title of this article should be changed to read “Applicability of this Title”, not “Chapter”.

Article 74, Elections to Parliament

The title of this article is not sufficiently informative. Subsection (1) does not appear to add anything to what is in the Moldovan Constitution and Title I of this Code. Subsection (2) creates the single republic-wide electoral district.

Article 75, Electoral Districts and DEC's

In the English translation, subsection (1) states that administrative districts for election purposes should correspond to “territorial-administrative units of the second level (districts and territorial-administrative units with special statute) ...”. The use of the term “district” for electoral as well as territorial-administrative purposes is confusing. Furthermore, it is not clear that the material within the parentheses is necessary, as these are presumably the second-level territorial-administrative units referred to previously. Finally, for a variety of reasons it would probably be preferable to define localities in Article 1 of the Code, so that there is a consistent usage throughout. (This issue will certainly reappear, for example, when and if Parliament goes on to consider additional portions of the proposed Code dealing with local elections.)

In subsection (2), the reference to Article 28(g) is confusing. (This has to do with DEC's having the power to register candidates.) It would probably be better to modify Article 28(g) itself to make it clear that DEC's have the power to register candidates only in local elections, assuming that parliamentary elections will continue to be based on a single national election district for the foreseeable future.

Article 78, Registration of Electoral Contestants

This article, which references Article 44 (containing requirements on what materials must be submitted to the relevant election commission by proposed candidates), does not contain any new additions. It can be eliminated on the grounds that Article 44 is a general article and covers the situation in which a candidate is being proposed for election to Parliament.

Article 79, Special Requirements for Petitions

In subsection (1), it is unnecessary to say what "petitions" (containing signatures) are, since this has already been defined in Article 1. In fact, this deviates somewhat from standard international practice to formally refer only to the signature lists as petitions. Usually, it is referred to all the material submitted by a candidate or his supporters as a "nominating petition" or "candidate registration petition". "Signature lists" are part of this petition, although sometimes, for convenience, they are referred to as "signature petitions", and the word "petition", as here, taken to refer to the lists. (This is because the most problematic part of nominating petitions is usually the signature lists.)

The restriction on the total number of signatures that can be submitted (the required number, plus no more than 25% extra) is a very useful innovation that could improve the quality of petitions by forcing candidates and their organizations to examine more carefully the quality of the signature lists they are submitting. It is good to have such an objective means of regulation, as well as considering whatever subjective issues might arise — *e.g.*, with respect to allegations of fraud or inexcusable negligence by candidates or their supporters.

The requirement in subsection (1), paragraph (a), that the signatures submitted by proposed candidates must be collected in at least 1/3 of districts of the Republic carries over similar requirements in the Presidential Election Law. That law, however, also contained an analysis on whether signatures collected in a certain locality would count for this purpose. A similar criterion should be included here.

In addition, the word "district" in the English translation is confusing, since it generally refers in this Code to election districts, not administrative-territorial units. If a requirement of widespread territorial support is to be adopted with respect to registration of parliamentary candidates or lists, then it would probably be better to apply the requirements based on administrative-territorial units, or "localities".

Also in subsection (1), paragraph (a), the number of signatures to be required for electoral associations proposing lists of candidates appears very low. For parties proposing the full 101 candidates (plus two reserve candidates), the number of signatures *per* candidate is fewer than 200. Also, associations which put forward fewer candidates would have to submit the same number of signatures which is unfair.

The translation of subsection (2) is not clear. Also, the reference to "Article 1 of

this Code” should be to “subsection (1) of this Article”.

The last sentence, dealing with appeals of candidate registration decisions, should be made into a separate subsection, (3). For clarity, it also should be redrafted to begin: “A decision by the Central Election Commission to register or not register a candidate or candidate list ...”.

Article 80, Special Requirements for Candidate Registration

Subsection (1) requires electoral associations to propose at least 51 candidates in order to participate in a parliamentary election. The Consultant recognizes the importance of having such associations demonstrate their strength, or form coalitions in order to do so, to improve the quality of the election process. But this requirement could damage small but well-focused parties, that could play a very important role in the political system. (By forcing them to enter electoral blocs, it could cause them to lose their focused message and appeal.) The Consultant believes, therefore, that this requirement should not be imposed. It would be preferable, in his view, to raise the requirements applicable to the submission of signatures in order to achieve similar purposes without unfairly damaging small parties.

Also, the drafting of subsection (1) is problematic. The requirement (or right?) to propose two reserve candidates should presumably only apply to electoral associations which are proposing a full slate (101) of regular candidates.

Article 81, Replacement of Candidates on Lists

Subsection (3) is unclear. In replacing a candidate on a list, what is the “same method” that was used originally? Would new signature petitions have to be filed? In the UEC, the Consultant originally proposed a small signature requirement, so that an electoral association could not play “bait and switch” with its candidate list — proposing one list of names while collecting signatures and then substituting other, perhaps less popular, candidates later.

Article 83 (Ballot-Papers)

The term used in the title, “voting ballots”, is different from that used in the general provisions of the Code. It would be better to use the same term, *i.e.*, “Ballot-Papers”.

Subsection (1) calls upon the DEC's to print and deliver to the precincts sufficient ballot-papers for the persons on the voter list, plus 10%. This conflicts with an earlier article in the General Provisions, Article 49(2), which specified only 5% extra. While it is desirable to limit excess printing as much as possible, the actual number of excess ballots required will depend primarily on the number of voters expected to be on supplementary lists, and on the logistical capabilities of the district and precinct

commissions to supply and receive additional ballot-papers on election day.

Article 86, Award of Mandates

Subsection (2), which concerns award of mandates to candidate deputies (reserve candidates from successful lists) by the Constitutional Court, is unclear. It should be modified to make clear that the award would be made only in the event a deputy who was elected from the same list left his seat.

Article 87, Summing Up the Results of Elections

Subsection (3) gives the CEC three days after tabulating results to publish them. It is not clear why this time would be needed. Also, this provision appears to conflict with those of Article 60, "Preliminary Results".

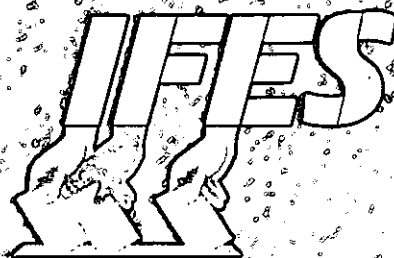
Article 92, Repeat Elections

In subsection (2), add the phrase "have been determined by a court to have been responsible for serious fraud in the election which was declared null and void" with respect to the exclusion of electoral contestants from repeat elections.

Current Moldovan election laws, as well as the UEC, also provided for replacement of district and precinct election commissions in case there was a nullification of the vote in that area based on administrative or legal problems. The Consultant recommends that a similar provision be added to this article, as subsection (3).

Article 93, New Elections

For clarity, a new subsection (2) should be added stating that a new election under this article is completely *de novo*.



International Foundation for Election Systems

1101 15th Street, N.W.

Third Floor

Washington, D.C. 20005

TEL (202) 828-8507 FAX (202) 452-0804