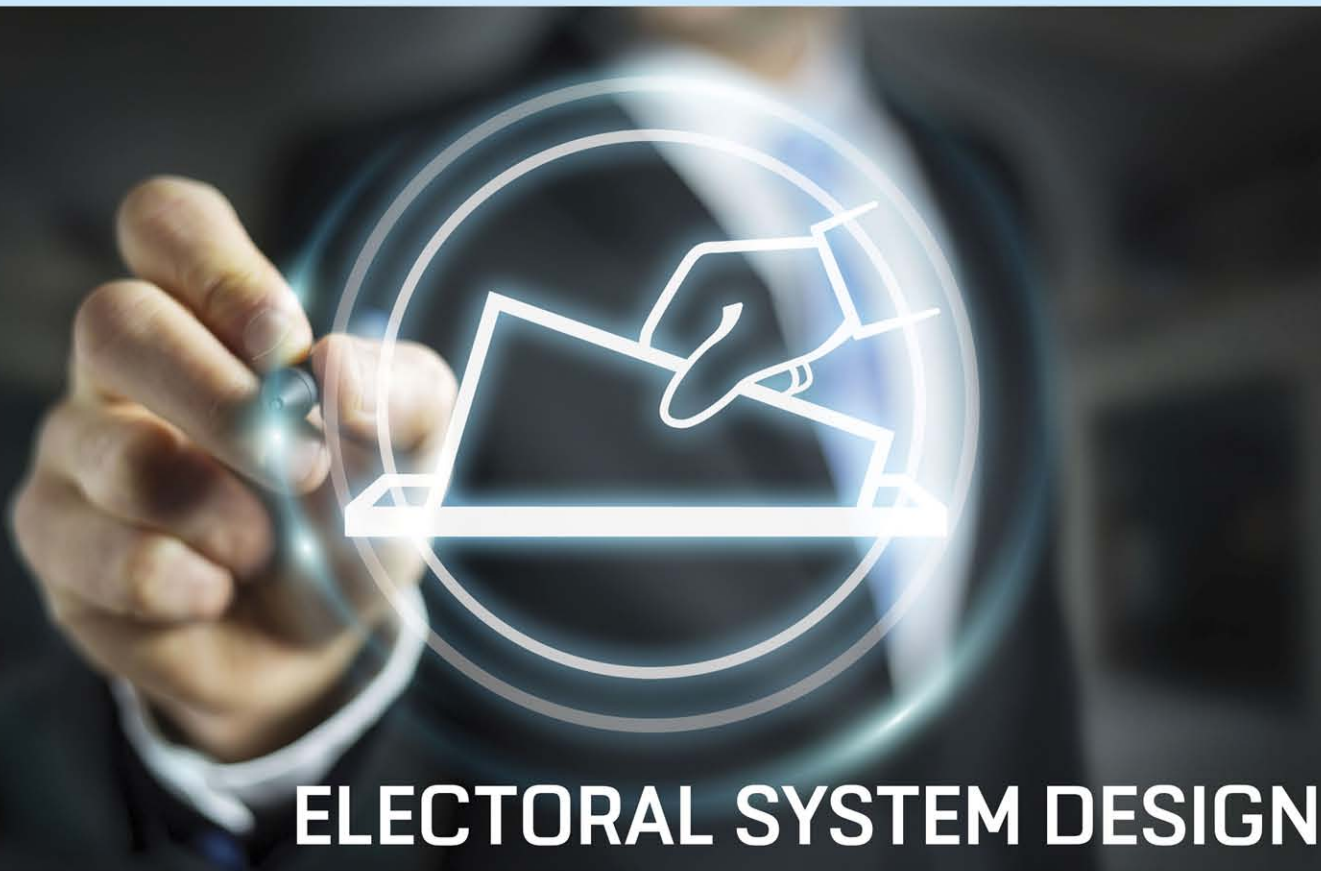




USAID
FROM THE AMERICAN PEOPLE

Promo - LEX

Advancing democracy and human rights



ELECTORAL SYSTEM DESIGN IN MOLDOVA

Authors:

Mette Bakken
Adrian Sorescu



ELECTORAL SYSTEM DESIGN IN MOLDOVA

by Mette Bakken and Adrian Sorescu

Translation in Romanian language: Mihai Vieru
Translation in Russian language: "Intart Design" SRL
Layout and printing: "FOXTROT" SRL

Promo-LEX Association

127 Stefan cel Mare blvd., Chisinau, Moldova
tel./fax: (+373 22) 45 00 24, 44 96 26
info@promolex.md
www.promolex.md

FOR FREE DISTRIBUTION

All rights are protected. The content of the Study may be used and reproduced for non-profit purposes and without the prior agreement of Promo-LEX Association provided the source of information is indicated.

The Study is realized within the framework of the "Democracy, Transparency and Responsibility" Program, financed by the United States Agency for International Development (USAID).

The opinions expressed in the Study "Electoral system design in the Republic of Moldova" belong to the authors and do not necessarily reflect the donors' views.

TABLE OF CONTENTS

| | |
|---|----|
| EXECUTIVE SUMMARY..... | 5 |
| INTRODUCTION..... | 8 |
| I. Electoral systems – considerations for Moldova’s policy makers and electoral stakeholders... | 10 |
| I.1 Electoral system typologies | 12 |
| I.2 Plurality/majority systems..... | 13 |
| I.2.1 First Past the Post (FPTP) – or Majority System in One Round | 13 |
| I.2.2 Two Round System | 16 |
| I.2.3 Alternative Vote | 18 |
| I.2.4 Other majority/plurality systems | 20 |
| I.3 Proportional systems | 21 |
| I.3.1 Proportional Representation..... | 21 |
| I.3.2 PR – Closed List vs. Open List systems | 23 |
| I.3.3 Single Transferable Vote | 27 |
| I.4 Mixed systems..... | 29 |
| I.4.1 Parallel systems | 30 |
| I.4.2 Mixed Member Proportional | 32 |
| I.5 Electoral system impact on politics and democracy | 33 |
| I.5.1 Electoral systems and party system development..... | 33 |
| I.5.2 Electoral system and gender equality | 34 |
| I.5.3 Electoral systems and political corruption | 36 |
| I.5.4 Electoral systems and conflict..... | 37 |
| I.5.5 Electoral system and voting from abroad..... | 38 |
| II. Experiences and lessons learned from Europe | 40 |
| II.1 Majority systems | 40 |
| II.2 Proportional representation systems..... | 43 |
| II.3 Mixed systems | 46 |
| III. The electoral system of Moldova..... | 49 |
| III.1 Electoral system design in Moldova since 1990s | 49 |
| III.2 Effects of List-PR on party system development and government stability | 51 |
| III.3 Other advantages and disadvantages linked to List-PR in Moldova | 52 |
| III.4 Satisfactions and dissatisfactions among electoral stakeholders | 53 |
| IV. Electoral system choice for Moldova | 55 |
| IV.1 Pros and cons of the current electoral system..... | 55 |
| IV.2 Pros and cons of proposals registered in Parliament..... | 56 |

