

EXAMINATION OF ELECTORAL COMPLAINTS IN THE REPUBLIC OF MOLDOVA

I. SOROCEANU

Igor Soroceanu

Academy „Stefan cel Mare” of the Ministry of Interior, Republic of Moldova
<https://orcid.org/0000-0002-8719-0454>, Email: soroceanuuuigor@gmail.com

Abstract: *The examination of electoral complaints is a vital aspect of the democratic process and represents a crucial way to ensure the fairness and integrity of elections. In the current political context, where elections are fundamental to the functioning of democratic institutions, the process of examining electoral complaints takes on particular importance. The examination of electoral complaints is essential for maintaining the integrity and trust in the electoral process. This process allows for the identification and correction of potential irregularities and abuses, ensuring that the results reflect the authentic will of the voters. It also provides a legal avenue for resolving disputes, preventing the escalation of political and social tensions. Without an effective mechanism for examining complaints, democracy risks being undermined by electoral fraud and other illicit practices.*

Keywords: *democratic process, electoral observers, civil society organizations, electoral complaint, electoral competitor, etc.*

Introduction

The electoral process is a cornerstone of any democratic society, being essential for the functioning and legitimacy of the political system. In a democratic society, the transparency and fairness of the electoral process are essential for maintaining public confidence in the political system. The examination of electoral complaints is one way to address concerns about potential violations of electoral rules or fraud. In this regard, electoral authorities play a crucial role in ensuring that the examination process is carried out impartially and in accordance with electoral legislation.

In the Republic of Moldova, the procedure for examining electoral complaints is regulated by the Electoral Code (1997) and the decisions of the Central Electoral Commission. It involves a series of procedural steps, from filing the complaint to evaluating the evidence and making a decision. The institutions involved in this process include the Central Electoral Commission, the courts and other relevant authorities, each with specific roles and responsibilities. The process of examining electoral complaints has profound implications for the legitimacy of election results and citizens' trust in the democratic process. By allowing citizens and political parties to challenge the results or report irregularities in the electoral process, the examination of complaints provides a way to remedy potential problems and contributes to strengthening the credibility of elections. It also serves as a mechanism for holding electoral authorities and those involved in the conduct of elections accountable, ensuring that they act in accordance with democratic principles and respect the will of the people expressed through voting.

The degree of investigation of the problem at the current time, the purpose of the research

At the current time, the importance and purpose of developing this scientific endeavor, arises from the author's intention to highlight some landmarks of the process of examining electoral complaints. At the same time, there is also the urgent need to carry out a comprehensive analysis regarding the essence of the research subject.

Materials used and methods applied

In the process of developing the scientific article, we were guided by several and various scientific research methods that made it possible to properly investigate the titular subject, among which we can list: the analysis method, the synthesis method, the deduction method, the systemic method, the historical method, as well as the comparative method.

The theoretical and legal basis of the scientific approach includes defining material such as national legislation, as well as various sources from national and international specialized literature, the local legal framework and open sources from the online environment - which directly or indirectly address the essence and content of the subject under research.

Results obtained based on conducted scientific analyses

The examination of electoral complaints is a process strictly regulated by electoral legislation and regulations established by the competent authorities. In this section, we will explore in detail the legal basis for the examination of electoral complaints and the procedures and rules relevant to this process.

The legal basis for the examination of electoral complaints is established by the electoral legislation of each state or jurisdiction. These include laws, regulations and rules governing the filing, processing and resolution of electoral complaints. Electoral legislation is designed to ensure that elections are conducted in a fair, transparent and democratic manner, and the examination of complaints is an essential element of this process.

The legal bases for examining electoral complaints may include: provisions regarding the conditions and procedures for submitting electoral complaints; the terms and conditions under which complaints must be submitted and resolved; the modalities for communicating complaints and notifying the parties involved in the process; the rights and responsibilities of electoral authorities in the process of examining complaints; mechanisms for appealing and resolving complaints that are not resolved at first instance, etc.

