

OBSERVATION OF GAGAUZ BASHKAN ELECTIONS FROM 30 JUNE 2019

INTERIM REPORT 1

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I. EXECUTIVE SUMMARY

The June 30 Bashkan election takes place after the elections of the Parliament of the Republic of Moldova from 24 February 2019 and will be the seventh Bashkan election since the endorsement of the Law on the Special Legal Status in 1994. Initially, Bashkan elections were scheduled for 19 May 2019. However, in March 2019 a discrepancy between provisions of the Legal Code and of the Election Code in regard to the validity of elections was brought into the People's Assembly's (PA) attention. In order to clarify the legal discrepancies, the PA postponed the date of the Bashkan election to 30 June 2019. In response to the PA decision the Bashkan called an Assembly of Gagauz Citizens, at which the speakers were critical of the decision to postpone the elections and alleged the PA's lack of respect for the rule of law.

The June 30 Bashkan elections will take place under the new Electoral Code of Gagauzia, adopted by the PA on 31 July 2015, which replaced the Law on Elections of the People's Assembly, the Law on the Bashkan Election, the Law on Referendum and the Law on Election Authorities of Gagauzia. Enactment of the Electoral Code represents a major step in harmonising different legal instruments, but certain discrepancies, inconsistencies and repetitions still require addressing.

The Bashkan election is managed by a three-tier system of permanent and temporary bodies comprised of the Central Election Commission of Gagauzia (CEC), 3 District Election Councils (DECs) and 66 Precinct Election Bureaus (PEBs). The CEC is composed of 9 members nominated equally by the Executive Committee, the People's Assembly and the judiciary. The June 30 Bashkan elections are held against the backdrop of the court trial initiated by the PA to withdraw three CEC members - based on the Decision of the PA to recognize the activity of the CEC as unsatisfactory. The Bashkan's office treated the decision of the PA as politically motivated.

All citizens of the Republic of Moldova, permanently residing within the Autonomous Territorial Unit (ATU) of Gagauzia, and who are 18 or older on the day of election, can vote in the elections. Persons legally incapacitated by a court decision and convicts are not entitled to vote. Voter lists are composed by the local public authorities. According to the CEC the total number of eligible voters is 108 027. According to the Moldovan CEC the number of eligible voters in Gagauzia amounts to 131 299. Due to this discrepancy, some interlocutors raised concerns about the accuracy of the voter lists.

So far three candidates: Ivan Burgudji, Serghei Cimpoies and Irina Vlah completed the registration process and have the status of registered candidates. All registered candidates are independent and nominated by initiative groups. For the first time since the enactment of the Election Code, the prospective candidates are required to pass a Gagauz language test conducted by a linguistic

commission. Nicolai Dudoglo, who was the main rival of Irina Vlah during the 2015 Bashkan elections and his movement Devlet refused to participate in the elections.

A candidate can start its campaign upon completion of the registration process, which means the length of campaign varies for each candidate. The campaign timeline may be shortened in case of an appeal of the rejection of registration, potentially distorting a level playing field. So far Irina Vlah has been running the most active campaign. Billboards with her electoral slogan “We are proud of Gagauzia” were posted – according to the EOM interlocutors – approximately a month before the electoral period, without stating their source of financing, which was challenged in front of the Gagauzia CEC.

Bashkan candidates are not entitled to public funding. They may only receive donations or use own funds. The law provides for a ceiling for donations. However, the CEC informed the EOM that it has not set a limit on donations this time.

Over the reporting period three complaints have been filed with the CEC. The latter found them either inadmissible or rejected them on procedural grounds.

The CEC of Gagauzia approved publishing of declarations by a number of local and Chisinau media outlets during the election campaign. In addition to the right to provide paid election advertising broadcasting time, the CEC also allowed the media to produce paid election programmes of up to one hour. This is a cause for concern, as it creates more favourable conditions for candidates with greater financial resources to access media.

II. INTRODUCTION

The public association PILIGRIM-DEMO monitors the elections of the Bashkan of Gagauzia of June 30, 2019. The monitoring is carried out within the framework of the project "Promoting free and fair elections in Gagauzia – Election observation effort of Piligrim-Demo for Gagauz Bashkan elections in 2019.", implemented with the financial support of the Embassy of the Kingdom of the Netherlands in Bucharest.