| | |
|--|----|
| IV.2.1 The FPTP proposal..... | 56 |
| IV.2.2 Mixed-Parallel system proposal | 61 |
| IV.3 Possible effects of other electoral systems | 63 |
| IV.3.1 Proportional Representation in regional constituencies..... | 63 |
| IV.3.2 Mixed Member Proportional System | 65 |
| IV.4 Experiences of other countries' electoral system reform Moldova could take into consideration..... | 66 |
| IV.4.1 Romania: from closed party lists to spreading up the list's candidates to single member constituencies – and back again | 66 |
| IV.4.2 Ukraine – towards PR-OL? | 68 |
| IV.5 Obligations and advise for electoral system reform | 69 |
| IV.5.1 International and regional standards/obligations..... | 69 |
| IV.5.2 Venice Commission and the Code of Good Practice..... | 70 |
| IV.5.3 Ten criteria for electoral systems design | 73 |
| IV.5.4 Perspectives on the process | 76 |
| V. Conclusions & Recommendations | 78 |
| V.1 Recommendations | 78 |
| V.2 Final remarks..... | 81 |
| Annex A: List of interviewees/focus group participants by organization/institution | 82 |
| Annex B: Simulation analysis – detailed overview | 84 |
| Annex C: Best Electoral Systems Test..... | 86 |
| Annex D: Experts | 89 |
| Annex E: Abbreviations | 90 |

EXECUTIVE SUMMARY

- Moldova has, since 1994, elected its representatives by a List PR system. Seats are distributed based on a closed party lists in a single nation-wide electoral district. The legal threshold for parties to access parliament is 6 percent for single political parties and 9 and 11 percent for blocks composed by two or more parties, respectively. Independent candidates have to get at least 2% in order to be elected.
- Since its adoption, adjustments to the existing electoral system have been made – inter alia to the legal threshold for parties to enter the parliament as well as to the electoral formula used for allocating seats. In 2013, a proposal was put forward in parliament to change the rules of the game to a mixed parallel system. Whilst first adopted, the reform was repealed a fortnight later and the system was thus never put into use.
- Current developments – in particular i) the proposal tabled in Parliament by the Democratic Party of Moldova in March 2017 whereby it is proposed that the current List PR system is replaced by a FPTP system and ii) the proposal made by the Party of Socialists of the Republic of Moldova to opt for a mixed parallel system (both passed in the first reading in parliament on 5th May) – calls for a thorough review of electoral system design options and alternatives for Moldova. Such analyses must take into consideration the specific political, social, economical, historical and cultural context of the country.
- Electoral system reform can provide a valuable tool for promoting and deepening democratic progress. Well-crafted electoral systems may contribute to enhancing representation and accountability, ensure that elections are perceived as meaningful tools for democratic participation and engagement, encourage the development of viable party systems serving a basis for the establishment of effective governments and viable oppositions.
- International and regional instruments – treaties and guidelines – provide important rules for electoral system reform. Whilst not specifying which electoral system to choose, such instruments highlights that electoral systems must give effect to human rights. More specifically, this means that elections must be universal, equal, free, secret, based on direct suffrage and organized periodically.
- Based on lessons learned and best practices around the globe, electoral systems have come to be identified with series of advantages and disadvantages. Whereas some score better on how well they foster representation in elected assemblies, others are perceived as stronger when it comes to ensuring strong governments. Some promote strong and responsive parties, whereas others are capable of promoting equal representation of women and minorities. There are also more practical considerations to take into account. Whereas some systems are simple to use and understand, others are more complicated but might be less costly and require fewer administrative resources. The way in which the full range of advantages and disadvantages play out in real life depends on how the system interacts with existing contextual factors.
- The lack of careful analysis and inclusive consultations among political parties as well as the broader set of electoral stakeholders that is currently taking place in Moldova is worrying. It does not bode well for the making of an informed decision that carefully considers what type of system is required for democracy in Moldova to prosper. It is important to ensure that reforms are legislated not to maximize the self-interests of political parties or politicians but rather to maximize democratic interests. It is worthwhile noting the emphasis of the Venice Commission on the need to ensure inclusive and open consultations and to seek broad con-

sensus on outcomes of reform processes to avoid political manipulation or any perceptions of such.

- A major reform – whereby the current List PR system would be replaced by a completely new electoral system – would put the democratic project at risk. Changes to a less proportional system, whether one belonging to the mixed electoral system family (as the parallel system) or the majority/plurality family (as the FPTP system) could bring about unintended consequences that could negatively impact on Moldova’s democratic future. Once such changes have been done, it may prove difficult to turn back the time.
- Making minor changes to the existing rules of the game, on the other hand, may provide a viable route for mitigating some of the main disadvantages of the system in place. By adjusting bits and parts of the current List PR system, it is possible to bring considerable gains at given goals. Notably, minor adjustments create conditions for better predictions on potential outcomes. In other words – reducing complexity of reform makes the exercise and the outcome less risky.
- Notably, the main issues and concerns linked with potential “defects” of the way in which the current List PR system operates in Moldova – most notably i) ensuring closer links between MPs and the electorate; ii) promoting the quality of politicians; iii) effective representation of women – can be addressed through minor reforms. Key stakeholders and experts note that the main problem of politics in Moldova is not the electoral system *per se* but rather political corruption. It is unclear to what degree any electoral system change can make valuable impact on corruption in the country.
- The main recommendation emanating from this study is for Moldova to consider a move from a closed party list to an open party list and from a single nation-wide electoral constituency to multiple multimember electoral districts. An open list would offer voters with greater influence over who makes it to the parliament and reduce the powers of political party leaderships. The use of multiple multimember electoral districts would cater for better geographical representation. In combination, these two adjustments will strengthen voter-MP relations by reducing the distance between the electorate and parliamentarians. Voters would be enabled to pinpoint who is representing them in the parliament and would be better positioned to hold individual MPs to account.
- Other recommendations include i) to reduce the legal threshold for political parties and independent candidates to access parliament; ii) to consider the need for a national-level tier to account for any disproportionality produced if a regional List PR system is introduced; iii) to carefully watch the impact of change on the representation of women in parliament and establish additional affirmative measures as required.
- Transnistria, which is not de facto under government control, is an issue of concern. Depending to some extent on how multimember electoral districts would be established, it might be that Transnistria would form one natural or logical electoral district on its own. Provided that electoral authorities in the near future is not able to organize elections on the territory, seats allocated to this region might remain vacant (similar to the situation of neighboring Ukraine). The Constitution of Moldova establishes that the Parliament comprises 101 MPs (not seats). It is unclear whether “permanent” vacant seats would contradict or rather operate in a “grey zone” of the Constitution. The alternative to accepting vacant seats would consist of activating an “active registering” procedure for citizens living in Transnistria and deciding on the number of multi-member constituencies depending on those registered while assuring their possibil-

ity and facilities to vote in polling sites on the right bank of the Nistru River (as it has happened so far). Further guidance must be sought from constitutional experts.

- Effective representation of abroad voters is a major concern in Moldova where a considerable proportion of the citizens are living outside the country's borders. The use of a single nationwide electoral district has simplified the out of country voting issue – especially from a technical viewpoint. Provided that a system with multiple electoral districts is adopted, Moldova may consider the need for establishing separate electoral districts abroad and/or assess the need to require abroad voters to actively register for participating in elections.