It is important that the legal bases are clear, precise and equitable, to ensure that the appeals review process is carried out fairly and impartially. The relevant procedures and rules for the process of examining electoral complaints are established by the competent electoral authorities and are designed to guide the conduct of this process in an efficient and consistent manner. These may include: the requirements and procedures for filing electoral complaints, including the complaint form and the necessary supporting documents; the deadlines for filing complaints and how they are calculated; the modalities for communicating and notifying complaints and decisions taken following their examination; the procedures for analyzing and evaluating complaints, including hearing the parties involved and gathering relevant evidence; the modalities for making decisions and communicating the results of the

examination of complaints; the appeal rights and procedures available to parties dissatisfied with the decisions taken following the examination of complaints, etc.

The relevant procedures and rules for examining electoral complaints must be transparent, accessible and in line with democratic principles, in order to ensure public confidence in the electoral process and its results.

Filing electoral complaints is the first stage of the review process and involves the formal presentation of a complaint or appeal regarding the electoral process. This process can be initiated by political parties, candidates, electoral observers, or individual citizens who believe that there have been violations of electoral law or irregularities in the electoral process.

Filing electoral complaints may involve the following aspects:

- **formulating the appeal**, the person or entity filing the appeal must clearly and precisely formulate the reasons and arguments in support of the appeal, as well as present relevant evidence or proof to support the allegations;
- **documenting the appeal**, the appellant must complete the forms and provide the necessary supporting documents, such as voting minutes, video recordings or other evidence supporting the appeal;
- **timely filing**, electoral appeals must be filed within the deadline established by legislation, which may vary depending on the jurisdiction and the type of appeal;
- **transmission to the competent authorities**, the submitted complaints must be transmitted to the competent electoral authorities to be evaluated and resolved in accordance with legal procedures (Munteanu, 2022, p.78-93).

Once electoral complaints have been filed, the electoral authorities are responsible for analyzing and evaluating them in accordance with electoral legislation and established procedures. This stage involves:

- ✓ *verification of the legality of the appeals*, the electoral authorities examine the appeals to ensure that they comply with the legal and procedural requirements to be taken into account;
- ✓ *analysis of evidence and arguments*, electoral authorities analyze the evidence and arguments presented by challengers to assess the validity of the challenges and determine whether there are sufficient grounds to justify an investigation or further action;
- ✓ *hearing the parties involved*, in some cases, the electoral authorities may decide to hear the parties involved, including the challengers, representatives of the electoral authorities and other interested parties, in order to obtain further clarifications or to examine the contested issues more closely;
- ✓ *issuing a preliminary decision*, based on the analysis and evaluation of the complaints, the electoral authorities may issue a preliminary decision on the validity or invalidity of the complaints and may decide whether it is necessary to continue the investigation or take additional measures.

The final stage of the electoral appeals review process involves making decisions and communicating the results to the parties involved. This may include:

- issuing a final decision, based on the analysis and evaluation of the complaints, the electoral authorities issue a final decision on their validity or invalidity and, depending on the circumstances, may take corrective or punitive measures;

➤ communication of decisions, electoral authorities communicate their decisions to the parties involved, as well as to the general public, to ensure the transparency and integrity of the electoral process;

➤ implementing decisions, if violations of electoral legislation or irregularities are found in the electoral process, electoral authorities may take corrective measures, such as annulling contested results, recounting votes or imposing sanctions against those involved in the violations found (Decision No. 49/2023 of the Central Electoral Commission of the Republic of Moldova on the regulation on the examination of electoral complaints).

These stages of the electoral appeals review process are essential for ensuring the fairness and integrity of elections and for protecting democratic principles and the electoral rights of citizens.

