

CG/BUR (10) 19

Report on the local elections observation mission to MOLDOVA (25 May and 8 June 2003)

Document adopted by the Bureau of the Congress on 4 July 2003

A – SUMMARY OF THE REPORT

1 – THE CONTEXT

In response to an invitation from the Moldovan Government, the Congress of Local and Regional Authorities of Europe sent a delegation of 12 observers headed by Mr Yavuz Mildon, Vice-President of the Congress (Turkey), to observe the local elections held on 25 May and 8 June 2003.

Moldova has been a member of the Council of Europe since 1995, ratified the European Charter of Local Self-Government in 1997 and at present holds the Presidency of the Committee of Ministers of the Council of Europe.

With respect to local autonomy, following recommendations made by the Congress, the Republic of Moldova amended its legislation on territorial organisation and local public administration in March 2003. However, the new territorial organisation marks a return to the system as it was prior to 1998. The elections coincided with the implementation of this reform.

The local elections enabled citizens to directly elect 898 Mayors and 11,935 councillors in first- and second-tier local authorities (districts and "rayons").

2 – THE ELECTION CAMPAIGN

The election campaign was marked by great tension and serious breaches of democratic rules and standards. The following were noted:

- a great many instances of intimidation of opposition candidates and opposition political party activists
- the imprisonment of or attempts to arrest mayoral candidates
- an inequitable campaign on television and radio and in the state-owned media
- pressure on journalists
- intervention of the state apparatus in the campaign and the use of public resources for the benefit of candidates of the majority in power.

In the opinion of the delegation of observers, the election campaign did not comply with the criteria of a democratic election as set out in the "Code of good practice in electoral matters" adopted by the Venice Commission, the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe.

3 – THE VOTE

On the whole, the vote was marked by an atmosphere of calm and the professionalism of members of local electoral committees. However, the observers noted:

- an excessive number of voters on many polling-station registers
- that the procedure did not guarantee that every voter would vote in secret
- a police presence in almost all polling-stations
- inappropriate use of observers
- very lengthy supplementary electoral registers (in some cases accounting for up to 20% of voters)
- the count was long because of over-complex procedures

- the results of each every polling-station were not displayed.

4 – THE SECOND ROUND

The second round took place on 8 June. The observers' conclusions are identical to those concerning the first round, namely:

- the elections were on the whole well-administered
- but there were problems concerning the secrecy of the vote and the police presence in polling-stations.

Although the atmosphere surrounding it was somewhat less tense, the campaign between the two rounds, like that running up to the first round, was marked by a lack of neutrality on the part of the state press, the virulence of the attacks on some candidates and the use of public resources for the benefit of certain candidates.

The Central Electoral Committee declared the results speedily.

5 – CONCLUSIONS AND RECOMMENDATIONS

The delegation notes a net decline compared to the 1999 elections.

In the opinion of the delegation, the conditions in which the elections took place were not satisfactory. Although the voting, count and declaration of results were conducted relatively efficiently and democratically, the delegation regrets the fact that the election campaign was not conducted neutrally and impartially as required by democratic standards.

The delegation makes the following recommendations to the Bureau of the Congress in particular:

- continued monitoring of the situation of local and regional democracy in Moldova and of the aftermath of the election (appeals, declarations of results, any retaliation), as well as how the new legislation on local public administration is implemented;
- assessment of the revised Electoral Code,
- providing training for newly elected local representatives,
- providing assistance in the implementation of the Acts on local public administration.

The delegation also suggests that this report should be transmitted to the Council for Democratic Elections, in addition to the usual addressees.

B – REPORT

The Moldovan Government invited the Congress of Local and Regional Authorities of Europe to observe the local and regional elections held on 25 May and 8 June 2003.

The Congress accepted the invitation and sent a 12-member delegation: nine elected members of the Congress, an expert and two members of the Secretariat (see Annex I for a list of delegation members).

The delegation was led by Mr Yavuz Mildon (Turkey), Vice-President of the Congress and Rapporteur for regional democracy in Moldova.

The delegation proposed Mr Pascal Mangin as Rapporteur for the present elections.

The delegation received the support of the Secretary General's Special Representative in Chisinau, Mr Jorgen Grunnet, and his colleagues. The delegation would like to thank them for their valuable and efficient assistance.

The timetable of the delegation's meetings and work appears in Annex II.

1 – THE CONTEXT

a) The Republic of Moldova in the Council of Europe

The Republic of Moldova has been a member of the Council of Europe since 13 July 1995.

The Charter of Local Self-Government was ratified on 2 October 1997 and came into force on 1 February 1998.

The structure of local and regional democracy in Moldova has been the subject of several information and monitoring reports by the Congress¹: in 1995 and 1998 and just recently in 2000 and 2002.

With respect to elections, the Congress observed

- the local general elections in 1995,
- the local and regional elections in 1999²,
- the local elections in Gagauzia on 22 August 1999³.

The Congress also observed the polls in Gagauzia (election of the Bashkan [Governor] and referendum) on 6 and 22 October 2002⁴.

At the time the present elections took place, Moldova held the Presidency of the Committee of Ministers of the Council of Europe

b) The structure of local and regional autonomy in Moldova

In 1998 the Moldovan Government decided to institute an ambitious reform of the country's second-tier territorial administrative organisation⁵ by setting up 10 regions ("judets") replacing 37 "rayons" inherited from the former system.