INTRODUCTION

The overall objective of the study is to provide input to the electoral system debate that is currently taking place in Moldova. Taking into consideration the political, economical, social, historical and cultural landscape of the country and the different advantages and disadvantages of electoral system alternatives available, the study seeks to answer the question: what is the best electoral system for Moldova?

In providing a basis for further understanding how electoral systems work and how they tend to impact on e.g. representation, accountability, government stability, access for women and minorities, corruption and conflict – to mention a few – the study also aims to contribute to strengthening expertise among politicians, civil society, media and other relevant institutions and thus promote an informed decision on electoral system reform.

The study is undertaken by two international experts on behalf of Promo-LEX Association. Biographies of the international experts are provided in Annex C.

Issues to be addressed

The study will look into a broad range of issues. First, it will take a global view on electoral system design to enlarge the scope for a more comprehensive perspective on issues around reforms in Moldova. In doing so, the study reviews theoretical and real-life examples of electoral system design in the world but with a particular emphasis on the lessons learned from the implementation of various systems in Europe and the Caucasus region. Emphasis will be on ways in which electoral system design impacts on representation and effective inclusion of women and minorities, on party system development and stable governments, and on the possibilities for voters to hold governments, political parties and individual politicians to account – as well as broader socio-political challenges such as political corruption and conflict.

Second, the study will explore the evolution of the electoral system and its impact on political life in Moldova since the 1990s. On what basis was the proportional system established and what has been the basis for changes made to the system? Analysis will explore how the electoral system has influenced political stability and party system development as well as access of independent candidates to the legislature, representation of women, voter-MP relations, accountability mechanisms etc. In this context, the study will also look into stakeholder satisfaction and dissatisfaction with the system in place: is the system working well – and if not, what are the main issues of concern?

Third, the study will analyze the necessity and opportunity for electoral system reform in Moldova. It will review proposals and initiatives as well as the main arguments presented by various stakeholders on the options that have emerged. What are the possible consequences of such changes, or, in other words, how may it affect politics in Moldova? In exploring these issues, the study will look at experiences from electoral reform efforts in neighboring countries. Moreover, the study will analyze mathematical implications of a potential reform: if Moldova had used another electoral system in the elections of 2014, what would the results have looked like?

Based on these analyses, the study offers a set of recommendations on electoral system change in Moldova. The recommendations must be taken with caution as broad and inclusive consultative process on different options for the electoral system change has not yet taken place in Moldova. It is only on the basis of such consultations that Moldova can identify the best electoral system choice for the country.

Methodological considerations

In order to assess the above-mentioned issues and to extrapolate recommendations for electoral system reform in Moldova, the experts have sorted to a broad range of methods. The experts undertook field work in the period 2–8 April. During this period, semi-structured interviews were conducted with a range of electoral stakeholders representing political parties, civil society organizations, representatives from the academic communities and others. One focus group discussion was organized by which the experts gathered civil society organization representatives. A list of organizations/institutions with whom the experts have met is provided for in Annex A. In addition to that, the experts benefitted from the conference on Change of the Electoral System in the Republic of Moldova: Pros and Cons organized on 8th April organized by Konrad Adenauer Stiftung Moldova, Friedrich-Ebert-Stiftung Moldova, Association for Participatory Democracy (ADEPT) and Institute for Development and Social Initiatives Viitorul (IDIS Viitorul). Finally, the experts also benefitted from facilitating a workshop on electoral systems design and reform that was organized by Promo-LEX on 7th April as it provided the experts with an opportunity to further discuss and exchange with participants from political parties and media institutions.

Desk research has been utilized to analyze a wide range of documents including, but not limited to, legal documents pertinent to elections in Moldova as well as relevant international and regional standards and guidelines; international and national election observation reports; opinion statements of the Venice Commission; official election results and other statistics; opinion survey results; and of course the vast academic and practitioners' literature on electoral system design and reform more broadly. Data on electoral system design and their effect in other countries was collected and analyzed, and a number of case studies have been developed to provide further insights into potential effects of electoral system design and reform.

Finally, simulation analysis (or counter-factual analysis) was carried out to further disentangle potential effects of alternative electoral systems taking into consideration actual vote distribution in the previous elections. The simulations take the outcome of the most recent elections organized in 2014 as the point of departure and re-calculated the outcomes under other electoral systems to explore the question: *what would the results have looked like if another electoral system was in place?* Results of such simulation must always be analyzed with care since the method is based on three important assumptions, i.e. that i) voter preferences, ii) turnout and iii) ballots would remain the same regardless of the electoral system in place. This is because *actual* outcomes are used as the basis for analyses. Whilst it is true that another system may have impacted on these basic assumptions, simulation result can nevertheless provide better insight into how electoral systems may impact on representation and seat distribution among electoral contestants in Moldova. For a more detailed overview over how the simulations were carried out, see Annex B.

Outline of the Study

The study is organized in six parts. Following this brief introduction, Section II offers a global perspective on electoral system design – what are the systems available, how do they work and what are the main advantages and disadvantages associated with the different alternatives? Section III provides an overview over electoral system design in Europe. It also provides a number of examples of the application of electoral systems in selected countries. Section IV overviews the evolution of the electoral system in Moldova more specifically. Further to that, it highlights how the electoral system has influenced political life and looks at stakeholder satisfaction/dissatisfaction with the system in place. Section V evaluates the necessity and opportunity for reform in Moldova and emphasizes key criteria of reform and the need for reform outcomes to reflect on international and regional standards for elections. Finally, the study concludes with a set of recommendations for electoral system reform and the reform process in Section V.

I. Electoral systems – considerations for Moldova’s policy makers and electoral stakeholders

What is the electoral system – and why is it important?

The electoral system determines the outcomes of election. The Free Dictionary defines electoral system rather broadly as “a legal system for making democratic choices”¹ whereas Encyclopedia Britannica provides for a more confined definition as “method and rules by and rules of counting votes to determine the outcome of elections.”² Even more clear and concise is the definition used by International IDEA, which highlights that:

*... electoral systems translate the votes cast in a general election into seats won by parties and candidates.*³

By serving as a link between the governors and the governed, elections are commonly known as the heart of the modern, representative democracy.⁴ But the significance of the electoral system is somewhat disguised. According to Reeve and Ware, “[e]lectoral systems are not mere details but key causal factors in determining outcomes. [They do] so directly in that who is elected under one system may not be elected under another system”⁵ Thus, “the way votes translate into seats means that some groups, parties, and representatives are ruled into the policymaking process, and some are ruled out”⁶ Moreover, by affecting and structuring numerous aspects of political life, “electoral systems are the cogs that keep the wheels of democracy properly functioning”⁷ The electoral system shapes the characteristics of representation, mold party and party system developments and influence parliamentary dynamics including the politics of coalition building. The consequences of electoral system design should therefore not be neglected.

Key components of electoral system design

The electoral system comprises three distinct features. First, the **electoral formula** is the variable of an electoral system that deals with the mathematical translation of votes into seats. The formula is usually divided into subgroups of absolute majority which requires that the winning candidate or party receives at least 50 percent + 1 vote; plurality (or relative majority) under which the party or candidate that receives the most votes, whether it is an absolute majority or not, wins the seat. Under the proportional formula, the idea is that the percentage of votes received by electoral contestants shall be reflected – if a party wins 25 percent of the votes, it is entitled to (more or less) 25 percent of the seats.

