

Approved  
by Decision No 3353 of 20 July 2010 of the Central Electoral Commission,  
Amended by Decision:  
No 3568 of 5 October 2010,  
No 34 of 8 April 2011,  
No 146 of 30 August 2016,  
No 1176 of 13 October 2017,  
No 1821 of 25 September 2018

## **Regulation on the Consideration and Settlement of Complaints by the Electoral Bodies during the Electoral Period**

### **Chapter I. General provisions**

1. This Regulation, drawn up in accordance with the provisions of the Electoral Code No 1381-XIII of 21 November 1997 and with the normative acts in force, establishes and explains the procedure for consideration and settlement of complaints by the electoral bodies during the electoral period.

In the process of consideration and settlement of complaints, the electoral bodies shall be governed by the Constitution of the Republic of Moldova, the Electoral Code, the legislation in force, this Regulation and the international treaties to which the Republic of Moldova is a party.

The activity of handling complaints shall be conducted in accordance with the principles of legality, impartiality, transparency and equality.

The members of the electoral bodies, in the process of consideration and settlement of complaints, shall display professional competence and shall treat openly, impartially and fairly all the subjects involved in the process.

2. The electoral bodies shall consider complaints concerning: the cancelation or revision of a document, a decision issued by the hierarchically inferior electoral body; its actions/inactions; the financing of electoral campaign by electoral competitors/participants in the referendum.

The complaint shall be made in writing and shall correspond to the requirements set forth in Article 71(5) of the Electoral Code.

For its draw-up, the complaining party shall be guided by the template from Annex No 1 hereto.

*Paragraph 2 amended by CEC Decision No 146 of 30.08.2016,  
No 1176 of 13.10.2017, No1821 of 25.09.2018*

3. For electoral cases considered by the electoral bodies, the voter, the electoral competitor or the electoral body whose actions/inactions and decision are challenged and, if applicable, the participants in the referendum may appear as a party to a complaint,.

The voter shall submit complaints personally or shall do so through its legal representative.

The complaint of the electoral competitor/participant in the referendum shall be submitted by its representative to the competent electoral body or by a person authorized by the electoral competitor on the basis of a power of attorney.

Complaints submitted by unauthorized persons shall not be considered by the electoral bodies and shall be returned as soon as possible to the applicants, accompanied by a letter,

indicating the reason for the refusal to consider them. Similarly, if the object of the complaint doesn't refer to the actions/inactions of the electoral competitors or actions/inactions, as well as decisions of the electoral bodies, it shall not be considered and it shall be returned to the applicant as being submitted contrary to the provisions of Article 71(1) of the Electoral Code.

If the complaint is returned, a copy thereof shall be kept at the electoral body. The return of the complaint by the electoral bodies does not exclude the possibility of repeatedly filing a new complaint with the same object and the same grounds on the condition of removing the found deficiencies and observance of the limitation period.

*Paragraph 3 supplemented by CEC Decision No 3568 of 05.10.2010, No. 146 of 30.08.2016,  
No 1176 of 13.10.2017, amended by CEC Decision No 1821 of 25.09.2018*

## **Chapter II. Filing complaints**

3<sup>1</sup>. When filing a complaint, it shall be taken into account the competence and responsibilities of the electoral bodies in considering the complaints, the type of poll, the alleged violations and the place where they have been committed, as well as the requirements invoked.

*Paragraph 3<sup>1</sup> added by CEC Decision No 146 of 30.08.2016*

4. According to Article 71(1) and Article 72(1) of the Electoral Code, the voters and the electoral competitors may appeal to the hierarchically senior electoral body the actions/inactions and decisions of the electoral bodies, within 3 calendar days from the date of the action being committed or the inaction being identified or the adoption of the decision, but no later than the Election Day.

The deadline for filing shall be calculated from the day following the day the action was committed, the inaction was identified or the decision was taken.

The complaints regarding the actions and decisions of the Central Electoral Commission during the electoral period shall be submitted, without observing the preliminary procedure, to the Chisinau Court of Appeal within 3 calendar days from the date of the action being committed or decision being adopted and shall be considered within 5 calendar days from the day of being submitted, but no later than the Election Day, in accordance with the provisions of the Civil Procedure Code and the Administrative Litigation Law.

