

Terms of Reference

UN Electoral Needs Assessment Mission

Background and context

The Moldovan Central Elections Commission has requested in September 2007 the United Nations Development Programme (UNDP) support in improving the management of elections in Moldova, with particular focus on e-voting. The assistance was requested to follow several stages aiming primarily at developing an electronic voters' register, with subsequent emphasis on out-of-country voting through expanding the usage of Information and Communication Technologies (ICT).

With Moldova being on the eve of 2009 Parliamentary elections, several donors have shown interest to support the Moldovan electoral management bodies with technical assistance for improving the electoral systems. Several interventions have already started or are in their formulation phase and directed *inter alia* towards *voter education campaigns, elections observation, training of electoral administration staff and others*. Given the high political importance of 2009 elections and the great interest of development partners to effectively contribute to conducting fair and transparent elections, all actors, both on the donor side and national authorities, have agreed to adopt a concerted approach and act in a coordinated way, with UN/UNDP playing a coordinating role. UNDP country office has organized a donor coordination group on technical assistance for the elections with major partners agreeing on information sharing and mutual support. During a first coordination meeting the Moldovan Central Elections Commission (CEC) (<http://www.cec.md>) has presented several areas requiring support in order to improve elections management. The areas presented are also described in the attached annex "Request from the Central Elections Commission no. 4/39 of 24.01.2008". The CEC and the partners have analyzed and discussed the proposals and have agreed on a need to further explore the general areas outlined as requiring support. With this being agreed the UN/UNDP have initiated the preparation for an UN Electoral Needs Assessment Mission.

UN Electoral Assistance

The United Nations system is engaged in a wide range of development assistance activities that are intended to support the efforts of Member States to promote democratic electoral processes and build sustainable capacity to manage electoral systems and processes. Member States most often request advice and assistance on the legal, institutional, technical and administrative aspects of organizing and conducting democratic elections or seek the Organization's assistance in supporting the international or domestic observation of electoral processes.

The objectives of United Nations electoral assistance are two-fold:

- § To assist Member States in their efforts to hold credible and legitimate elections in accordance with internationally recognized criteria;
- § To contribute to building, in the recipient country, a sustainable institutional capacity to organize democratic elections that are genuine and periodic and have the full confidence of the contending parties and the electorate.

Objectives and scope

After a first request for support, the United Nations responds with an electoral needs assessment mission (NAM), which is mandated by General Assembly resolution GA Res. 46/137 as the first response to a formal request for United Nations electoral assistance. A NAM is deployed following the receipt of a formal request from a national authority of a Member State to further clarify the

needs and appropriateness of providing such requested assistance. The mission also determines the feasibility of delivering the assistance within certain constraints – such as political consensus, financial limitations, time constraints etc. The mission team should also issue recommendations of electoral assistance cost-effective activities.

For this purpose, the NAM will analyse existing conditions for the conduct of elections including the legal, political, human rights, material and institutional situation. The assessment should pay particular attention to the ongoing discussions among different stakeholders on electoral reforms, their timeframes and overall feasibility in view of the elections. The mission will also assess the position of the international community and the plans of international donors.

Therefore an important task of the UNDP office is to draft a tentative agenda for several meetings with a wide range of stakeholders (Government, non-governmental organizations, political parties, media, etc.) .We will request your advice on who we should meet. We will also come up with meeting suggestions based on our colleagues of the relevant regional division in DPA.

The mission usually lasts between 5 and 10 days. In previous cases, the mission can take place very quickly after the request or may need more preparation and discussion. In our case, this could be March or April, but again, we will come back to you with more information next week.