1 See <http://www.thefreedictionary.com/electoral+system> (accessed April 2017).

2 See <https://global.britannica.com/topic/electoral-system> (accessed April 2017).

3 International IDEA, 2005. Electoral System Design: The New International IDEA Handbook. Available at <http://www.idea.int/publications/catalogue/electoral-system-design-new-international-idea-handbook?lang=en> (accessed April 2017), pp 5.

4 See e.g. Cox, Gary W. 1997. Making Votes Count. Cambridge: Cambridge University Press; Norris, Pippa. 2003. Electoral Engineering: Voting Rules and Political Behaviour. Cambridge: Cambridge University Press; Powell, G. Bingham. 2000. Elections as Instruments for Democracy: Majoritarian and Proportional Visions. New Haven, Conn.: Yale University Press. Schumpeter, Joseph A. 1979. Capitalism, Socialism and Democracy. London: Allen & Unwin.

5 Reeve, Andrew, and Alan Ware. 1992. Electoral Systems: A Comparative and Theoretical Introduction. London: Routledge, p. 7.

6 Norris, Pippa. 1997. Choosing Electoral System: Proportional, Majoritarian and Mixed Systems. International Political Science Review 18 (3):297–312.

7 Farrell, David M. 2001. Electoral Systems: A Comparative Introduction. Basingstoke: Palgrave.

The second component is the **ballot structure**, which provides for the choices that voters can make when casting the ballot. Under some electoral systems, the ballot requires voters to vote for political parties whereas under others voters opt for individual candidates. Moreover, some systems require voters to make a single choice (e.g. to choose a political party list) whereas others provide for a system whereby voters can express a series of preferences (e.g. to rank-order all individual candidates standing in the electoral district in question from most to least preferred candidate). Finally, electoral systems differ from one another in the number of votes that a voter can cast in an election – the common option is for voters only to have one vote, but there are systems that allow for or require voters to cast more than one ballot when going to the polls. For example, and as will be further discussed in the coming sections, mixed electoral systems might ask voters to cast one vote for an individual candidate in a single-member district and to cast another vote for a political party in the proportional representation part of the electoral system.

Third and finally, the **district magnitude** has to do with the number of representatives elected from an electoral district (or constituency). At the minimum, an electoral district must elect one representative. At the other end, the maximum number of representatives elected equals all seats available. In between these two extremes, the district magnitude may vary from smaller (say 3–4 representatives) to large (say 10–15 representatives). In its interaction with the electoral formula, district magnitude impacts on the degree to which an electoral system is able to reflect voters will at the polls in the composition of a given assembly. The two elements thus provide for what is often called the “natural threshold” of representation.

In addition to the three key variables as mentioned, the vote-to-seat distribution can be affected by a number of other elements. **Legal threshold**, used to limit fragmentation in an assembly, may leave votes cast for small parties without representatives and thus decrease proportionality of the results. In a similar fashion, the **assembly size** may affect proportionality as well – the smaller the house of representatives, the less proportional the results can be. Some electoral systems operate with multiple **tiers** – the most obvious one would be mixed systems where representatives are elected from a plurality/majority tier and from proportional representation tier, respectively. That said, two-tier systems may also be used under fully proportional systems and is often aiming to reduce proportionality as effected under regional list systems (more details below).

Electoral system engineering

Today we know a lot about the consequences of electoral systems. Based on academic research and experiences from reform efforts around the globe, it is possible to provide ample ground from which to estimate the likely effects of electoral system change. This provides for the possibility of “engineering” specific electoral outcomes.

In other words, electoral system reform comes about due to a reason. In some instances, electoral system reform comes about to increase the chances of the ruling elite to maintain or consolidate power. Since it is the representatives themselves that chooses the rules by which future electoral outcomes will be determined, they take the opportunity to **maximize their self-interest** – i.e. ensure that the rules of the game is playing to their advantage in the subsequent election/s. On other occasions, legislators are interested in engineering outcomes that they believe would deepen and consolidate democracy and democratic practices of their country. One may call it **democracy-maximizing interests**. If, for example, it is widely acknowledged that the electoral system is disfavoring specific groups in society, such as women or ethnic minorities, elected representatives may change the rules of the game to offer or broaden the avenue for access to such groups.

The re-design of electoral system cannot in and by itself ensure democracy. Other factors –

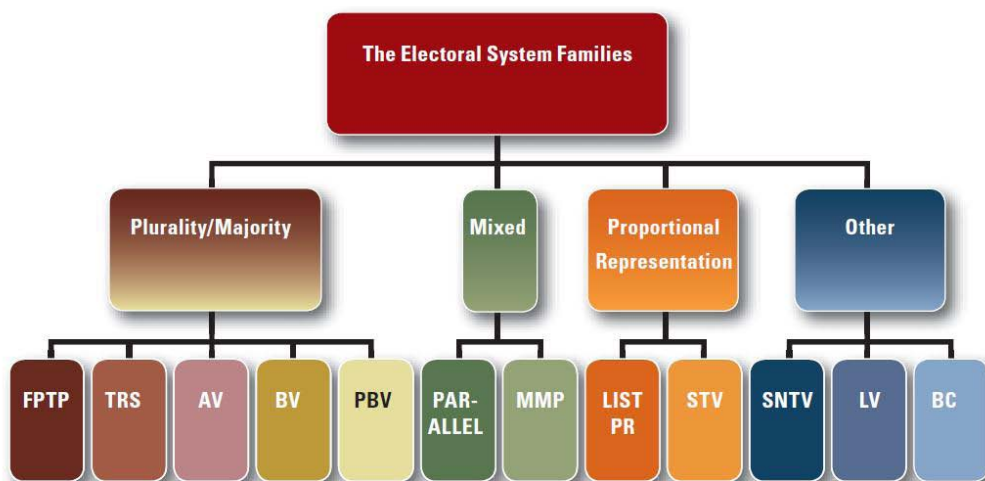
political culture, elections-related violence, corruption etc. – are crucial determinants to democratic progress. That said, with the right intentions in mind, electoral system reform may in some contexts nudge the political system in the right direction. Or in the words of International IDEA:

*... while most of the changes that can be achieved by tailoring electoral systems are necessarily at the margins, it is often these marginal impacts that make the difference between democracy being consolidated or being undermined.*⁸

1.1 Electoral system typologies

Elections experts and practitioners usually divide the world of electoral systems into four main categories: i) the majority/plurality family; ii) the mixed system family; iii) the proportional family; and iv) other electoral systems that do not necessarily fit within any of the other three main electoral families. **Majority/plurality systems** are defined by the use of an absolute or relative majority formula for determining seat allocations. Usually these systems operate in single-member districts. **Proportional systems**, on the other hand, is defined by the way in which these systems aim to ensure proportionality of the results, i.e. guarantee that a party gaining 25 percent of the votes ought to win around 25 percent of the seats available. **Mixed systems** are said to provide for “the best of two worlds” – or by others “the worst of two worlds”. Such systems basically combine one element from the majority/plurality family with one element from the proportional family. Finally, the **other** category comprises systems that fall short of belonging to any of the mentioned families. The sections below will provide a more detailed introduction to the different electoral system available.