At the same time an Act⁶ reforming local public administration was passed whose main features were:

- increased powers and real autonomy for local and regional authorities
- establishment of an elected executive in the newly created regions
- recognition of the principle of local self-government of regions and districts.

This reform was welcomed by the Congress as a positive step towards true regionalisation⁷.

In late 2001 the Congress learned of a Moldovan government plan to go back on the provisions of the 1998 Acts.

The aim of the planned reform was to cancel the creation of 10 relatively autonomous Regions ("judets") and return to the former system of "rayons" subject to central government authority. Moreover, the authorities intended to implement the reform immediately and therefore dissolve the councils that had been elected before the normal end of their term.

The Congress announced its opinion as to the conformity of the planned reform with the provisions of the European Charter on Local Self-Government⁸.

The Congress's various missions to the authorities in 2001 and 2002 led to

- the abandonment of the plan to hold early elections
- substantial amendment of the Draft Law on local administration in order to make it more compatible with the principles of local and regional self-government.

The work of legislative amendment was carried out with the assistance of the Directorate General of Legal Affairs of the Secretary General of the Council of Europe.

The Congress has yet to give an opinion on the new Organic Act on "local public administration" passed on 18 March 2003.

c) The 2003 local elections

The elections were held to:

- directly elect mayors in 898 municipalities (two-round majority ballot)
- directly elect the General Mayors of Chisinau and Balti (two-round majority ballot)
- elect the Municipal Councillors of cities, districts and villages by proportional representation

- elect Councillors of the new "rayons" by proportional representation.

Citizens were therefore to elect:

- 898 Mayors (as opposed to 628 previously)
- the two General Mayors of Chisinau and Balti
- 11,935 Councillors for the two tiers (local and "rayons") (previously 6,417).

The ballot took place on the basis of the frequently amended (most recently in 2000, 2002 and 2003) Electoral Code.

2 – THE ELECTION CAMPAIGN

47, 256 candidates stood for election:

- 3,466 for the 898 posts of Mayor
- 38,576 for the posts of first-tier councillors (municipalities, towns and villages)
- 5,124 for the posts of "rayon" councillors

The candidates represented 11 political parties and 2 "blocs" or "alliances". There were also 1,544 independent candidates (723 of whom were standing for the post of Mayor).

Eight candidates stood for election as General Mayor of Chisinau.

Even before the delegation arrived in Chisinau, the Congress had been informed of incidents concerning the campaign:

- pressure on and intimidation of candidates to make them withdraw from the election in favour of candidates of the party in power
- the arrest of two mayoral candidates
- judicial harassment of the Mayor of Chisinau.

This led the President of the Congress to issue a press release on 29 April 2003 (see Annex III).

As soon as it arrived in Moldova the Congress delegation sought further information and to verify the information already received.

These incidents and the information gathered on the spot led to the conclusion that the campaign had been marked by serious, flagrant violations of rules on election campaigns such as those contained in the Code of good practice in electoral matters⁹.

a) Intimidation of candidates

Numerous cases were reported to the delegation of pressure being exerted on candidates to withdraw their candidacy, either for the post of Mayor or from the lists of opposition parties.

The pressure took various forms, such as:

- some candidates were summoned to the Prefecture or Sub-Prefecture and those who were civil servants threatened with loss of their jobs after the elections
- employees of state or state-related companies were threatened with redundancy
- bank accounts were frozen
- telephones were cut off.

Some candidates gave in to the pressure, others had the strength to resist.

The cases reported to the delegation included that of Oleg MUNTEANU, Mayor of Cornesti, whose bank account was

frozen and telephone cut off, against whom criminal proceedings were brought without any legal grounds and who was fined for "inadequate maintenance of a national road", although such maintenance is the responsibility of central government.

A candidate for Mayor of Cetareni, Ms Valentina GORINCIOI, the head teacher of a school, was summoned to the education office at the Prefecture where she was told quite clearly by the deputy director that she was going to lose her job.

A similar case was reported in Brinzeni.

Other women candidates were summoned, one to the sub-prefecture, the other within her company.

Such intimidation created an atmosphere of fear among candidates who told us they were very worried for themselves and their jobs in the aftermath of the elections should the party in power win.

Intimidation was all the easier since most of them were either teachers, doctors or employees of public bodies and therefore dependent on the State for their jobs, or were economic actors afraid of no longer being able to work or being subjected to actual administrative or fiscal harassment.

Except for cases which had been made public by the individuals concerned, the delegation decided to preserve the anonymity of the cases brought to its attention in order to protect the individuals concerned.

b) Intimidation of political party activists

Mr ROSCA, leader of the Popular Christian Democratic Party, told us that his party activists were regularly arrested by the police when they were distributing electoral material unaccompanied by a Member of Parliament. He put the number of illegal arrests at around sixty (no one was imprisoned).

The delegation was also told of cases of private individuals displaying stickers in favour of a candidate on their cars (which is not prohibited) regularly being stopped by the police for various controls.

c) Imprisonments

Two Mayors were imprisoned:

Mr Vasile COLTA, Mayor of Hincesti: accused of having exceeded the budget of a building project. The case dated back six years and had apparently been closed for two years, but he was arrested just after registering his candidacy.

Mr Sirobanu CIOBANU, Mayor of Vadul-lui-Vodă.

Both mayors were still being detained on polling day. The delegation was unable to meet Mr Colta officially, despite having requested to do so. Nevertheless, the Congress was able to establish direct contact with Mr. Colta.