In addition, I attach a Note of Guidance which defines the division of labor between EAD/DPA and UNDP and gives useful information on the process. The UNDP Implementation Guide which you most probably know, provides in its first chapter useful information on the general procedure for the assesment: <http://www.undp.org/governance/docs/UNDP-Electoral-Assistance-Implementation-Guide-No-Cover-lowres.pdf>

since 2001, already for two consecutive rounds, the Communist party is winning the elections in Moldova, gaining a vast majority of seats allowing for passing almost any legislative initiative in the Parliament. The President of the country is also elected by the Parliament and has been for two consecutive mandates heading the state of Moldova (being also the leader of the ruling party). Moldova is a country, which, although enjoys a stable economic recovery during the past 5-7 years, has yet to make steps in guaranteeing rule of law and independence of justice system, curbing corruption, easing the regulatory burdens for business development, and reducing poverty and disparities between regions and the capital. During the 2007 local elections the popularity of the communist party has registered a decline and such situation is also foreseen in 2009, when new Parliamentary elections are scheduled to take place late spring. For this particular reason considerable efforts need to be made not only by state authorities, but especially by the civil society and international community to make sure necessary pre-elections preparations are being made so that the campaign is fair and transparent and the elections are managed properly.

According to official statistics a total of 334,000 Moldovans are living and working abroad, while various researches show a figure that is at least twice as high as government estimates and is more than 600,000 (i.e. around 1/3 of economically active population of the country that consists of only about 1.6 million people). One of the several important problems related to the Moldovan migrants is the impossibility to express the right to vote. It is believed that, considering the high contribution of migrants to the national economy, their inadequate participation in elections is distorting the democratic process. As such, the electoral impact of migration for Moldova is quite strong. In the 2001 parliamentary elections, one party of Moldova gained about one third of the total number of votes. With the low level of participation of Moldovan citizens in the elections (mostly due to large number of migrants abroad) the one-third turned into one-half. And, when many smaller parties did not pass the electoral threshold and their seats in the Parliament were proportionally distributed between those who did, the one-half of votes turned into two-thirds of all seats. The same situation occurred in the elections in March 2005, when one-quarter of the total number of votes turned into two-fifths and, due to the proportional distribution of seats, this turned into more than one-half of parliamentary seats for one party. The next Parliamentary elections are set for 2009. Moldovan society at large strives for a democratic society, good governance and rule of law, which altogether cannot be guaranteed when the election system does not allow all voters an equal access to the election process and the fair exercise of the right to vote to a considerable group of active population established overseas.

Although foreign missions of Moldova were trying to organise polling stations abroad, the existing traditional out-of-country voting does not respond to the needs of Moldovan migrants for several reasons¹:

- Lack of sufficient number of polling stations
- Limited possibility to travel to the polling stations due to funding and geographical reasons
- Illegal status of many of them in the country of residence

The improvement of the distance voting is on the CEC's agenda and is supported by the political parties. The Electoral Code provides for: *“Citizens of the Republic of Moldova residing outside of the country shall enjoy full voting rights under this Code. Representatives of diplomatic and consular missions shall be obliged to help these citizens exercise their voting rights”*.

UNDP Support

There are policy documents approved by the Government of Moldova containing special provisions on developing the elections system and advancing the use of ICTs to make it more rights-based, transparent and effective. The CEC has begun the process of implementing these provisions by developing and approving a Concept paper on a new Information System “Elections” (ISE). It provides for automating the process of preparation, processing and counting the votes of elections or referendums. The UNDP e-Governance project aims to support the CEC specifically in: a) further developing the e-Voting System Concept paper through wide discussion and provision of local and international expertise, b) developing the electronic voter registers, and c) supporting the piloting of distance voting.

The current level of e-Readiness and pace of information society development in Moldova technically allow for implementing e-voting, although a range of legal, organisational, technical, and information security issues have to be thoughtfully analysed, discussed and agreed by all stakeholders.

¹ At the time being, the Moldovan ballot system consists of a paper-and-stamp (the same as paper-and-pencil) method and electors are allowed to vote only in the section where they are registered. The vote is expressed by applying the stamp on the symbol of the party. There are no provisions on distance voting in the law. The votes are counted manually at election polls stations and then are sealed and sent to the CEC. The data are processed electronically and are transmitted to CEC.