Observation has been started on 1 May 2019, when the registration of candidates began, and will continue until the validation of the election results by the judiciary. The team of experts assesses the compliance of the elections with the current legislation of Gagauzia and Moldova, as well as with international standards for carrying out free and fair elections. Also, the team of experts assesses the current electoral legislation of Gagauzia ATU and its implementation, monitors pre-electoral activities, functioning of the electoral bodies and the process of dispute resolutions during elections.

During the election monitoring process, the experts meet with the representatives of the electoral authorities and officials, organisations participating in election of Bashkan, electoral candidates and representative of the civil society and media.

Monitoring of the election of Bashkan is carried out by a team of international experts and long-term observers.

Pilgrim-Demo will also observe the voting process in all polling stations and monitor the opening of polling stations, the voting process, the closing of polling stations, the counting of votes and the aggregation of results at the DEC level.

The results of monitoring process will be reflected in the Interim and Final reports. The results of the monitoring of the voting process shall be reflected in the reports elaborated based on the results of the first and second round of elections (in case if applicable).

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III. BACKGROUND AND POLITICAL CONTEXT

The Autonomous Territorial Unit of Gagauzia (UTA Gagauzia) is governed pursuant to the Law on the Special Legal Status of Gagauzia (Autonomy Law) and the Legal Code (*ulozhenie*). According to the latter, the Bashkan is the head of Gagauzia, the head of the executive and *ex officio* member of the Moldovan Government. The Bashkan represents the Autonomy in Moldova and abroad, ensures the preservation of Gagauzia's autonomous status and the functioning of the public administration. The incumbent, Irina Vlah, was elected in 2015, winning 51.01 per cent of votes in the first round. The legislative power of the Autonomy is vested with the People's Assembly of Gagauzia - *Gagauzianin Khalk Toplushu* (PA), composed of 35 deputies elected in direct suffrage for a four-year mandate. There are only three women deputies in the current PA, elected in 2016.

At the latest Moldova parliamentary elections, held on 24 February 2019, the Party of Socialists of the Republic of Moldova (PSRM) won over 80 percent of Gagauz votes in the proportional component of the electoral race and both seats in the majoritarian constituencies within the territory of the Autonomy. The electoral campaign in Gagauzia takes place against the backdrop

of negotiations to form a government coalition in Moldova and the looming possibility of early parliamentary elections due to inability to form a government.

The Bashkan election was initially scheduled for 19 May 2019. However, in March 2019 a discrepancy between provisions of the Legal Code and the Election Code in regards to the validity of elections was brought into attention of the PA (*See: Legal framework section*). In order to clarify the legal discrepancies, the PA postponed the date of the Bashkan election to 30 June 2019.¹ On 23 March 2019 the Bashkan called an Assembly of Gagauz Citizens in Congaz. The meeting was attended by the incumbent Bashkan and her deputy, as well as by the Gagauz MPs and other prominent figures of the Autonomy. The speakers were critical of the decision to postpone elections and of the PA's respect for the rule of law. Some alluded to alleged plots devised by the political leadership in Chisinau and a few resorted to hate speech.² The participants of the meeting decided to collect signatures in support of the incumbent's candidature.

Since 10 May 2019 Irina Vlah has been officially registered as a candidate and hence suspended her duties as Bashkan of Gagauzia in accordance with the Electoral Code provisions. Her first deputy, Vadim Ceban, is acting Bashkan for the electoral period. The elections on 30 June 2019 will be the seventh Bashkan Elections since the endorsement of the Law on the Special Legal Status in 1994.

IV. LEGAL FRAMEWORK

The electoral legal framework is regulated by the Electoral Code of Gagauzia from 31 July 2015, which replaced the Law on the Election of the People's Assembly, the Law on the Bashkan Election, the Law on Referendum and the Law on Election Organs/Administration of Gagauzia. This is the first Bashkan election held under the amended legislation. Certain provisions of the Contravention Code and the Criminal Code of the Republic of Moldova also apply. Furthermore, the Gagauzia CEC has the right to issue normative acts necessary to regulate campaign financing, and complaints and appeals.