The delegation was able to verify that Mr Colta's name did indeed appear on the ballot paper for the post of mayor of Hincesti.

d) The case of the Mayor of Chisinau

The outgoing Mayor of Chisinau, Mr Serafim Urechean, was subjected to judicial harassment the planned outcome of which seemed to be arrest¹⁰. This led the President of the CLRAE to issue a press release.

The authorities accused one of the assistants of the Mayor of Chisinau of corruption. As the person concerned was abroad for health reasons, Mr Urechean was summoned to give evidence in the case on 20 May¹¹. As it was impossible for him to be assisted by a lawyer since the lawyers were on strike, he asked for questioning to be postponed until after the elections.

His request was refused by the authorities who were particularly insistent that he should go to the Ministry of the Interior straightaway. Mr Urechean said he was convinced that the object of the exercise was to arrest him in order to hamper him in the election campaign and to create an event which would receive media coverage in order to discredit him with the electorate on non-existent grounds.

The persons in charge of state television news told a press agency that all the information on the case came directly from the office of the Moldovan President.

In the end, faced with the feeling aroused by the affair (including in the Council of Europe), the authorities agreed temporarily to suspend the summons.

This case is a good illustration of the climate that prevailed in Chisinau during the campaign: what was at stake in the

capital (some 30% of the population of Moldova) was far from negligible.

The information gathered suggested that the situation was also very tense in Balti, the country's second city.

e) The radio, television and media campaign

It emerged from the various cross-checks the delegation made that the provisions on election campaigns in the media, particularly the publicly-owned media, were not respected. Only the national public radio stations and television channels can be received throughout the country.

The delegation was informed that apart from the "official" television party political broadcasts which are broadcast in such a way that they cannot be regarded as a serious means of informing citizens (all the messages by all the candidates are broadcast just once, one after the other), opposition candidates did not have equitable access to the publicly-owned media, while television news and magazine programmes were a platform for the government and the leaders and candidates of the parties in power.

The delegation also learned that anonymous television broadcasts (whose time it was therefore not possible to attribute to any particular party) against the outgoing mayor of Chisinau were also shown.

f) Pressure on journalists

Pressure was also exerted on journalists who displayed too much independence. For example, private images of two women journalists taken without their knowledge were broadcast on state television.

The director of the official press agency, Mold-Press, Ms Cornelia Cozonac, was sacked for complaining about the pressure the President's office was exerting to force the agency to disseminate unverified, unsourced information¹². She specifically accused the President's press office and said the information in question referred in particular to the case in which the Mayor of Chisinau was summoned to appear.

g) State intervention in the election campaign

It is clear from the above that there was government intervention in the election campaign. Such incidents would be impossible were there not some confusion between the state apparatus and the majority party.

The intense personal involvement of the President's office and the President himself in the election campaign should also be noted: a public stand against the outgoing Mayor of Chisinau which was also insulting and defamatory, statements on every possible occasion (including official ones) to the press, on the radio and state television, etc.

One example of this was a long TV programme about the President on the very morning of the poll in which he was able to continue to campaign in breach of all the rules.

The President's wife was also very active. One member of the delegation saw her on television on the morning of the poll showing her ballot paper and therefore the name of the candidate for whom she had voted. (We note that this also presents a problem with respect to the authorities' interpretation of the notion "secret ballot" which will be discussed below.)

h) The use of public resources in the campaign for the benefit of a candidate

This mainly concerned the use of state radio and television, but also of the state apparatus (ministries, prefectures, state enterprises) and its staff in the operations reported above.

Another use of state resources for the benefit of a candidate is illustrated by "the case of the vote of the students of Chisinau".

The Central Electoral Committee had decided to allow the students to vote in Chisinau, in many cases their place of residence for a number of years¹³. The candidate of the parliamentary majority, Mr Zgardan (who is also Minister of Transport), suggested providing the students with free transport so that they could return to their villages to vote instead. The issue was not insignificant since students account for at least 10% of the population of Chisinau.

Required to decide the issue, on the eve of the election the Supreme Court decided against allowing students to vote in Chisinau.

i) Overall conclusions on the election campaign

The delegation considers that the election campaign violated many principles and provisions of the Code, particularly with respect to;

- equality of opportunity for candidates (§2-3 of the Code of good practice)

- freedom of voters to form an opinion (§3-1 of the Code of good practice)

3 – POLLING DAY

Voting began at 7 am and closed at 9 pm in 1932 polling stations.

2,231,710 people were enrolled on the electoral registers (on the eve of the election).

The Congress teams of observers visited 84 polling stations throughout the country. One team also visited a hospital (the National Heart Hospital) and a prison (Chisinau Prison) to observe the conditions in which prisoners not deprived of their civil rights were able to vote.

The observers used the questionnaire drawn up by the Venice Commission's Council for Democratic Elections entitled "Guidelines for the evaluation of elections".

A summary of the observation forms appears in Annex IV.

The mission's main conclusions with respect to polling day are set out below.

The positive aspects

On the whole, polling stations were well-organised, all electoral committee members present and generally well-informed about tasks and procedures.

The atmosphere in polling stations was calm.

In the polling stations visited the count was properly conducted.

We noted the presence in polling stations of a large number of observers from different parties and of different candidates.

The observers did not see any flagrant anomalies in the way the vote took place or any obvious pressure on voters.