Figure 1: Electoral system families⁹



Acronyms: First Past The Post (FPTP); Two Round System (TRS); Alternative Vote (AV); Block Vote (BV); Party Block Vote (PBV); Parallel; Mixed Member Proportional (MMP); List Proportional Representation (List PR); Single Transferable Vote (STV); Single Non-Transferable Vote (SNTV); Limited Vote (LV); Borda Count (BC).

Source: International IDEA 2005

⁸ International IDEA 2005. Electoral System Design: The New International IDEA Handbook. Available at <http://www.idea.int/publications/catalogue/electoral-system-design-new-international-idea-handbook?lang=en> (accessed April 2017), pp 162.

⁹ International IDEA. 2005. Handbook on Electoral Systems Design. IDEA: Stockholm/Sweden.

I.2 Plurality/majority systems

As mentioned above, the defining features of electoral systems located in the plurality/majority electoral system family is that they make use of i) the rule by which a party or candidate are selected based on obtaining an absolute majority – that is, at least 50 percent + 1 vote – or a plurality (or relative majority) of the votes – that is, more votes than any of the other contenders; and ii) single member districts – although there are a few exceptions to this rule, which will be accounted for in the coming sections.

Five electoral systems fall into this electoral system family: First Past The Post (FPTP), Two Round System (TRS), Alternative Vote (AV), Block Vote (BV) and Party Block Vote (PBV).

I.2.1 First Past the Post (FPTP) – or Majority System in One Round

The First Past The Post system is among the most simple electoral systems available. Under this system, a country is divided into a number of electoral constituencies that equals the total number of seats in the parliament. If a parliament has 150 seats, there will be 150 constituencies. In each constituency, the voter casts his/her ballot in favor of one electoral candidate and the candidate that wins most votes (a plurality or relative majority) obtains the seat in the constituency.

| <i>FPTP in a nutshell</i> | | |
|----------------------------------|--------------------|--|
| | Formula | Plurality (= relative majority) |
| | Ballot structure | Candidate-focused One preference only 1 vote per voter |
| | District magnitude | Single-member district |

Global usage

FPTP is widely known for its use in the UK, Canada and the US and for its adoption among many former colonies of the British empire. Today, the FPTP is in use in 61 countries around the world, including Bangladesh, India and Nepal in Asia; Kenya, Malawi and Zambia in Africa; and Belize in Latin America. In Europe, only the UK and Azerbaijan use FPTP for electing members to the parliament.

Main advantages and disadvantages

The main advantage of the FPTP system is that it is simple to use and understand for voters as well as for electoral contestants. It enables voters to vote for a specific candidate rather than a list of candidates as put forward by a political party.

FPTP advances geographic representation. MPs elected under this system are encouraged to represent the region or area from where they are elected and not only the party ticket they are running on. The small electoral constituencies promote a more direct relationship between voters and MPs. By doing so, the system also provides for stronger accountability – it is easier for voters to identify who to blame and punish MPs that are not fulfilling their campaign promises.

Studies on Western democracies argue that FPTP produces a two-party system. Duverger’s so-called “sociologic law” on how elections in single member constituencies combined with plurality rule would produce bipartyism is based on the way in which FPTP awards the biggest parties at the expense of the parties that would usually come third/fourth/fifth/etc. in the race. Linked to the way in which FPTP produces two strong parties, the system has been praised for producing strong governments (often with parliamentary majority) as well as a unified and effective opposition.

With the use of FPTP in new and developing democracies, however, Duverger’s law has been challenged. In particular, it has been argued that a two-party system will only emerge if voter support is geographically dispersed across the country. In countries where social divisions – ethnic, religious, language etc. – are geographically concentrated, more parties are likely to make it to the parliament. For example, if a country has four ethnic communities all of which have a geographical belonging (i.e. one community dominates in the south, one in the north, one in the west and one in the east), and if voting is along ethnic lines, it is likely that the parliament will have four main parties in parliament. In such contexts, therefore, because FPTP would not yield a two-party system, FPTP may not necessarily lead to the strong government and coherent opposition which experts argue remains among the main advantages of the system.

Example 1: FPTP and proportionality

In this case, a country is divided into five electoral constituencies each of which elects one MP to the 5-membered parliament. There are two main parties competing in this contest – Party A and Party B.

In District 1 (D1), Party A wins the seat with a comfortable margin at 1000 votes over Party B. In District 2 (D2) the winning margin is smaller as the two parties are only 200 votes apart. In Districts 3 and 4 (D3, D4) on the other hand, the contest is really tight – Party A wins both seats with only two votes more than Party B. Finally, in District 5 (D5), Party B emerges as the winner with a large majority of the votes.

| | D1 | D2 | D3 | D4 | D5 | Total votes | Total votes % | Seats |
|---------|-------|-------|-------|-------|-------|-------------|---------------|-------|
| Party A | 3,000 | 2,600 | 2,551 | 2,551 | 100 | 10,802 | 43% | 4 |
| Party B | 2,000 | 2,400 | 2,449 | 2,449 | 4,900 | 14,198 | 57% | 1 |
| Total | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 | 25,000 | 100% | 5 |

When totaling votes and seats at the national level, Party A obtains 4 seats (80 percent of the seats available) with slightly fewer than 11.000 votes (43 percent). Party B, on the other hand, gets only one seat (20 percent) notwithstanding winning more votes (more than 14.000 votes) than party A. In fact, Party B enjoys the support of an absolute majority of the voters (57 percent). Altogether 9.398 votes (38 percent) were wasted votes.

Beyond its effect on the party system, the FPTP has been widely criticized for not being able to ensure fair representation. Due to the way in which it tends to favor big parties and at the expense of smaller parties, it may leave electoral outcomes highly disproportional. It cannot guarantee that a party enjoying 20 percent voting support will obtain around 20 percent of the seats in the elected assembly – in fact such a party may end up with no seats at all. On a few occasions, the FPTP as used in the UK has produced a situation whereby the party winning the sec-

ond largest amount of votes in the country has ended up with an absolute majority of the seats in the Parliament. The way in which the FPTP may result in “unfair” representation remains among one of its major drawbacks. Example 1 provides an example of this situation.

The FPTP system may also produce a large number of so-called “wasted votes” – i.e. votes cast for candidates that will eventually will not lead towards the election of a candidate or party. In a constituency with 10 candidates that split the ballot almost equally, a winner may emerge with 10 percent + 1 vote and the remaining 90 percent of the votes will be wasted (see Example 2). A high number of wasted votes can diminish an understanding of elections as being a meaningful way of democratic participation.

FPTP is also known for increasing the barriers for women access to elected offices as it promotes political parties to put forward “the most broadly accepted” candidate in each and every electoral constituency. Given existing historical, cultural and socio-economic conditions, the most broadly accepted candidate is usually a man. In contrast, where political parties are required to provide for a list of candidate, they are encouraged to ensure the representation of different types of people – men/women, old/young, different religious or language minorities, etc.