The Enactment of the Electoral Code represents a major step in harmonising different legal instruments, but certain discrepancies, inconsistencies and repetitions require addressing.

¹ The decision was taken at a special PA session held on 18 March 2019.

² Ivan Burgudji stated "If our deputies do not want to return to the legal framework (...) we should go there and... of course the Armenian way to go there with automatic guns to calm them down is not acceptable... but we should simply throw them down from the second floor". The host of the meeting Ivan Stamov concurred, stating that "the deputies should have been thrown from the second floor already in 2002 and 2003". See from 39' till 43' of [the video made by the Bashkan Press Office](#).

Inconsistency between provisions of the Legal Code and the Election Code in regards to validity of elections resulted in postponing the elections. For a Bashkan election to be considered valid, the Legal Code requires over 50 per cent turnout in the first round, whereas the Election Code provisions require participation of more than a third of the voters.³ The PA proposed amendments to the Electoral Code to address the inconsistency. On 26 March 2019 the legislative draft was rejected on procedural grounds by Bashkan Irina Vlah, who issued a decree that the requirement of over 50 per cent turnout should be applied, as the Legal Code stipulates that in case of conflict between its provisions and provisions of other Gagauz legal acts, the Legal Code shall prevail.

The current date of elections complies with the Election Code provisions, which envisage that the PA calls Bashkan elections not later than three months after the expiry of the incumbent's mandate, which in the context of this election means no later than 15 July 2019, as Irina Vlah was sworn in on 15 April 2015. The election should be held not later than 60 days after its announcement.

The Bashkan is elected by direct suffrage in a single constituency for a four-year term. If none of the candidates receives the absolute majority of votes of at least 50 percent of registered voters, a second round between the two leading candidates is held within 14 days. The candidate who receives the majority of votes of at least one third of registered voters in the second round is elected Bashkan. There is no limit on the number of tenures. However, a Bashkan that has served two consecutive terms, can register again as a candidate only after a four-year break.

Citizens of Moldova over 18 years of age with permanent residence on the territory of Gagauzia have the right to vote, whereas eligible voters of at least 35 years old, with at over 10 years residence in the Autonomy and a university degree can stand as Bashkan candidates. Restrictions apply both for active and passive voting rights. Legally incapacitated persons and imprisoned persons, regardless of the gravity of the committed crime, are not allowed to vote. The restrictions to stand apply to soldiers in active service, legally incapacitated persons, imprisoned persons, and those having pending convictions for an intentional crime (also persons that committed crimes for which the statute of limitations has not expired), regardless of gravity of offence. The blanket restrictions are contrary to international standards.⁴

³ See the Art. 61.1 of the Legal Code and Art. 122 of the EC, accordingly.

⁴ Paragraph 24 of the 1990 OSCE Copenhagen Document provides in part that “any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of the law”.

V. THE ELECTION ADMINISTRATION

The elections of the Bashkan of Gagauzia are managed by a three-tier system of permanent and temporary bodies comprised of the Central Election Commission of Gagauzia, the District Election Councils (DECs) and the Precinct Election Bureaus (PEBs). The CEC is a permanent body, which is tasked, among other duties, to establish and coordinate the activities of lower election bodies and to supervise the enforcement of the provisions of the Electoral Code.

The CEC was established for the first time during the 2016 elections for the People's Assembly of Gagauzia, following the adoption of the Election Code of Gagauzia. The composition of the CEC is approved by the People's Assembly for a five years term and composed of nine members nominated by three institutions (each body nominates three members): The People's Assembly of Gagauzia, the Bashkan and the Executive Committee of Gagauzia; the judiciary bodies of Comrat, Ceadir-Lunga and Vulcanesti districts. Members of the CEC cannot be at the same time members of political parties and they should refrain from engaging in political activities. Currently, there is an ongoing trial related to the decision of the People's Assembly to withdraw its nominated members from the CEC, arguing that these members do not qualify⁵ (*For more details see the complaints and appeals section*). Opposition parties have also challenged the credibility of the CEC since, allegedly, its composition did not provide for impartiality⁶.