Electoral authorities have a central role in the process of examining electoral complaints and are responsible for managing and resolving them in accordance with electoral legislation and established regulations. The main roles of electoral authorities include:

❖ **receiving and registering complaints**, electoral authorities are responsible for receiving and registering electoral complaints submitted by interested parties, ensuring that they are registered in accordance with established procedures;

❖ **analysis and evaluation of appeals**, electoral authorities carry out the analysis and evaluation of appeals, investigating the grounds and evidence presented by the appellants and making decisions on their validity;

❖ **decision-making**, based on the analysis of the complaints and the available evidence, the electoral authorities make decisions on their validity or invalidity and, if necessary, impose corrective or punitive measures;

❖ **communication of decisions**, electoral authorities communicate the decisions taken following the examination of complaints to the parties involved and the general public, ensuring that the process is transparent and that the results are accessible to all (Institute for European Policies and Reforms (IPRE), „Monitoring the elections in the Republic of Moldova”, Chisinau, 2023).

Political parties and candidates have a legitimate interest in the process of examining electoral complaints and can play an active role in this regard. Their involvement may include:

✚ *filing of appeals*, political parties and candidates can file electoral appeals to report violations of electoral legislation or irregularities in the electoral process;

✚ *providing evidence and arguments*, political parties and candidates may provide electoral authorities with evidence and arguments in support of their challenges, as well as request further hearings or investigations to support their case;

✚ *process monitoring*, political parties and candidates can monitor and follow the electoral appeals examination process to ensure that it is conducted fairly and transparently and that decisions made comply with relevant legislation and regulations.

Election observers and civil society organizations have an important role in monitoring and ensuring the fairness and transparency of the electoral process, including the examination of electoral complaints. Their participation may include:

- monitoring procedures, electoral observers and representatives of civil society organizations can monitor the procedures for submitting and examining electoral complaints to ensure that they are carried out in accordance with relevant legislation and regulations;
- reporting irregularities, electoral observers may report irregularities or violations observed during the process of examining electoral complaints to the competent authorities or the general public in order to draw attention to them and request their remediation;
- monitoring the implementation of decisions, electoral observers and civil society organizations can monitor the implementation of decisions taken following the examination of electoral complaints to ensure that they are properly applied and that citizens' electoral rights are respected (Law No. 1381-XIII of 21.11.1997 on electoral districts and referendum).

By involving and monitoring these stakeholders, the electoral complaints review process can benefit from greater transparency, impartiality, and integrity, thus contributing to strengthening democracy and public trust in the electoral process.

Examples of electoral complaints and how they were examined

This section will present case studies that illustrate various types of electoral complaints and how they were examined and resolved by electoral authorities. These examples may include:

1. **electoral fraud complaints**, situations in which political parties or candidates have filed complaints alleging electoral fraud, such as multiple voting, vote falsification or other illegal practices. The electoral authorities have examined these complaints by analyzing the relevant evidence and documents and have taken measures to investigate and sanction any violation of electoral legislation;
2. **complaints regarding violations of electoral norms**, situations in which violations of electoral norms were reported, such as improper distribution of campaign materials, voter intimidation or other practices affecting the fairness and accuracy of elections. The electoral authorities examined these complaints to verify whether there were sufficient grounds to justify the intervention and took corrective or punitive measures to remedy the situation;
3. **electoral rights complaints**, situations in which citizens or civic groups have filed complaints regarding violations of their electoral rights, such as restrictions on access to voting or other obstacles preventing the free exercise of voting. Electoral authorities have examined these complaints to ensure respect for citizens' electoral rights and have taken measures to remedy any deficiencies in the electoral process (Moldova State University, Comparative study of electoral legislation and practices of examining electoral complaints in the Republic of Moldova and other European countries, Chisinau, 2021).