The problems

a) polling stations

The number of people eligible to vote at each polling station varies widely: according to the Electoral Code it ranges from 30 to 3000.

A large number of polling stations had almost or more than 2000 voters which, in view of the length of the procedure (particularly checking the address and the fact that in many instances there were only two booths), is very high.

The relatively low turnout (about 58%) and the length of time polling stations were open (14 hours) offset this problem. However, a maximum of 1500 voters for each polling station would provide better voting conditions.

b) secrecy of the ballot

The voting procedure as provided for in the Electoral Code includes the ballot paper being stamped to "validate" it once the voter has made his or her choice.

The delegation noted that in many cases this procedure enabled either the member of the electoral committee responsible for stamping the paper or one of the observers or representatives of candidates to see how people had voted.

Some members of the mission said that while they were in a polling station they had been able to see how 8 out of 10 voters had voted.

This is a flagrant violation of the secrecy of the ballot.

Furthermore, given the general climate surrounding the elections, the possibility cannot be excluded that this was sometimes used as a means of exerting pressure on voters.

This procedure should be changed

- either by stamping the ballot paper before the individual has voted

- or by using envelopes which would be stamped but preserve the secrecy of the ballot¹⁴.

We should also recall in this connection the attitude of the President's wife (see 2 g) above) who actually showed how she had voted on television.

The head of the delegation raised the question of secrecy of the ballot during a meeting with the Chair of the Central Electoral Committee.

The Chair of the Central Electoral Committee said the secrecy of the ballot "ended when the voter came out of the polling booth". The observers can in no way accept this particularly limited interpretation of one of the most fundamental principles of democratic voting¹⁵.

c) police presence

The observers noted the presence of police officers either outside, in the immediate vicinity of or inside almost all polling stations. One police officer was even seen sitting at the electoral committee table.

Their presence was justified as "helping" the person in charge of the polling station "to maintain calm". The Electoral Code makes no mention of using the police except to "re-establish calm" (Article 55 (9)), which implies that incidents have taken place justifying the entrance of the police into a polling station.

According to our observers, it seemed that the police had been given the task of providing higher authorities with further information: the police officers present watched the conduct of proceedings and made regular reports by telephone.

This practice, which had already been criticised in 1999, constitutes a violation of the Code of good practice in electoral matters.

d) supplementary electoral registers

Citizens not enrolled on the electoral register are able to enrol on "supplementary" electoral registers compiled by the polling station electoral committee upon presentation of documents proving place of residence. This is on the whole favourable to voters who are thus able to exercise their right to vote even where an error has been made in the electoral register.

However, the number of people enrolled on such lists is generally far too high, in some cases accounting for 20% of voters.

This situation was mentioned when the last local elections were held in 1999, which seems to suggest that no significant progress has been made in this regard.

The problem is all the greater since, according to what was observed in polling stations, absence from the normal electoral register is not always checked before the voter is enrolled in the supplementary register. This opens the door to significant fraud.

e) the count

The count generally took place without incident.

It should be noted, however, that the procedure long. The requirement that all unused ballot papers be cancelled by stamping them is a tiresome operation (there is only one cancellation stamp) the usefulness of which is open to question.

The delegation wishes to note a positive element in the new Electoral Code concerning the validity of the ballot paper: the Code lays down the principle that ballot papers are valid where the voter's wish is unambiguous (§ 57 – 2). This means that ballot papers should be accepted even when the voter's mark is not exactly in the circle provided but is within the candidate's box.

However, not all Chairs of electoral committees, still less observers, are aware of this provision. One team therefore intervened to indicate the relevant article of the Electoral Code when there was debate about the validity of ballot papers.

f) declaration of results

The declaration of results usually takes place at the polling station. However, failure to post results outside the polling station makes it difficult to crosscheck with information received from higher levels with a view to compilation.

This aspect should be amended in the Electoral Code.

4 – THE SECOND ROUND

The second round was held on 8 June.

During the second round of voting the people of Moldova had to elect mayors in the 393 districts where no candidate had received more than 50% of the vote in the first round. There were also fresh elections to the councils of three districts and for the post of mayor in two. The Central Electoral Committee had declared the first round elections in those districts invalid since major irregularities had been observed.

The observation mission was headed by Mr Christopher Newbury (United Kingdom). The delegation's programme appears in Annex II.

a) the election campaign

The main efforts of the country's political forces were concentrated on the race for Mayor of Chisinau. The candidates were the incumbent, Mr Serafim URECHEAN, supported by the electoral bloc Moldova Noastra, who had received 44.5% of the vote in the first round, and Mr Vasile ZGARDAN, Minister of Transport, supported by the Communist Party (in government), who had obtained 40.6% of the vote.

The Central Electoral Committee had received complaints about the number of votes for the post of Mayor in Chisinau and this led to a recount. Although there was no significant difference in the number of votes cast for each candidate, the procedure brought irregularities to light and led to considerable delay in the declaration of the final result.

As during the first round, the election campaign was marked by a degree of tension (although slightly less than before the first round), particularly in Chisinau and Comrat (Gagauzia).

There were the same problems:

- the virulence of the attacks on some candidates, particularly the Mayor of Chisinau,
- lack of neutrality on the part of the state-owned media (radio and TV) which took part in the attacks,
- intervention in the debate by national authorities and the President's office,

b) polling day

The delegation observed the vote in 28 polling stations in Chisinau and environs and in Hincesti.