All sessions of the CEC where issues concerning elections are discussed and relevant decisions are made shall be open to representatives of the media and civil society. The CEC sessions should be announced at least 48 hours prior to the start of the session. Exceptions are made during the electoral period for urgent sessions when sessions should be announced within reasonable time. The CEC sessions observed by the EOM were generally short⁷ and decisions were adopted unanimously without meaningful deliberation.

The election districts are formed 55 days prior to the voting day. During the elections of the Bashkan a single election district for the autonomous region is formed. District Election Councils are temporary bodies, which should be established not later than 50 days prior to the voting day. DECs consist of 7-11 members with at least two members having a law degree. The local public governance bodies nominate the members of the DECs. In case of lack of candidates the CEC appoints DEC members from the state registry of qualified election professionals. Members of the

⁵ In response, two members nominated by the People's Assembly resigned from the Assembly.

⁶ The "Devlet" movement called to boycott elections due to the distrust in the CEC.

⁷ CEC meetings monitored by the Pilgrim-Demo observers lasted approximately ten minutes

People's Assembly of Gagauzia, the Executive Committee, local councils and of political parties are not allowed to be DEC members.

The DECs establish and supervise the activities of the Precinct Election Bureaus, oversee a timely update and check of the voter lists, instruct PEB members, and inform citizens on procedures of voting. All DECs have been formed and started to operate.

Election precincts are established by DECs not later than 45 days prior to the voting day and shall cover residential areas including not less than 30 and not more than 3000 voters. PEBs are formed not later than 25 days prior to the voting day and should be composed of 5-11 members. The local authorities provide the lists of candidates for PEB members. PEBs are responsible together with the local authorities for the compilation and update of the voter lists. PEBs summarize the results of the elections within the precinct and consider complaints and appeals concerning the conduct of elections. Special precincts can be established in hospitals, sanatoria, elderly homes and other places with at least 30 voters. Military personnel votes in ordinary PEBs outside of the military unit.

VI. VOTER REGISTRATION

All citizens of the Republic of Moldova, permanently residing within ATU Gagauzia, and who are 18 or older on the day of election, have the right to vote in the elections. Persons legally incapacitated by the court and convicts are not entitled to vote.

The voter lists shall be compiled for each precinct by the local public authorities (küü, kasaba (municipality), başkanat) and the precinct election bureaus in two copies. The lists are checked against the voters' residency and should be made public not later than 20 days before elections. Annually and within the first quarter the bodies of the local public authority (başkanat) check the accuracy of the voter lists based on the residency of voters and submit the information to the Gagauzia CEC before April 1. Complaints regarding the accuracy of the voter lists can be lodged not later than a day before the day of elections with the respective electoral body, their decisions can be appealed to the court.

Local public authorities informed the EOM that the current voter lists are being compiled on the basis of the voter lists from the recent parliamentary elections in Moldova of 24 February 2019 by excluding the deceased from it. Also CEC distributed a letter to the heads of the local authorities instructing them not to include those voters into the voter lists who have been absent or have not lived within the residence "for a long time". The EOM was reported that this period could be from two to three years. If those voters show up on election day they will be included into supplementary voter lists. The supplementary voter lists are compiled for those voters who regularly change their permanent residence.

According to the information by the CEC the total number of eligible voters is 108 027. However, this creates a discrepancy with the number announced by the CEC Moldova, which is 131 299. Candidate Ivan Burgudji has appealed to the CEC with the suggestion to facilitate voting for voters residing outside Gagauzia. The CEC decided to refer the case to the Executive Committee.

VII. REGISTRATION OF CANDIDATES

In line with the Electoral Code the registration of candidates started 60 days before elections, i.e. on May 1. Candidates can be either self-nominated or nominated by a political party, an electoral block or an initiative group of not less than 15 voters.⁸ The registration of self-nominated candidates ends 30 days before elections, whereas initiative groups may nominate their candidates up until 35 days before elections. Hence, at the time of submission of the Interim Report, the registration process of candidates had not been completed.

