



## New Electoral Law in Moldova Criticised as a Tool to Keep Power

Jakub Pieńkowski

*On 19 June, the Venice Commission and the Office of Democratic Institutions and Human Rights of the OSCE issued a negative review of a draft electoral law in Moldova. The government says the draft bill is the result of parliamentary consensus. In fact, it has been designed to keep the Democratic Party of Moldova (PDM) and its unpopular leader, Vlad Plahotniuc, in power after next year's parliamentary elections. Therefore, it cannot be ruled out that, if the draft becomes law, the EU will tighten the terms of financial assistance offered to Moldova.*

Since resigning his parliamentary seat in 2015, oligarch Plahotniuc has not held any public office. However, he is the de facto ruler of Moldova, using the group of politicians and businessmen gathered around him to remain in power. The most important element of this group is PDM, which has had a hand in creating successive pro-European governments since 2009. Through PDM, Plahotniuc has subjected the most important national institutions, including the office of the public prosecutor, the anti-corruption services, and judiciary, to his control. Finally, in 2015, this allowed him to take power in the country.

Plahotniuc, in striving for EU and U.S. approval of his rules, projects an image of himself as the only guarantor of a pro-Western course for Moldova. To achieve this, he simulates a hard dispute with the openly pro-Russian Party of Socialists and its de facto leader Igor Dodon, President of the Republic. In fact, Plahotniuc and Dodon work together on many levels, because they have similar aims—to stop reforms and to maintain political and business influence.

**Reasons for the New Elections System.** The upcoming elections could prove uncomfortable for Plahotniuc and his clique. Not only is he likely to lose power, but criminal actions for bribery and abuse of power are likely to follow. According to the current polls, PDM has just 4% of public support and does not exceed the electoral threshold of 6%. Plahotniuc himself is one of the least popular politicians. In surveys carried out by the Public Opinion Barometer in April 2017, more than 90% of citizens said they did not trust him. Public support has not increased despite attempts to improve living standards (for example, by reducing the price of gas) and PR-related actions such as favourable coverage by the media, 75% of which remains under Plahotniuc's control). This is why he is trying to change the electoral system before November 2018, when parliamentary elections will take place. Under the current proportional electoral system, the whole of Moldova is a single multiple-member district. The new law would replace this with a mixed system in which 50 seats would be elected proportionally from the parties' lists and another 51 from single-member districts.

The new electoral system would make it easy for PDM parliamentary candidates to be elected, while making it possible for PDM to form the next governing coalition. In single-member districts, the opposition vote would suffer, while PDM candidates, hiding their real party affiliation and running as independents, would have a better chance of being elected because of their access to administration and public funds.

These candidates would also be supported by media controlled by Plahotniuc. The effectiveness of these methods was proved in 2012, during the elections to the People's Assembly of the Gagauzian Autonomy. None of the official PDM candidates were elected in the single-member districts. However, the party reached a majority in the Assembly, because 19 out of 25 elected MPs joined the PDM shortly after the election, although all ran as independent candidates. In addition, MPs who are really independent could easily be persuaded by PDM to cooperate. This is confirmed by a vote of confidence in the Pavel Filip government in early 2016. In the 101-member parliament, the then-government coalition of PDM and the Liberal Party had 33 deputies. However, the motion was supported by 57 MPs, including those who, inspired by Plahotniuc, split from other parties. Many of them joined PDM in the following months.

The setting of single-mandate districts effectively would give Plahotniuc the means to block a number of deputies elected by Moldovan emigrants, who have the right to vote and are mostly hostile to him. In 2016, in the second round of the presidential elections, 1.6 million votes were cast. Among them were the votes of 136,000 Moldovan emigrants, 94% of whom supported opposition candidate Maia Sandu. In addition, the arbitrary demarcation of boundaries of the districts where Moldovan citizens from separatist Transnistria could vote would facilitate manipulation in favour of candidates supported by Plahotniuc. More than 10 000 people from Transnistria voted during the last Moldovan election, twice as many as in the previous election. The reason for such a turn-out was that votes for Dodon were bought (which was confirmed by ODIHR), who himself had Plahotniuc's support. With the help of the separatist authorities, voters were brought by buses to polling stations in areas under control of the Moldovan government. According to Moldovan NGOs, such "electoral mobilisation" in Transnistria could account for as many as 120,000 people during the 2018 election.

**Notional Parliamentary Consensus.** While attempting to force through the election bill, PDM tried to achieve at least a neutral evaluation by the Venice Commission and the ODIHR. This was important because of the declared intention to integrate Moldova with the EU, and for the Filip government's efforts to obtain EU macroeconomic assistance (MFA) worth €60 million in loans and €40 million in grants. In mid-May, the state of democracy and the rule of law in Moldova were criticised in the European Parliament, which subsequently postponed the decision to allocate these funds.

The Venice Commission and the ODIHR defined the basic conditions for changing an electoral system in line under the principles of democratic rule of law. They indicated the requirement that changes should be implemented at least one year before an election, should be preceded by a serious public debate, and should be backed by broad political consensus. Therefore, PDM organised a campaign promoting the electoral system of single-mandate districts. In fact, society was misled by this campaign as the alleged benefits resulting from this solution were presented in a selective manner. Moreover, only minor consultation with NGOs took place.

PDM have 41 MPs and the permanent support of 10 non-affiliated MPs. So, it could change organic laws, such as that governing the electoral system, because it requires a majority of 51 MPs. However, to show that the Venice Commission and ODIHR recommendations were being taken seriously, it was important for Plahotniuc to gain cross-party consensus. PDM initially proposed a majority electoral system, but the other parties were against it. Simulating consensus, PDM, in collusion with PSRM, merged its own draft with a draft for a mixed electoral system, which had been proposed by Dodon and had been a surprise to the opposition. The so-called joint draft was sent by 74 MPs for further parliamentary work.

However, the Venice Commission and the ODIHR noted the lack of any real cross-party consensus and—as a result of the draft law—the deeper polarisation of society. In the assessments of both institutions, the new law would limit the political representation of a large part of the electorate and put pressure on candidates. Despite this evaluation, Andrian Candu, speaker of parliament from PDM, announced that the new electoral system law will be passed. Only the recommendations on legislative techniques will be introduced, and even then, only to a certain extent. He acknowledged that the issues of social polarisation and lack of consensus were judged subjectively, as these are elements of Moldovan political life, so the requirement for universal consensus would make effective governance impossible.

**Conclusions.** Moldova, a direct EU neighbour which has an Association Agreement with the Union and is a member of its Eastern Partnership, is ruled by the oligarch Plahotniuc, who simulates pro-European reforms. Despite his extreme public unpopularity, he attempts to protect his own position and those of members of the political and business establishment surrounding him by preserving power after the next election. He does this by trying to change the electoral system law.

The proposed change received negative reviews from the Council of Europe institutions and the OSCE. It cannot be ruled out that this change could indirectly undermine the idea of European integration in the eyes of a large part of the population of Moldova (45% of the population is in favour of joining the EU), and thus strengthen Russian influence in that country. Moreover, the adoption of the new law despite the negative opinions may lead to stricter conditions for granting EU financial assistance under the MFA, or even to the suspension of funding.