The decisions of the precinct electoral bureaus of the polling stations in the country issued on the complaints submitted on the Election Day and concerning the exercise of the right to vote or the administration of the elections may be appealed directly to the court in the territorial jurisdiction the respective body is located.

The complaints regarding the actions/inactions and the decisions of the precinct electoral bureaus of polling stations from abroad shall be considered by the hierarchically senior electoral body, with the exception of the complaints submitted on the Election Day regarding the exercise of the right to vote or the administration of the elections, which shall be forwarded directly to the court, in the territorial jurisdiction the hierarchically senior electoral body is located. They may be submitted personally and/or by post, e-mail or fax.

The complaints related to the actions/inactions of the electoral competitor shall be submitted directly to the court in the territorial jurisdiction of the electoral body that the competitor was registered by.

*Paragraph 4 amended and supplemented by CEC Decision No 3568 of 05.10.2010, No 34 of 08.04.2011,  
No 146 of 30.08.2016, No 1176 of 13.10.2017, No 1821 of 25.09.2018*

4<sup>1</sup>. The electoral body may determine, by decision, the schedule of complaints, the place where they may be submitted, as well as the person responsible for receiving and recording complaints.

*Paragraph 4<sup>1</sup> added by CEC Decision No 146 of 30.08.2016*

5. The electoral body shall receive and record the complaint in a special register of complaints, assigning it a registration number and indicating the date and time of receipt (according to the template in Annex No 3).

*Paragraph 5 amended by CEC Decision No 1821 of 25.09.2018*

6. The Chairperson of the electoral body shall decide which of the members of the electoral body to assign for consideration and, if necessary, to draft the decision on the received complaint.

The Chairperson of the electoral body shall ensure, in agreement with the member responsible for settling the complaint, to include the issue of the consideration of the draft decision on the complaint on the agenda for the next meeting, taking into account the consideration deadline set forth in Article 73(2) of the Electoral Code.

*Paragraph 6 amended by CEC Decision No 146 of 30.08.2016, No 1821 of 25.09.2018*

7. The complaints related to the voters lists (regarding the non-inclusion or exclusion of the voter from the voters list, as well as about other errors in the voters lists) shall be submitted at the latest the day prior to the Election Day at the respective electoral bodies, which shall consider them within 24 hours. The stakeholders may appeal to the court the refusal of the electoral bodies to correct, include or exclude the voter from the voters list (Article 45 of the Electoral Code).

*Paragraph 7 amended by CEC Decision No 146 of 30.08.2016, No 1821 of 25.09.2018*

7<sup>1</sup>. In the case of electoral competitors running for Parliamentary and Presidential Elections, as well as political parties and electoral bloc of parties in local elections, the complaints regarding the financing of electoral campaigns shall be submitted to the Central Electoral Commission and, in the case of independent candidates running for local elections, they shall be submitted to the District Electoral Councils.

The consideration of the complaints regarding the financing of electoral campaigns of the political parties shall not be subject to the prescription periods set forth in Articles 72-74 of the Electoral Code.

*Paragraph 7<sup>1</sup> added by CEC Decision No 146 of 30.08.2016, edited by CEC Decision No 13.10.2017, amended by CEC Decision No 1821 of 25.09.2018*

7<sup>2</sup>. The complaining party shall be entitled to withdraw its complaint, to amend the requirements and/or to supplement it by submitting a written request to the respective electoral body. The withdrawal of the complaint shall be possible until the decision is adopted by the electoral body, and the amendment and/or the supplement of the complaint may be made until the day prior to the day for which the consideration of the complaint is set.

*Paragraph 7<sup>2</sup> added by CEC Decision No 146 of 30.08.2016*

### **Chapter III. Consideration and settlement of the complaint**

#### ***Section 1. Verifying if the complaint is in compliance with the law***

8. The member of the electoral body responsible for considering the complaint shall verify that its template and contents meet the requirements set out in Article 71(5) of the Electoral Code.

Audio/video recordings, photos, writings, written statements of witnesses may serve as proof to support the complaint.

The proofs shall correspond with the requirements of acceptability and relevance.

The party filing proofs shall sign an affidavit (according to the template in Annex No 2.) on their origin, truthfulness and authenticity, being liable according to the legislation in force.