Example 2: FPTP and wasted votes

| | Total votes | Total votes [%] | Seats |
|---------|-------------|-----------------|-------|
| Party A | 101 | 10.1% | 1 |
| Party B | 100 | 10% | |
| Party C | 100 | 10% | |
| Party D | 100 | 10% | |
| Party E | 100 | 10% | |
| Party F | 100 | 10% | |
| Party G | 100 | 10% | |
| Party H | 100 | 10% | |
| Party I | 100 | 10% | |
| Party J | 99 | 9.9% | |
| Totals | 1.000 | 100% | 1 |

It is worthwhile also to mention that FPTP requires the drawing up of electoral constituency boundaries. Boundary limitation may sound like a technical exercise, but the way in which boundaries are drawn may influence electoral outcomes. Boundary delimitation must therefore be carried out aside from politics and on the basis of a set of fixed and clear criteria. The Code of Good Practices in Electoral Matters of the Council of Europe establishes guidelines for the draw and revision of single-member constituencies. Notably, it outlines the need to ensure that boundary delimitation is impartial, do not harm national minorities and take into account opinions made by a committee that is composed by a majority of independent members and technocrat experts.¹⁰

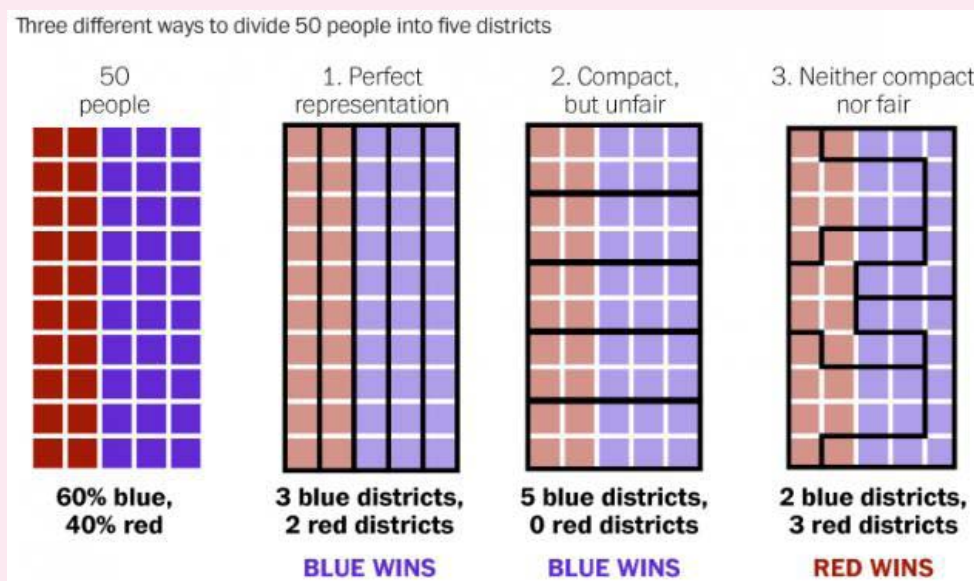
If the process by which boundaries are drawn is exposed to manipulation, or perceptions thereof, the legitimacy of the whole election may be at stake. Gerrymandering represents a process by which electoral boundaries are established to promote electoral success of a specific political party (or group) – see Box 1.

¹⁰ Venice Commission. 2002. Code of Good Practice in Electoral Matters: Guidelines and Explanatory Report. Available at [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2002\)023rev-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2002)023rev-e) (accessed April 2017) – see Art. 2.2.

Box 1: *Gerrymandering explained*¹¹

Electoral systems that require electoral districts to be drawn are exposed to the possibility of political manipulation of boundary delimitation. This problem increases when district magnitude is small and is particularly problematic in systems using single-member constituencies. The picture below provides examples on how the drawing of electoral constituencies may impact on seats distribution.

In this country, 50 persons vote in 5 single-member districts. 60 percent of the voters supports Party Blue whereas 40 percent supports Party Red. If districts are drawn as outlined in example 1, seat distribution in the parliament will ensure perfect proportionality. However, under example 2, whilst districts seem to have been created according to a certain geographical logic, this districting will ensure that Party Blue takes all seats available. Finally, example 3 offers a creative districting structure – it is uncertain how those responsible for drawing the districts came to this particular structure – that ensures that Party Red wins a majority, 3 seats, in the parliament.



I.2.2 Two Round System

Similar to FPTP, the Two Round System (TRS) operates in single member districts and the ballot is candidate rather than party-centered. However, under TRS it is not sufficient for a candidate to obtain a plurality of the votes to win the race. Under *majority TRS*, if a candidate does not obtain an absolute majority (that is, 50 percent + 1 vote) in the first round, another round of voting is organized in which only the two most-winning candidates from the first round are allowed to complete. In the second round, one of the candidates will receive a majority and is declared the winner.

Under *majority-plurality TRS*, a minimum threshold is established for candidates to continue to the second round of voting. As more candidates may be present in the second round, the candidate with the most votes – a plurality and not necessarily an absolute majority – is declared the winner.

¹¹ Source example/graphic: Washington Post, 1 March 2015. Available at https://www.washingtonpost.com/news/wonk/wp/2015/03/01/this-is-the-best-explanation-of-gerrymandering-you-will-ever-see/?utm_term=.e92e140d0655 (accessed April 2017)

The majority TRS system is most commonly used whereas the plurality-majority TRS is applied for parliamentary elections in France.

| TRS in a nutshell | | |
|--------------------------|--------------------|---|
| | Formula | Absolute majority or majority-plurality |
| | Ballot structure | Candidate-focused One preference only per round of voting One ballot only per round of voting |
| | District magnitude | Single-member district |

Global usage

TRS is most known for its use in presidential elections in many countries around the world but is also applied in parliamentary elections in a number of countries. In Europe, only France applies the TRS system for parliamentary elections.¹² TRS is used for parliamentary elections in countries such as Turkmenistan, Uzbekistan and Vietnam in Asia, Cuba and Haiti in Latin America and Central African Republic, Mali and Mauritania in Africa.

Main advantages and disadvantages

Similar to FPTP, TRS is relatively easy to understand for voters and electoral contestants alike and it provides for territorial representation and a close relationship between voters and MPs that facilitates representation and accountability due to the single member constituencies. By requiring winning candidates to obtain a majority (or in some instances, a majority-plurality) of the votes in a given constituency, TRS cater for fewer wasted votes. Another major advantage vis-à-vis the FPTP system is that TRS allows voters to express their sincere opinion in the first round of voting, knowing that, if no majority winner emerges in the first round, they will have the chance to express their second preferred candidate. This alleviates the incentives for casting a strategic vote in the first round.

That said, TRS bears many of the disadvantages to that of FPTP. In societies divided along ethnic, linguistic, regional, religious or other cleavages, TRS may result in highly disproportional outcomes at the national level. One major caveat is the requirement of organizing an extra round of elections shortly after the first round – which from an operational and cost perspective can put considerable pressure on a country’s electoral administration and budget. In politically volatile situation, the time elapse between the organization of the two rounds of election may result in instability.

¹² France uses the majority-plurality TRS system – if no candidate receive an absolute majority of the votes in the first round, all candidates that obtain at least 12.5 percent of the votes in their constituency are allowed to compete in the second round where the winner is declared based on the plurality rule.