Causes of electoral challenges

Electoral challenges can be generated by a variety of factors, and understanding these causes is essential for improving the integrity and transparency of elections. The main causes of electoral challenges include:

- a) *divergent interpretations of electoral rules*, in some cases, contestations may arise as a result of different interpretations of electoral rules and laws. Ambiguity or lack of clarity in electoral legislation may lead to disputes and contestations regarding how these rules should be applied;

b) *alleged electoral fraud*, one of the most frequent causes of challenges in the electoral process is alleged electoral fraud, such as multiple voting, voter intimidation, falsification or manipulation of results or other illegal practices intended to influence the outcome of the election;

c) *technical and logistical problems*, technical or logistical problems in the conduct of the electoral process, such as malfunctions of voting equipment, communication problems or delays in the distribution of electoral materials, may create premises for challenges regarding the fairness and regularity of the election;

d) *violation of legal procedures*, challenges may also be triggered by violations of legal procedures by electoral authorities or personnel involved in the organization and conduct of the election. These violations may include irregularities in the voter registration process, incorrect administration of polling stations or inaccurate counting of votes;

e) *limited access to voting*, in some cases, challenges may arise as a result of restrictions or impediments to citizens' access to the voting process. Problems related to voter registration, identification restrictions or other obstacles that prevent the free exercise of the right to vote may generate challenges to the legitimacy of the election.

The consequences of contestations on the electoral process and on democracy. Contestations in the electoral process can have significant consequences on the democratic process and can affect citizens' trust in democratic institutions. Some of these consequences we will list in the following order:

- political polarization and tensions, contestations in the electoral process can amplify political polarization and accentuate social divisions. When political parties and their supporters contest election results or accuse electoral fraud, this can intensify political tensions and create premises for conflicts and instability in society;

- undermining trust in the electoral process, when there are serious challenges or disputes regarding the fairness and legality of elections, citizens' trust in the electoral process can be affected. This can lead to skepticism and suspicion regarding the election results and the legitimacy of elected political institutions;

- delays in government formation, in some cases, challenges to the electoral process can lead to delays in government formation or in establishing a political consensus. When election results are contested or when there are protracted legal disputes, this can delay the process of forming a functioning government and affect its ability to act effectively;

- discouragement of political participation, repeated and contested challenges in the electoral process can discourage political participation and diminish citizens' enthusiasm for civic engagement. When citizens perceive that their votes do not count or that the electoral process is corrupt or unfair, they may be less motivated to participate in future elections or other political activities;

- impact on international prestige, electoral disputes can also have an impact on a country's international prestige. When elections are marred by political disputes and contestations, this can affect the country's image and reputation in the eyes of the international community and weaken its credibility in promoting democratic values.

Conclusions and recommendations

Contestations in the electoral process are an inevitable component of modern democracies, reflecting the concern for the fairness and transparency of elections.

Following the research conducted, we submit the following recommendations to improve the process of examining electoral complaints:

- **establishing clear and realistic deadlines**, recommending the establishment of clear and realistic deadlines for the submission and resolution of electoral complaints, to ensure an efficient and prompt conduct of the process;
- **improving access to information**, recommending providing better and more comprehensive access to information about the appeals review process, including through the publication of decisions and their reasons;
- **strengthening institutional capacity**, recommending strengthening the capacity of electoral authorities and other institutions involved in the appeals review process, by providing adequate training and resources;
- **improving investigative procedures**, recommending improving investigative and evidence-gathering procedures within the appeals review process, to ensure a complete and objective analysis of the allegations;
- **promoting civic participation and monitoring**, recommending promoting the active participation and monitoring of civil society and electoral observers in the appeals review process, in order to strengthen its transparency and integrity.

REFERENCES

1. Law No. 1381-XIII of 21.11.1997 on electoral districts and referendum;
2. Electoral Code of the Republic of Moldova, approved by Law No. 1380-XIII of 21.11.1997;
3. Decision No. 49/2023 of the Central Electoral Commission of the Republic of Moldova on the regulation on the examination of electoral complaints;
4. Institute for European Policies and Reforms (IPRE), „Monitoring the elections in the Republic of Moldova”, Chisinau, 2023;
5. Munteanu Ana, The process of examining electoral complaints in the Republic of Moldova: challenges and perspectives. In: Journal of Political Science and Constitutional Law, vol. 5, no. 1, 2022, pp. 78-93;
6. Moldova State University, Comparative study of electoral legislation and practices of examining electoral complaints in the Republic of Moldova and other European countries, Chisinau, 2021.