Candidates should collect not less than 1,500 and not more than 2,000 support signatures on the templates provided by the CEC in order to be eligible to run. The collection of signatures can start from the moment the registration of candidates commences. Candidate Mihail Vlah reported to the EOM that the CEC delayed giving signature sheets for two days, while Art. 43.2 of the Election Code provides their receipt on the day of the candidate's application. Some EOM interlocutors expressed concerns over alleged instances of collecting support signatures for the incumbent ahead of the electoral period and with the assistance of civil servants. A couple of PA deputies challenged the issue in front of the CEC. (*See Complaints and Appeals Section*).

So far three candidates: Ivan Burgudji, Serghei Cimpoies and Irina Vlah completed the registration process and have the status of registered candidate.⁹ All registered candidates are independent and nominated by initiative groups. Three prospective candidates are gathering support signatures and two more expressed the initial will to join the electoral race.¹⁰

For the first time since the enactment of the Election Code, the prospective candidates are required to pass a Gagauz language test conducted by a Linguistic Commission. The Commission is established by the Gagauzia CEC for the time of elections. The majority of members of the

⁸ A voter can be a member of only one initiative group.

⁹ Irina Vlah has completed the registration process on 10 May 2019. Ivan Burgudji and Serghei Cimpoies on 21 May 2019.

¹⁰ Vasiliu Aladov, Anatolii Sachevici and Mihail Vlah obtained templates from the Gagauzia CEC for gathering support signatures, whereas Dmitrii Manol and Elena Novak expressed their initial interest in joining the electoral race.

Linguistic Commission represent institutions directly subordinated to the Executive Committee of Gagauzia, which may raise concerns regarding its independence and impartiality.¹¹

The language tests are open to public and media and streamed online. The fluency in Gagauz language is defined as a capacity of delivering a speech and reading a text in that language.¹² All candidates registered so far passed the language test without difficulties.

On 19 May 2019 the *Devlet* movement – led by Nicolai Dudoglo, the key opponent of Irina Vlah in the 2015 Bashkan election – held a party congress in Congaz, at which it was decided that the movement would not participate in the elections and would not register its candidate unless a new CEC is established.¹³ The leadership of the movement reasoned that the current CEC lacks legitimacy as the PA dismissed their CEC nominees in 2017.¹⁴

VIII. CAMPAIGN ENVIRONMENT

¹¹ The Linguistic Commission is comprised of specialists from the Scientific Research Centre of Gagauzia, the Comrat State University and the Comrat Pedagogy College, as well as of representatives of the Education and Culture Departments of the Executive Committee.

¹² Pursuant to CEC Decision 272/60 from 20 July 2018, the speech needs to be no longer than 10 minutes and the text of the length of 250-300 words.

¹³ See an [online statement](#) (of the official position in the movement) of Devlet - Cornel Dudnic from 19 May 2019. The official statement of Devlet here:

<https://www.facebook.com/enigagauziya/posts/2597547850275040>

¹⁴ On 10 November 2017 the PA took decision no. 125-VIII/V “On the increase of the efficiency of the Gagauzia CEC activities” pursuant to which the three CEC members nominated by the PA were withdrawn. According to the procedure, the PA addressed the Appeal Court of Comrat to confirm the withdrawal/dismissal of its nominees. The Appeal Court of Comrat refused to examine the case due to conflict of interests. Thus, the case was transferred to the Appeal Court of Cahul where it is still under examination/awaits adjudication. The PA recommended the Bashkan and the Courts to also withdraw/dismiss their respective nominees to the CEC. The Bashkan refused to follow the PA’s recommendation due to suspecting it being politically motivated. The first instance court also refused to withdraw PA’s nominees. The CEC challenged the PA decision at the District Court of Comrat. The District Court of Comrat refused to examine the case, finding no violation of the CEC rights in the PA decision. The CEC challenged the refusal of the District Court of Comrat in front of the Appeal Court of Comrat and then at the Supreme Court. Both the Appeal Court of Comrat and the Supreme Court upheld the Decision of the District Court of Comrat. The final adjudication was delivered on 6 March 2019. On 13 May 2019 *Devlet* informed 13,850 signatures were collected under a petition to dismiss the “captured” Gagauzia CEC. See: the [full statement of the Devlet initiative group](#).

The Electoral Code defines campaigning as an activity undertaken during the electoral campaign, with the aim to mobilize voters to vote for or against a candidate, or against all candidates. Public calls to boycott elections are not considered campaigning.