The observers make the same observations about polling day as during the first round:

- the elections were generally well-administered,
- procedures in polling stations generally ran smoothly in polling stations.

However, the delegation wishes to note the same significant problems with respect to:

- secrecy of the ballot
- the police presence in many polling stations, which seemed to be "routine" or customary but contradicted the provisions of the Electoral Code (cf 3 – c above).

With respect to the police presence, one member of the delegation asked some police officers about their presence in the polling station. The first response was to refer to the Electoral Code but, since no reference could be found to the article, they said their Minister had ordered them to be present.

The joint OSCE-ODIHR press release appears in Annex VI.

c) declaration of results

The Central Electoral Committee announced the final results of the elections without delay.

Following the two rounds of voting, 41.14% of mayors and 50.33% of local councillors were members of the Communist Party which had the greatest success throughout the country

On the other hand, Mr Serafim Urechean was re-elected Mayor of Chisinau, having won 53.9% of the votes cast.

A full table of the results published by the Central Electoral Committee appears in Annex VII.

5 - THE DELEGATION'S CONCLUSIONS AND RECOMMENDATIONS

a) Conclusions

1 – The delegation first wishes to recall that an electoral process has a number of components:

- before the vote:
- compilation of electoral registers
- registration of candidates
- election campaign
- polling day
- voting procedures
- the count
- after the elections
- declaration of results
- processing any disputes

The delegation recalls that these components are interdependent: if any one of them is undermined, the whole process is affected.

2 – The delegation compared its observations with those of the OSCE/ODIHR observers and found the conclusions of the two delegations to be similar. A press release was issued jointly with the OSCE/ODIHR at a press conference (see Annex V).

3 – It should first be stated that on many points the delegation made the same observations as those made four years previously during the local and regional elections of 23 May 1999. In this respect, it regrets the lack of significant progress during that period.

4 – It deplores:

- the many incidents that took place during the election campaign,
- the pressures, arrests of mayors seeking re-election,
- the inequitable conduct of the campaign in the publicly-owned media,
- the use of public resources and state mechanism for the benefit of a single party or that party's candidates,
- the lack of guarantees as to the secrecy of the ballot.

The delegation, supported by the Bureau of the Congress, request immediate action from the Moldavian authorities to remedy these serious irregularities with a view to the next elections.

The delegation notes a net decline compared to the 1999 elections.

In the opinion of the delegation, the conditions in which the elections took place were not satisfactory. Although the voting, count and declaration of results were conducted relatively efficiently and democratically, the delegation regrets the fact that the election campaign was not conducted neutrally and impartially as required by democratic standards.

5 – The delegation recalls that these conclusions are particularly important in view of the great responsibilities the Moldovan authorities have assumed in their capacity as current President of the Committee of Ministers.

6 – The Congress delegation expresses its wish to be particularly vigilant with respect to the consequences of the election, in particular with regard to:

- the validation of the results by the relevant courts,
- the CEC's handling of candidates' complaints and appeals,
- the possible reprisals against some candidates, successful and otherwise.

7 – The Congress delegation also recalls that after the elections the new administrative structures are to be set up and the new Act on local public administration will fully come into force. The number of elected representatives will also increase significantly (see §1 below).

b) Recommendations

On the basis of these observations, the delegation suggests the following lines of action to the Bureau:

1 – Closely following the development of local and regional democracy in Moldova.

Taking into account Recommendation 110 and Resolution 132, the delegation wishes the Congress to continue to follow the situation with respect to local democracy in Moldova and in particular to check:

i – as regards the local elections that:

- the relevant courts declare the results correctly,
- appeals lodged with the Central Electoral Committee and the relevant courts are followed up,
- there are no reprisals against candidates, whether elected or not,

ii – as regards the new Act on local public administration:

- its actual implementation and in particular that the substance of the Act is applied in the spirit of the European Charter on Local Self-Government.

These points could very soon be the subject of missions whose conclusions could be transmitted to the Bureau at its meeting on 12 September 2003 and if necessary examined at the autumn 2003 session of the Congress.

2 – Proposing assessment of the revised Electoral Code.

The delegation suggests that particular attention should also be paid to the Electoral Code; since it has been amended many times in recent years, renewed analysis might make it possible to suggest improvements to the authorities in order to bring it better into line with the Code of good practice in electoral matters, particularly with respect to preserving the secrecy of the ballot.

The assessment might also suggest including in the Code the general principle of the secret ballot which guarantees voters absolute secrecy, rather than secrecy only until they emerge from the polling booth, as it is at present understood by the Central Electoral Committee.

Other provisions (such as the duty imposed on banks to declare payments into candidates' campaign accounts to the CEC – Article 37 – 9) might usefully be reviewed, as might also the procedures for publishing results¹⁶.

The Venice Commission's Council for Democratic Elections might usefully be requested to perform this task.

3 – Proposing training for newly elected local representatives.

In view of the increased number of local and regional elected representatives, the delegation suggests that training for newly elected local representatives should speedily be provided, in particular to make them aware of the general framework of their mission and the general principles of the Charter on Local Self-Government. Such action would strengthen the follow-up proposed in point 1 above.

Such actions might, for example, be developed in co-operation with a number of European countries with projects in this field¹⁷.

4 – Assisting the implementation of Acts on local public administration

To supplement the usual follow-up missions mentioned above (proposal 1) and the legislative assistance provided by the Secretary General's Directorate General for Legal Affairs the Congress might examine the possibility of setting up ad hoc resources in order to assist the authorities with the actual implementation of new laws on territorial organisation and local public administration.