*Paragraph 8 added by CEC Decision No 146 of 30.08.2016,  
Amended by CEC Decision No 1821 of 25.09.2018*

9. If during the verification stage it is determined that the consideration does not fall within the competence of the respective electoral body, the complaint, as well as the materials annexed thereto, shall be forwarded immediately, by an accompanying letter, to be considered according to the competence, within no more than two calendar days from the date of receipt, and a copy of the complaint shall be kept at the electoral body that received it.

The respective electoral body has the duty to inform the complaining party about the fact that the complaint has been forwarded to the competent body for settlement.

*Paragraph 9 supplemented by CEC Decision No 146 of 30.08.2016, No 1176 of 13.10.2017*

## ***Section 2. Consideration in substance of the complaint***

10. The meetings of the Central Electoral Commission within which the draft decisions on complaints will be considered shall be conducted in strict accordance with the provisions of Section V of the Regulation on the Activity of the Central Electoral Commission approved by its Decision No 137 of 14 February 2006.

The other electoral bodies shall in the process of considering the draft decisions on complaints be guided by the activity regulations of these bodies approved by CEC decision, as well as by the provisions set forth in paragraphs 43-50 of the aforementioned Regulation on the activity of the Central Electoral Commission.

11. Considering the restrained time limits for the consideration of electoral litigation, the member of the electoral body, responsible for the consideration and drafting of the decision, shall notify the parties whose actions/inactions or decisions are challenged, to explain the content of the complaint and to forward, as the case may be, the copy of the complaint (by e-mail, fax) as soon as possible.

*Paragraph 11 supplemented by CEC Decision No 146 of 30.08.2016*

12. The member of the electoral body in charge for considering the complaint shall notify the parties of the complaint of the date and time of the hearing of the complaint.

13. The electoral subject, against whom a complaint has been submitted, shall be able to present its own position and counteract the imputed facts with the annexation of the appropriate evidence. The reference to the substantive claims invoked in the complaint and the evidence against each claim shall usually be made in writing by the party concerned and shall be submitted to the electoral body where the complaint was submitted no later than the last day prior to the meeting having on the agenda the consideration of the draft decision.

14. In the event of failure to submit the references and evidence available within the above-mentioned time limits, the party whose actions/inactions or decisions are challenged shall have to present his/her position, either personally or through a legal representative, at the hearing on the consideration of the draft decision. Failure of the party to come to the hearing shall not prevent the consideration of the complaint itself and the decision-making on it.

15. On the basis of the collected materials, the member in charge of the consideration shall draft the decision on the resolution of the complaint and shall present it as a speaker at the meeting of the respective electoral body.

To draft the decision on the complaint, the members of the electoral bodies shall take the following structure into account (according to the template in Annex No 4):

- a) title;
- b) introduction;
- c) description (facts invoked in the complaint by the complaining party and the defendant's position);
- d) motivation (facts found by the electoral body based on the attached evidence, the legal ground that the electoral body was guided by);
- e) enacting (conclusion of the electoral body on the full or partial acceptance; full or partial rejection);
- f) formula of certifying the decision's authenticity.

*Paragraph 15 amended by CEC Decision No 1821 of 25.09.2018*

16. The consideration of the complaint during the meeting of the electoral body shall start with the hearing of the parties who shall state their position and the complaining party who shall present the evidence, the party whose actions/inactions or decisions are challenged, as well as the third parties concerned in the complaint.

Afterwards, the speaker of the draft decision shall present and support during the hearing the position (reason) set forth in the project, the amendments made after the hearing of the parties or the submission of additional evidence relevant to the case, as well as the factual and legal grounds that led it to reach that settlement (the enacting).

The other members of the electoral body shall be entitled to specify certain circumstance related to the project, to ask the speaker of the draft decision and the parties of the considered complaint questions.

16<sup>1</sup>. When considering the complaint, the electoral body shall, with a view to determining the legal liability, take into account the causal link between the alleged violations and the actions committed by the electoral competitors.

*Paragraph 16<sup>1</sup> added by CEC Decision No 146 of 30.08.2016*

17. During the debate of the draft decision on the complaint, the other members of the respective electoral body may submit proposals for amending and/or supplementing the draft which shall be separately submitted for vote.