A candidate can start its campaign upon completion of the registration process, which means the length of campaign varies for each candidate. The campaign timeline may be shortened in case of an appeal of rejection of registration, potentially distorting a level playing field. Best practice recommends the commencement of the campaign period after the completion of registration of the candidates.¹⁵ Electoral silence starts 24 hours before the election day.

The law provides candidates with equal access to public venues for holding meetings and rallies. Furthermore, all localities need to secure a place for display of campaign materials. The Electoral Code explicitly prohibits the misuse of administrative resources for campaign purposes.

Over the reporting period, the campaign was subdued and took place mainly online and on social media (Facebook and Odnoklasniki).¹⁶ So far Irina Vlah has been running the most active campaign. She attended a number of public and religious events, including a competition of the Club of Merry and Resourceful (*Клуб Веселых и Находчивых*) financed by *inter alia* the Ceadir-Lunga municipality.¹⁷ The incumbent – with the slogan *We are proud of Gagauzia* – has based her campaign on informing about the successes and achievements of the executive over the time of her mandate. Billboards with the electoral slogan were posted – according to the LTOs interlocutors – approximately a month before the electoral period, without stating their source of financing, which was challenged in front of the Gagauzia CEC.¹⁸ (*See: Complaints and Appeals Section*)

¹⁵ Paragraph 7.6 of the 1990 OSCE Copenhagen Document calls on participating States to ensure that contestants are able to compete with each other on a basis of equal treatment before the law and by the authorities. Section I.1.3v of the 2002 Venice Commission Code of Good Practice in Electoral Matters provides that validation of signatures must be completed by the start of the election campaign.

¹⁶ The candidates' live online addresses to the voters were marked by instances of derogatory speech. See for example the Facebook video of Vasilii Aladov speaking in a derogatory manner of his competitor Irina Vlah.

¹⁷ During the competition of the Club of Merry and Resourceful on 10 May 2019 each of the competing teams campaigned directly or indirectly for Ms. Vlah and joked about her electoral opponents. Video from the event is available [online](#). The Ceadir-Lunga Municipality paid 41,436 MLD (approx. 2,000 EUR) for the event.

¹⁸ LTOs have noticed billboards in the towns of Ceadir-Lunga, Comrat, and Vulcanesti. Within a week after the initiation of the election campaign, the billboards have been removed.

IX. CAMPAIGN FINANCING

Bashkan candidates are not entitled to public funding. They may only receive donations or use own funds. The law provides for a ceiling for donations. However, the CEC informed the EOM that it has not set a limit on donations this time.

Bashkan candidates are required to receive all donations and incur all expenditures through a bank account. Article 37 of the Election Code provides that the financial and other types of material means used in the campaign should be declared and published in the media and registered candidates should announce those means before using them. Information on financial transactions by the candidate shall be posted on the CEC website within 24 hours after receipt. The CEC is in charge of supervision of the campaign finance regulations. No in-kind donations have been reported by the candidates

Foreign citizens, publicly funded organizations and anonymous persons as well as charity, religious and professional organizations are not allowed to finance election campaigns.

The CEC also received complaints regarding billboards with the image of the incumbent that appeared in various parts of Gagauzia before the official start of the electoral campaign (*See: Complaints and Appeals Section*).

X. MEDIA MONITORING

In compliance with the Electoral Code of the ATU Gagauzia (Gagauz Yeri)¹⁹, the CEC of Gagauzia has adopted on 24 April 2019 the Decision on media broadcasting of the electoral campaign of the Governor (Bashkan) of Gagauzia (Gagauz Yeri)²⁰, and on 2 May the CEC has informed the media institutions about the need to submit publishing declaration regarding the electoral campaign coverage. During the period of 3-17 May, CEC has approved the declarations on media coverage of the electoral campaign for 11 regional broadcasting institutions²¹.