5 – Broadly disseminating the conclusions of this report.

In view of the importance of the its observations and conclusions, the delegation suggests that the Bureau should disseminate this report widely in order to maintain pressure on the Moldovan authorities in the hope that this will bring about an improvement in the situation.

The report might be distributed:

to Council of Europe bodies: Committee of Ministers, Secretary General, Parliamentary Assembly, the Venice Commission Council for Democratic Elections.

More widely by publication on the Congress website and the distribution of information (press release) announcing these criticisms and sending it in particular to the Moldovan media (especially press agencies).

C – ANNEXES

Annex I - List of delegation members:

1st round: Mr. Stanislav BERNAT
Mrs Bahar CEBI
Mr David LLOYD-WILLIAMS
Mr. Pascal MANGIN
Mr. Joseph BORG
Mr. Yavuz MILDON, Vice-Président of the CLRAE
Mr Mykhailo MOSKALENKO
Mr. Christopher NEWBURY
Mrs Hildur ÖIEN

Expert

Mr. Claude CASAGRANDE

CLRAE Secretariat:

Mr. Mats LINDBERG
Mr. Riccardo PRIORE

2nd round:

Mr. Joseph BORG (E)
Mr. Christopher NEWBURY (E)

CLRAE Secretariat:

Mr. Mats LINDBERG
Mr. Ivan VOLODINE

Annex II - LOCAL ELECTION OBSERVATION MISSION TO THE REPUBLIC OF MOLDOVA

25 May 2003

Timetable

Wednesday, 21 May 2003

1.20 pm : Arrival of Mr CASAGRANDE in Chisinau

4.30 pm : Meeting with Mr Jorgen GRUNNET, Special Representative of the Secretary General of the Council of Europe
Asito Building, 57/1, Banulesco Bodoni, office 112

Thursday, 22 May

am : Participation in ODIHR Observers Briefing

am : Meeting with Mr Jacques LAJOIE, Chargé d'Affaires, French Embassy - 101, Str. 31. August

pm : Arrival of Mr LLOYD-WILLIAMS in Chisinau

4.30 pm : Meeting with Mr Jorgen GRUNNET, Special Representative of the Secretary General of the Council of Europe

pm : Arrival of Mr LINDBERG in Chisinau

10.30 pm : Meeting at the hotel of all delegation members present

Friday, 23 May

10 am : Meeting with the Ambassadors of Germany and the United Kingdom, the Chargé d'Affaires of the French Embassy and the Special Representative of the SG of the Council of Europe – German Embassy - 35, Str. Maria Cebotari.

12 am : Meeting with Mr JACQUOT, Cultural Attaché of the French Embassy – Alliance Française (Mr CASAGRANDE)

3 pm : Meeting with representatives of NGOs (associations of local authorities, journalists, etc)

5.10/9.15/9.30 pm : Arrival of the other members of the delegation and of Mr PRIORE

10.30 pm : Meeting of all members of the delegation at the hotel

Saturday, 24 May

Meetings:

9.30 am : Mr Oleg SEREBREAN – President of the Social-Liberal Party

10.30 am : Mr Iurie ROSCA– President of the Popular Christian Democratic Party

11.30 am : Central Electoral Committee: Dumitru NEDELCU, President

12.30 pm : Mr Dimitiu DIACOV – President of the Democratic Party of Moldova

2 pm : Mr IOV, Deputy Prime Minister responsible for local public administration

3 pm : Mr Seraphim URECHIAN, Mayor of Chisinau, candidate for Mayor of Chisinau, and Mr BRAGISH

4 pm : ODIHR – Coordination and political information meeting

5 pm : Mr Jorgen GRUNNET, Special Representative of the Secretary General Political situation.

Sunday, 25 May

Early morning: deployment of teams of observers.

Visits to polling stations and observation of the count.

Monday, 27 May

9 am : Delegation meeting: pooling observations

10 am : Attendance at OSCE/ODIHR assessment meeting (Jolly Alon Hotel)

12.30 pm : Meeting with the French Ambassador (Mr CASAGRANDE)

2 pm : Joint ODIHR / CLRAE press conference (Jolly Alon Hotel)

Tuesday, 27 May Departure of the delegation

8 JUNE 2003

Timetable of the Congress Delegation which observed the second round of elections in the Republic of Moldova

Saturday, 7 June 2003

10 am : Meeting with Mr Jorgen GRUNNET, Special Representative of the Secretary General of the Council of Europe in the Republic of Moldova

11 am : Meeting with Mr Bernard WHITESIDE, United Kingdom Ambassador to the Republic of Moldova

12 am : Meeting with Mr Igor BOTAN, Director of the ADEPT foundation

4 pm : Meeting with Mr Michael WYGANT, Ambassador, and the OSCE/ODIHR mission to observe the local elections in Moldova

Sunday, 8 June 2003

Observation of the vote

Monday, 9 June 2003

9 am : Debriefing

1 pm : Press conference

Annex III: Press release by the President of the Congress, 29 April 2003

Council of Europe's Congress to observe local elections in Moldova during Moldovan Presidency of the Organisation

Strasbourg, 29.04.2003 - The Bureau of the Congress of Local and Regional Authorities of Europe (CLRAE) has decided to observe the local elections which will take place in Moldova on 25 May 2003, following an invitation from the relevant authorities in the country.