18. The member submitting proposals for amending and/or supplementing the draft decision shall clearly and coherently formulate the proposed amendments in order to be able to be put to vote by the Chairperson of the electoral body.

19. If the amendments and supplements to the draft are adopted, the draft decision shall be put to vote in full with the made amendments.

20. When considering the draft decision, the electoral body has the right to adopt or postpone its consideration in order to be transmitted, in the event new circumstances occur and/or evidence relevant to the case under consideration is found requiring further consideration, for rectification and improvement to the members of the respective electoral body, with the

involvement of other members of the electoral body, if appropriate, and in the case of the Central Electoral Commission to the officials of the Commission Apparatus as well.

At the request of the speaker member or of the parties, for grounded reasons, the timeframe of proceedings may be extended by vote of the members of the electoral body, this fact being recorded in the minutes of the meeting.

*Paragraph 20 supplemented by CEC Decision No 146 of 30.08.2016*

21. Any member of the electoral body may, in the case of a repeated consideration of the draft decision, draw up a new draft, which shall serve as an alternative. If in the case of repeated consideration the original draft decision is not adopted in the suggested wording, the alternative draft shall be considered.

The alternative draft decision shall be considered pursuant to the procedure initially described herein.

22. The draft decisions or proposals rejected by the members of the electoral bodies shall not be subject for reconsideration during the same meeting.

### ***Section 3. Adopting of the decision related to the complaint***

23. The consideration and discussion stage of the draft decision on the complaint shall end with the voting and adoption of a decision.

24. The voting procedure starts with the reading of the enacting part of the draft decision, after which the Chairperson of the electoral body proposes that the draft decision be put to vote in its entirety.

25. The decision concerning the complaint shall be adopted by the majority of votes of the members of the electoral body and in accordance with the procedure described in the regulations on the activity of the bodies concerned.

26. After the consideration of the complaint, the electoral body shall be entitled to adopt one of the following decisions:

- a) to accept partially or fully the complaint and to acknowledge the violations of the provisions of the electoral legislation;
- b) to fully reject the complaint as being ungrounded, due to lack of evidence or the violation of the deadline of filing it.

If the decisions issued by lower electoral bodies are challenged, the hierarchically senior electoral body shall:

- a) reject the complaint and shall uphold the decision of the hierarchically lower electoral body;
- b) acknowledge the complaint and repeal fully or partially the decision of the hierarchically lower electoral body, issuing a new decision.

27. In the event of violations of the provisions of the electoral legislation, the electoral body shall decide on holding liable the subjects found guilty of committing the violations and on applying sanctions in accordance with the provisions of Article 75 of the Electoral Code, shall demand the removal of the violations of the electoral legislation found by the parties responsible for committing them, as the case may be, and shall propose to the competent body the application of the sanctions against the subjects found guilty.

*Paragraph 27 amended by CEC Decision No 1821 of 25.09.2018*

28. The electoral body that considered and settled the complaint shall also ensure the drafting of the minutes of the meeting at which the debates were held and the decision on the settlement of the complaint was adopted.

The issue of considering and settling the complaint shall be reflected in the minutes of the meeting in as precise and coherent manner as possible, reflecting the most important and stringent issues raised during the meeting concerned.

The minutes of the meeting shall describe the following relevant moments of the consideration of the case: the substance and requirements submitted in the complaint, the parties, the position and/or statements of the parties involved in the consideration of the complaint, the substance of the proposed amendments to the draft decision, the voting procedure (the draft decision put to vote, the voting method: public, nominal or secretly).

29. After having been adopted, the decision on the complaint shall be signed by the Chairperson and the secretary of the electoral body.

If the Chairperson of the electoral body is absent, the decision shall be signed by the Deputy Chairperson and if the Secretary is absent – by an authorized member of the meeting.

30. The subjects concerned shall be notified about the resolution and the adoption of the decision and a copy of the decision shall be submitted (by post, fax, e-mail), as the case may be, no later than 2 days after its adoption.

*Paragraph 30 supplemented by CEC Decision No 146 of 30.08.2016*

31. The electoral body shall observe that the adopted decision is enforced.

32. The provisions of this Regulation shall be applicable to all parties involved in the consideration of electoral litigations.

*Paragraph 32 added by CEC Decision No 146 of 30.08.2016*