To date, certain provisions of the Electoral Code of Gagauzia, which stipulate the procedure of media coverage of elections and some articles of the Decision on media broadcasting of the election campaign, create limitations and are in conflict with the current legislation of the Republic of Moldova and with the international practice. Thus, in the art. 64 (5) of the Electoral Code of

¹⁹ <http://halktoplushu.md/index.php/zakony-ato-gagauziya/1174-izbiratelnyj-kodeks>

²⁰ <https://drive.google.com/file/d/1uxlCIVcXky-HbTW34whfXjp59RvGXgLM/view>

²¹ Radio station "PRO100RADIO", Ltd. company "RTV-Media-Centr", "Телерадио Гагаузия", radio station "АЛБЕНА", Noua Televiziune de Sud, TV channel "BIZIM DALGAMIZ", radio station "BIZIM DALGAMIZ", TV channel "ENI AI", newspapers "Вести Гагаузии" and "Знамя", website "Gagauzinfo.md", and also the periodical "Business Class", which is published in Chisinau.

Gagauzia and article 18 of the CEC Decision on media broadcasting, it is stipulated that “All media published and broadcast in Gagauzia are obliged to provide both free and paid airtime (TV and radio broadcasting organisations) and print space (periodicals) to independent candidates, candidates, parties and socio-political associations, electoral blocs registered for participation in elections in the CEC of Gagauzia”. As such, this provision obliges all media outlets, public or private, broadcasters and print media, to provide free airtime and print space. In comparison, the Electoral Code of the Republic of Moldova, Article 70 (4), provides for the obligation to provide free airtime only to broadcasters with national coverage, while print and online media do not have such an obligation.

The procedure for the adoption of media declarations by the CEC of Gagauzia during the election campaign raises many questions. Despite the fact that the CEC Decision on media broadcasting of the election campaign stipulates, pursuant to Article 7, the obligation to submit the Declaration only for the "broadcasters who decided to cover the election campaign", as of May 24, 2019, the CEC of Gagauzia submitted and approved not only the declarations of regional radio broadcasters, but also the declarations of two newspapers and one Internet portal from the region, and even one magazine published in Chisinau. This fact also contradicts not only the practice at the national level, but also the practice of other democratic countries. Perhaps this situation is due to the fact that Article 4 of the CEC Decision on media broadcasting of election campaign stipulates that: "This Regulation does not apply to: a) periodicals and websites established by political parties or public and political organizations; b) broadcasters outside the jurisdiction of the Republic of Moldova; c) media activities before and after the election campaign. Thus, periodicals and websites that were not established by political parties or socio-political organizations were considered to be obliged to submit declarations on their editorial policy for the period of the election campaign.

The CEC of Gagauzia approved not only the obligation for the broadcasters to provide election candidates with two minutes of paid electoral advertising per day²² (according to Article 65 (6) of the Code and Article 31 of the Decision), but also the right to produce other commercial thematic programmes on electoral themes. After the OK "Gagauziya Radio Televizionu" publication declaration was approved, based on Article 9 which states that the public broadcaster has the right to conduct electoral programmes on a commercial basis ("Interview of the week" and "Persona" - on TV; "Direct line" - on radio), and on May 20, in the evening air of GRT TV channel, a program

"Person" was aired with the incumbent, Irina Vlah²³, lasting just over 47 minutes (by the way, the commercial nature of the programme was announced by the host only at the beginning and end of the programme, without any graphic or other distinctive symbols used during the programme). Other TV and radio stations also requested from CEC to supplement their declarations with a clause on the production of electoral programs on a commercial basis, and on 23 May 2019, the CEC approved²⁴ these additions. Granting the right to candidates to participate in debates (which is provided, on equal terms, to all candidates) and daily paid electoral advertising (which is also provided on equal terms, but is limited in time for some candidates not to abuse this right), as well as the right to participate in programmes on a commercial basis (which are, in fact, the same electoral advertising), violates the principles of free and fair elections and constitutes a very big risk for the equal access to the media for all candidates. Specifically, some candidates (those who can afford to buy more airtime on different TV and radio stations) will be able to be more active in campaigning in their favour and/or against other candidates.

XI. COMPLAINTS AND APPEALS

The Electoral Code establishes the mechanism for complaints and appeals, but the provisions would gain from an overhaul that would allow to eliminate ambiguities and repetitions.²⁵ The Gagauzia CEC establishes a detailed procedure for filing complaints to the election bodies.