The Congress delegation of twelve observers will be led by Yavuz Mildon, Vice-President of the CLRAE. In preparation for its Moldovan mission, the delegation is in constant contact with the OSCE Mission based in Chisinau, and the ODIHR observers who are already in place.

Following the latest information on the subject of judicial harassment directed towards certain candidates, the President of the Congress, Herwig van Staa, has asked the delegation to pay particularly close attention to the future development of the electoral campaign.

The elections, which will take place at the level of first and second tier local authorities, are intended to implement reforms aimed at replacing the ten existing regions (judets) with thirty-two districts (raioane) based on historical boundaries.

Local public administration legislation has recently been revised, in order to better respond to concerns expressed within the Council of Europe, including strong criticism by the Congress of this reform in its Recommendation 110 (2002). The Congress therefore considers these local elections as a test case for the implementation of the revised legislation.

Annex IV: Observation teams and deployment in the regions

Observation teams and deployment in the regions (1st round)

Observers	Region and/or towns visited
Ms Bahar CEBI (Turkey)	SOUTH (Comrat, Gagauzia and Taraclia)
Mr Christopher NEWBURY (United Kingdom)	
Mr Mykhailo MOSKALENKO (Ukraine)	NORTH (Balti and region)
Mr Stanislav BERNAT (Slovakia)	
Mr Yavus MILDON (Turkey) – Head of the delegation	Chisinau and East of the city

Mr Riccardo PRIORE (Secretariat)	(including hospital and prison)
Mr David LLOYD-WILLIAMS (United Kingdom)	NORTH (Orhei and region)
Mr Jopseph BORG (Malta)	
Ms Hildur ÖIEN (Norway)	NORTH (Soroca and region)
Mr Mats LINDBERG (Secretariat)	
Mr Pascal MANGIN (France)	Chisinau West
Mr Claude CASAGRANDE (Expert)	(Chisinau, Hincesti, Ialoveni)

Annex IV - SUMMARY OF OBSERVATION FORMS (1st round)

The six Congress teams visited 84 polling stations, a hospital and Chisinau Prison.

1 – The overall evaluation

Voting conditions: all the polling stations visited were described as “serious”

Visits to polling stations:

The atmosphere in the polling stations visited was generally described as “serious”, with the exception of three where it was described as “tense” and four where the observers considered it “not serious”.

The general assessment of the polling stations visited was “quite good” or “good”. Only four were considered “quite bad” or “bad”.

The count

The count was considered “very good” or “quite good” in all the polling stations visited.

2 – The observers principal remarks and reservations:

The main remark concerned the fact that the voting procedure did not guarantee secrecy: a member of the committee has to stamp the ballot paper AFTER the voter has marked his or her choice on it. Some committee members conducted themselves appropriately (asking voters to position the ballot paper conveniently) while others handled ballot papers and were therefore able to see how people had voted.

The presence of observers near the ballot box where this operation took place added a further risk that secrecy would be breached and pressure thus exerted on voters.

Some polling stations served more than 3000 voters (polling station 1/147 in Chisinau).

There were many reports of candidates' observers and representatives not wearing their badges conspicuously, which made it hard to assess the appropriateness of their presence in the polling station.

Some observers had difficulty gaining admittance: they had photocopied badges rather than originals. On enquiry, it turned out that they were badges issued by the CEC as a result of a shortage (which suggests there were more observers than anticipated).

It was reported from several polling stations that observers overstepped their duty by advising voters or helping in the proceedings (sometimes at the request of the Chair of the Electoral Committee).

It was reported that in a few polling stations observers were wearing clear signs that they belonged to a party or carrying “committed” newspapers (one team even saw one Communist Party observer who had made her own red badge so that she might be clearly identified and was sitting separately from the other observers near the polling booths).

Police presence in the immediate vicinity of or, more often, inside the polling station was reported nearly everywhere (in some instances a police officer was sitting at the same table as the members of the Electoral Committee)

Annex V: Joint CLRAE – OSCE/ODIHR press release (1st round)

283a(2003)

Despite smooth voting, conduct of local elections in Moldova raises concerns

CHISINAU, 26.05.2003 – Although voting during the 25 May local elections in Moldova was well-administered and generally in line with international standards, notable shortcomings observed during the campaign are a source of concern, concluded the international observation missions deployed by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) and the Council of Europe's Congress of Local and Regional Authorities of Europe (CLRAE).

"Though there is still room for improvement, the overall legislative framework and the professionalism of the election officials are a good foundation for future elections in Moldova," said Ambassador Michael Wygant, the head of the ODIHR observation mission. "However, the campaign period raised concerns regarding the integrity of the elections and may have damaged public confidence in the electoral process."

"In general, voting and counting went well yesterday, but there were problems with the secrecy of the vote", added Yavuz Mildon, the head of the CLRAE delegation.

The international observers expressed disappointment with several aspects of the campaign, such as the arrest and intimidation of opposition candidates; incomplete separation of party and government, including reports of the misuse of public resources for campaign purposes; and a clear bias in favour of the authorities on state television. Independent analysts and candidates expressed lack of confidence in the impartiality of certain governmental institutions and the judiciary.

Regarding future elections, beginning with the 8 June runoffs, the international election observation missions urge the authorities to reverse the negative trends that became evident during the campaign. The ODIHR and the CLRAE will consider extending their observation for the second round.

The OSCE/ODIHR and the CLRAE will publish comprehensive reports approximately one month after the completion of the election process.