Example 3: Majority TRS vs. Majority-Plurality TRS

The TRS rules are applied in this constituency with 5 electoral contestants (Party A-E) and an electorate of 1,200 voters. The vote distribution in the first round of voting was 500 to Party A, 350 to Party B, 200 to Party C, 100 to Party D and 50 to Party E. None of the parties receive an absolute majority in the first round, hence a second round of voting is necessary. Under the majority TRS system (left hand side), party B obtains all of the votes cast for Parties C and D whereas party A obtains the votes previously cast for Party E in the second round. Party B thus emerges as the winner with 54 percent of the votes. Under the majority-plurality TRS system (right hand side), a threshold at 15 percent in the first round ensures that there will be three candidates in the second round of voting. During the second round, the supporters of Party D and E all cast their votes in favor of party C which ensures that Party A, who receives more votes than any of the other Parties, wins the seat.

| | 1st round | | 2nd round | |
|---------|-----------|------|-----------|------|
| | Vote | % | Vote | % |
| Party A | 500 | 42% | 550 | 46% |
| Party B | 350 | 29% | 650 | 54% |
| Party C | 200 | 17% | | |
| Party D | 100 | 8% | | |
| Party E | 50 | 4% | | |
| Total | 1,200 | 100% | 1,200 | 100% |

| | 1st round | | 2nd round | |
|---------|-----------|------|-----------|------|
| | Vote | % | Vote | % |
| Party A | 500 | 42% | 500 | 42% |
| Party B | 350 | 29% | 350 | 29% |
| Party C | 200 | 17% | 350 | 29% |
| Party D | 100 | 8% | | |
| Party E | 50 | 4% | | |
| Total | 1,200 | 100% | 1,200 | 100% |

I.2.3 Alternative Vote

The Alternative Vote system is also operating in single member constituencies and requires an absolute majority to determine a winner of the electoral contest. The major difference between AV on the one hand and FPTP and TRS on the other is that AV uses a preferential ballot. The preferential ballot requires voters to rank the candidates in order of their choice – that is, to mark off the candidates with numbers (1, 2, 3, etc.) in accordance with who is their first preference, second preference, third preference and so on. In other words, where FPTP and TRS only asks voters for their favored party or candidate, AV allows for a more sophisticated expression of voter opinions.

| AV in a nutshell | |
|-------------------------|--|
| Formula | Absolute majority |
| Ballot structure | Candidate-focused Preferential ballot |
| District magnitude | Single-member district |

AV also differs from the other majority/plurality systems in the way in which votes are counted. Similar to TRS, a party or candidate that receives an absolute majority of the first preferences is duly elected. However, where this is not the case, a process of candidate elimination and redistribution of preferential votes takes place: the candidate that receives the lowest number of 1st preferences is eliminated and these votes are redistributed across the remaining candidates according to the second preference. If there is still no absolute majority winner, the next candidate with lowest first

preferences is eliminated and the votes are yet again redistributed – and this process takes place until one of the candidates enjoys an absolute voting majority.

Example 4: AV in practice

In this electoral district, there are five voters (a, b, c, d and e) and three electoral contestants (Party A, Party B and Party C). In the first round of counting, the number of 1st preference votes leave Party A and Party B with two votes each whereas Party C has only one vote. As none of the parties obtains an absolute majority, the party with the lowest number of 1st preferences, Party C, is eliminated and redistributed among the remaining parties. In the second round of counting, Party B emerges as the majority winner with 3 votes against 2 votes for Party A.

| | Round 1 of counting | | | | | | Round 2 of counting | | | | | |
|---------|---------------------|---|---|---|---|-------|---------------------|---|---|---|---|-------|
| | a | b | c | d | e | Votes | a | b | c | d | e | Votes |
| Party A | 1 | 2 | 3 | 1 | 2 | 2 | 1 | 2 | 2 | 1 | 2 | 2 |
| Party B | 3 | 1 | 2 | 3 | 1 | 2 | 2 | 1 | 1 | 2 | 1 | 3 |
| Party C | 2 | 3 | 1 | 2 | 3 | 1 | | | | | | |

Global usage

AV is currently only in use in two countries: Australia and Papa New Guinea. It was previously applied for parliamentary elections also in Fiji. In other words, the use of AV has been confined to the Oceania region.

Main advantages and disadvantages

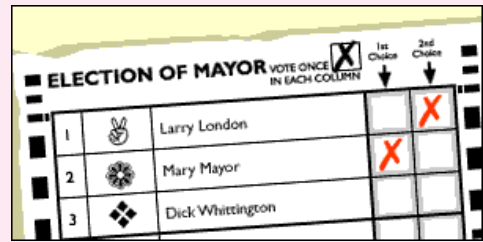
According to theory, one of the main advantages of AV is that the preferential ballot and process of elimination and redistribution of votes offers an opportunity for centrist politics. The logic behind this relies on the fact that, under AV, parties do not only compete for 1st preference votes but are encouraged to reach out to those that are not their obvious choice in order to secure 2nd or 3rd preferential options. Hence the underlying incentive is for parties to make broad-based appeals to the voters. In deeply divided societies, it has been put forward as a system that could cope with for example ethnic divisions by ensuring that parties cannot rely on their primary voters but would need support also from other groups to get elected.

Similar to TRS, the AV system requires that the winner obtain an absolute majority in order to get elected. This enhances the legitimacy of the outcome and reduces the number of wasted votes, which in turn promotes the meaningfulness of the elections. Notably, AV is not requiring a second round of voting to determine the majority winner and by doing so lowers the administrative burden of organizing such elections as well as reduce costs vis-à-vis TRS.

In terms of disadvantages, the AV system has been blamed for putting a considerable burden on voters – not only in terms of literacy and numeracy levels but also for voters to understand how the system of transferring of ballots actually works. Given that the system operates with single member districts, it cannot guarantee proportionality or “fair” electoral outcomes. Notably, also the systems’ ability to pave the way for centrist politics relies, to a considerable extent, on socio-demographic factors – for example, in countries where political divisions overlap territorial boundaries, and hence majority winners can emerge based on the counting of 1st preference only, the “centripetal spin” is not likely to set in.

Box 2: Supplementary Vote – a variant of AV

The Supplementary Vote (SV) system is a variant of AV that applies a preferential ballot in single member constituencies and ensures a majority winner in only one round of voting. Under this system, voters are asked to express two preferences. If none of the candidates on the ballot obtains an absolute majority of the 1st preferences, all candidate except for the two candidates winning most votes are eliminated and the votes cast for eliminated candidates are redistributed to the candidates that are still in the game according to the preference expressed on the ballot. Due to the system of elimination, this system also resembles an instant runoff version of the TRS system. SV is used for presidential elections in Sri Lanka and also for the election of mayor in the City of London.



1.2.4 Other majority/plurality systems

The Block Vote (BV) and the Party Block Vote (PBV) are two other systems that belong to the majority/plurality electoral system family. The main difference between these two systems and the others mentioned is that they both operate in multimember districts. The BV and PBV systems are neither widely used nor advocated by electoral experts and therefore this report only provides a short overview over these systems.