The right to file complaints against the decisions, actions, and inactions of election administration bodies as well as on actions and inactions of electoral contestants is extended to candidates and voters.²⁶ The burden of proof lies with the complainant. The complaints shall be considered by a superior election administration body and can be appealed subsequently at a relevant court.²⁷ Complaints filed with the courts are adjudicated pursuant to the Electoral Code, the Code of Civil Procedure and the Law on Administrative Courts.

²³ https://grt.md/persona_%D0%B8%D1%80%D0%B8%D0%BD%D0%B0-%D0%B2%D0%BB%D0%B0%D1%85/

²⁴ <https://drive.google.com/file/d/1COU6BjJvR71iItPPO9QNfKOPQMRtit1x/view>

²⁵ For example, Art 26.1.n stipulates that the CEC considers and adjudicates on complaints about DEC and PECs, whereas Art 66 stipulates that the complaints should be submitted to a superior election administration body and can be subsequently appealed at the respective court. The provisions on special functions of the CEC during the election campaign (EC Art. 26.2) and provisions on legal responsibilities (EC Art. 70.4) are repetitive.

²⁶ The Election Code provisions are ambiguous, since the Art. 66 extends the right to complaint "to voters and contestants", whereas Art. 67.4 stipulates the right to file a complaint only "for candidates and their representatives".

²⁷ The CEC decisions can be challenged in front of the Comrat Appeal Court and consequently appealed in front of the Supreme Court of Moldova. (EC Art. 26.1.s).

Complaints regarding voter lists, omissions or erroneous information, can be filed by every voter up until the day before elections. They should be examined by a relevant election administration body within 24 hours and in case the request for inclusion into the voter list or correction of data has been rejected, the decision can be appealed at the relevant court.

Complaints on campaign financing should be submitted to the Gagauzia CEC but in case the subject matter of the complaint concerns intentional use on non-declared financial resources by the candidate during elections, exceeding the ceiling of electoral fund, intentional use of financial and material resources from abroad – the CEC should refer it to court for adjudication. The same procedure applies in case of a candidate’s failure to suspend the professional activity which would lead to a conflict of interests with the candidacy.²⁸

In cases of infringements of the Electoral Code provisions by voters and candidates, sanctions and punishments provided in the Contravention Law and Criminal Code apply respectively.²⁹ In cases of certain violations, candidates can receive a warning or be deregistered. Whereas a warning can be issued by the Gagauzia CEC, a decision on deregistration needs to be adjudicated by the Comrat Appeal Court upon the CEC request.³⁰

During the reporting period three complaints have been filed with the CEC. On 26 March 2019 Leonid Dobrov filed a complaint against Irina Vlah for launching campaign activities prior to completion of the candidate registration process. The CEC considered the complaint inadmissible. On 29 March 2019 Mr. Dobrov filed two inquiries with the CEC: whether Ms. Vlah has the right to appeal for votes before the beginning of the electoral campaign and what are the sources of financing of her billboard campaign. The inquiries were dismissed on procedural grounds.

On 4 April 2019 the PA deputies Dmitrii Manolov and Serghei Chernev filed a complaint with the CEC in which they alleged that signatures in support of Irina Vlah are gathered with assistance of all public institutions of Gagauzia. Furthermore, the claimants posted billboards with the photo of Irina Vlah, the prospective candidate, and without information on the sources of funding this actions should be considered as campaigning and hence violate the Electoral Code. The CEC issued the decision on 16 April 2019, i.e. beyond the electoral complaints timeline which provides five calendar days for adjudication, and considered the complaint inadmissible.

²⁸ The following posts require suspension of duties for the electoral period due to the conflict of interest: Bashkan and first deputy of the Gagauzia Executive Committee, chairpersons of departments and their deputies, members of the Executive Committee, chairpersons of regions and their deputies, chairpersons of villages, towns, and municipalities and their deputies. (EC Art. 13.3)

²⁹ Code of Administrative Offences Art. 47-53 and Criminal Code Art. 181-182.

³⁰ The warning or deregistration applies for intentional use on non-declared financial resources by the candidate during elections, exceeding the ceiling of the electoral fund, intentional use of financial and material resources from abroad and non-resignation from a post which results in conflict of interest with the candidacy.