Annex VI: Joint CLRAE – OSCE/ODIHR press release (2nd round)

Observers express concerns about runoff local elections in Moldova, despite slight improvement over first round

CHISINAU, 9 June 2003 – Although yesterday's second round of local elections in Moldova showed slight improvement over the first round held on 25 May, and voting was conducted mostly in line with international standards, shortcomings observed during the campaign remain a source of concern, concluded the international observation missions deployed by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) and the Council of Europe's Congress of Local and Regional Authorities of Europe (CLRAE).

"Balloting proceeded smoothly, and a decrease in tensions compared to the first round was noted, but the campaign was again marred by media bias, misuse of administrative resources, and aggressive rhetoric, notably in the mayoral runoffs in Chisinau and Comrat", said Ambassador Michael Wygant, the head of the ODIHR observation mission.

"As in the first round, problems were observed regarding the secrecy of the vote", said Christopher Newbury, the head of the CLRAE delegation. "In some places, we were also concerned that police were present inside polling stations as a matter of routine and not to deal with specific problems".

The state media, despite some improvement over the first round, again showed a clear bias in favour of state authorities and the ruling party. In the key runoff election for the mayor of the capital Chisinau, state television continued its negative campaign against the incumbent, although he was finally permitted to make a rebuttal. At the same time, Chisinau's municipal television again was clearly biased in support of the incumbent's re-election bid.

Observers expressed particular concern about freedom of the media. Specifically, questions were raised concerning the timing of, and reasons for, the dismissal of the head of the News Department of Moldova's state-owned news agency.

The international observers noted that complaints and appeals arising from the first round were adjudicated on a timely basis and that, in general, the election administration performed its duties in a professional manner.

Annex VII: Election results published by the Central Electoral Committee

Rayon and municipal councils

Communist Party of the Republic of Moldova 54.62%

The electoral bloc Moldova Noastra Social Liberal Alliance 20.34%

Democratic Party of Moldova 8.17%

Popular Christian Democratic Party 7.28%

The electoral bloc PSD-PSL 3.20%

Agrarian Democratic Party 2.75%

Independent candidates 2.04%

Centrist Union of Moldova 1.15%

The republican social and political movement Ravnopravye 0.27%

Professionals' movement Speranta – Nadejda 0.18%

Town and village councils

Communist Party of the Republic of Moldova 49.88%

The electoral bloc Moldova Noastra Social Liberal Alliance 22.02%

Democratic Party of Moldova 8.71%

Popular Christian Democratic Party 5.28%

The electoral bloc PSD-PSL 4.58%

Independent candidates 4.56%

Agrarian Democratic Party 2.57%

Centrist Union of Moldova 1.50%

The republican social and political movement Ravnopravye 0.32%

Socialist Party of Moldova 0.22%

Socialists of Moldova Party 0.17%

Professionals' movement Speranta – Nadejda 0.17%

The social and political movement Forta Noua 0.02%

Republican Party of Moldova 0.02%

Mayors

Communist Party of the Republic of Moldova 41.44%

The electoral bloc Moldova Noastra Social Liberal Alliance 21.19%

Independent candidates 17.49%

Democratic Party of Moldova 8.07%

The electoral bloc PSD-PSL 4.82%

Popular Christian Democratic Party 2.24%

Agrarian Democratic Party 2.02% Centrist Union of Moldova 1.91%

Socialist Party of Moldova 0.34%

Professionals' movement Speranta – Nadejda 0.34%

Republican social and political movement Ravnopravye 0.22%

Socialists of Moldova Party 0.22%

¹ These reports are available on the website of the Congress of Local and Regional Authorities of Europe.

² Report CG/BUR (6) rev (1999)

³ Report CG/BUR (6) 58

⁴ Report CG/BUR (9) 59 (2002)

⁵ Act on territorial administrative organisation passed by Parliament on 12 November 1998.

⁶ Act on local public administration passed by Parliament on 6 November 1998.

⁷ Report on regional democracy in Moldova CPR (7) 4 (2000) – Recommendation 84 (2000) and Resolution 103 (2000).

⁸ Recommendation 10 (2002) and Resolution 132 (2002).

⁹ “Code of good practice in electoral matters” adopted by the Venice Commission, the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe (Resolution 148 – 2003).

¹⁰ According to Mr Urechean, this campaign had been unleashed after he had refused the offer of the post of Moldovan Ambassador to Italy, France or the United Nations designed to remove him from Chisinau.

¹¹ In other words, just five days before the first round of the elections.

¹² This was reported by BASA Press in many of its releases.

¹³ It should be noted here that only persons who are able to prove residence, ie with an official document that does so (such as a lease or contract to rent), may be enrolled on the electoral register. Therefore people who share the same accommodation or live with their families may not be enrolled on the city's electoral register. Such cases are frequent in Chisinau particularly because rents there are very high. This might be regarded as a violation of universal suffrage.

¹⁴ These are simply suggestions but the procedure could be simplified by eliminating the formality, which provides no real protection against organised fraud.

¹⁵ Code of good practice in electoral matters – Guidelines §4 – a.

¹⁶ These points were noted during this most recent election but should not be regarded as an exhaustive list of problematic points in the Electoral Code, which requires comprehensive assessment. Some of the points noted in this report might also result in proposals to amend the Code.

¹⁷ Ref: contact with the Cultural Attaché of the French Embassy.