Under BV, voters have as many votes as there are seats to fill in the electoral district and the candidates that win the most votes obtain the seats. In other words, BV is the same as FPTP but operates in multimember districts.

| BV in a nutshell | | |
|-------------------------|--------------------|---|
| | Formula | Plurality/relative majority |
| | Ballot structure | Candidate-focused Voters have as many ballots as there are seats |
| | District magnitude | Multimember district |

PBV operates in a similar manner as BV with two important exceptions: i) instead of voting for individual candidates the choice is between lists of party candidates and ii) voters only have one vote. The winner is determined by the plurality of the votes and the party that obtains the largest number of votes is awarded with all seats available in the electoral district.

| PBV in a nutshell | | |
|--------------------------|--------------------|-----------------------------------|
| | Formula | Plurality/relative majority |
| | Ballot structure | Party-focused 1 vote per voter |
| | District magnitude | Single-member district |

Global usage

BV is in use for parliamentary elections in Cayman Islands, Falkland Islands, Lebanon and Syria whereas PBV is used for parts of the elections to parliaments in countries like Chad, Egypt and Singapore.

Main advantages and disadvantages

Whilst both the BV and PBV systems makes it rather easy for voters to cast their ballot, they tend to exaggerate the disproportionality and may produce results that are even more unfair than under FPTP. A number of countries that previously used BV and PBV have opted for electoral system reform such as Thailand and the Philippines

I.3 Proportional systems

Proportional systems are, as mentioned, characterized by the way in which they aim to reflect mathematical proportionality between vote and seat distributions. There are two main types of proportional system: Proportional Representation (PR) and Single Transferable Vote (STV). PR system can be further subdivided into two groups: PR Closed List (PR-CL) and PR Open List (PR-OL).

I.3.1 Proportional Representation

PR systems operate with different electoral formulas and there are two broad categories of formulas available:

- Largest remainder: The number of votes by each party is divided with a quota that represents the number of votes it costs a party to obtain a seat. There are different ways of calculating the quota – the two main quotas in use are the Hare quota and the Droop quota (see below).
- Highest average: The number of votes by each party is divided successively by a set of divisors. The set of divisors used differs – the main divisors are d’Hondt and the St. Lague

The size of multiparty districts may differ. At a minimum, an electoral district under PR rules must comprise at least 2 seats. At the other end, it is possible for a country to make up one single electoral district – in which case the number of seats elected in this district would equal the total number of seats in the parliament. In between these two extremes there is considerable variation – from small districts (e.g. around 3–5 representatives) to medium-sized (e.g. 5–10) and large ones (e.g. 15 and more). As a general rule, the bigger the electoral districts are, the more proportional outcomes will be. Vice versa, small electoral districts tend to decrease the proportionality of the election results.

Example 5: District magnitude matters

In this example, four parties (Party A, B, C and D) compete for a total of 12 seats under PR rules. Their voting support base is nearly identical. Provided that the country is divided into four electoral districts, each of which elects three MPs, Party A, B and C obtains 4 seats each. Party D, notwithstanding having 24 percent of the votes, will not win any seats in the parliament. However, if seat allocation is based on a nation-wide multimember district, all parties, including party D, obtains 3 seats each.

| | D1 | D2 | D3 | D4 | Total votes | Seats Regional | Seats National |
|---------|-----|-----|-----|-----|-------------|----------------|----------------|
| Party A | 26 | 26 | 26 | 26 | 104 | 4 | 3 |
| Party B | 25 | 25 | 25 | 25 | 100 | 4 | 3 |
| Party C | 25 | 25 | 25 | 25 | 100 | 4 | 3 |
| Party D | 24 | 24 | 24 | 24 | 96 | | 3 |
| Totals | 100 | 100 | 100 | 100 | 400 | 12 | 12 |

List PR systems differ from one another when it comes to how they allow voters to influence the choice among individual candidates. The main difference is between PR Closed List (PR-CL) which provide no such opportunities for voters and PR Open List (PR-OL) which may offer a variety of options for voters to signal preferences among candidates. Section 2.3.2 goes into detail on ballot structure alternatives under List PR.

Main advantages and disadvantages

The strongest argument in favor of List PR systems – or PR systems more generally – is the way in which they are able to ensure a “fair” translation of votes cast in an election into seats in the parliament. In many new democracies, the issue around fair representation – including access for smaller parties or groups in society – has been seen as detrimental to democratic consolidation. In volatile contexts, it can be difficult for a party with say 20 percent of the votes to accept that it might not get one single seat in the parliament, which can happen under majority/plurality systems. Another side-effect is that PR systems produce fewer wasted votes, which ensures that voters perceive elections as meaningful.

PR also promotes the development of a multiparty system as it offers an avenue the inclusion of smaller parties. This, in turn, gives rise to coalition governments based on power-sharing arrangements that caters for compromise across the political specter rather than “either-or” solutions to political challenges. Some argue that PR promotes political continuity and stability. The reasoning behind this argument is that “regular switches in government between two ideologically polarized parties, as can happen in FPTP systems, makes long-term economic planning more difficult, while broad PR coalition governments help engender a stability or coherence in decision making which allow for national development” (IDEA 2005: 58).

The critique against PR revolves around the way in which this system promotes coalition governments and political party fragmentation. Coalition governments, it is said, may produce legislative gridlocks that may hold up policies and development. Moreover, coalition arrangements which are made by political parties after an election has taken place makes it difficult for voters to have a say on who ends up in government.

And even if a party enjoys only 10–15 percent support, a leader of such a party may nevertheless end up as a country's prime minister. PR promotes party system fragmentation which in turn can lead to undue influence of small parties: if neither of two big blocks in parliament have a majority, small parties in the middle obtain considerable powers.

Further to the above-mentioned pros and cons of PR, the List PR system itself has been praised for promoting representation of various groups in society. In order to attract voters, political parties are encouraged to present a diverse list of candidates that reflects the composition of the population – in terms of e.g. men/women, young/old, rural/urban, ethnic/religious/racial groups etc. In particular, List PR has been applauded for promoting women in elected seats. Whereas under FPTP parties are encouraged to promote “the most accepted candidate”, under List PR parties must present “the most acceptable list of candidates” – in which women will make up a natural part. Notably, the introduction of legal quotas for women participation is easier under List PR system and is applied in many countries.

On the contrary, List PR systems have been attacked for diminishing the link between voters and MPs. This problem is particularly visible in countries using closed party lists in one single national district – in which case voters have no influence over the choice of candidates and there is no guarantee that MPs will come from various parts of the country. Another disadvantage is the way in which PR may provide central party leaderships with considerable powers. As outlined in section 2.3.2 below, this is particularly challenging in closed list systems where it is first and foremost the parties, and not the voters, that rewards and punishes individual candidate performance by either including their names on electable posts on the ballot in the next election or refraining from doing so.

When talking about advantages and disadvantages of PR, it should be noted that these may be mitigated depending on how proportional outcome the PR system in place produce. Proportional formulas that tend to give an advantage to large parties, small electoral districts and high legal thresholds of representation, for example, will produce less proportional results. Such systems will consequently reduce party fragmentation and decrease the chances of small parties and at the same time increase the possibility of majority governments etc. In short – as mechanisms are introduced that reduce the proportionality of a PR system, the main advantages and disadvantages are likely to resemble those of majority/plurality systems.

I.3.2 PR – Closed List vs. Open List systems

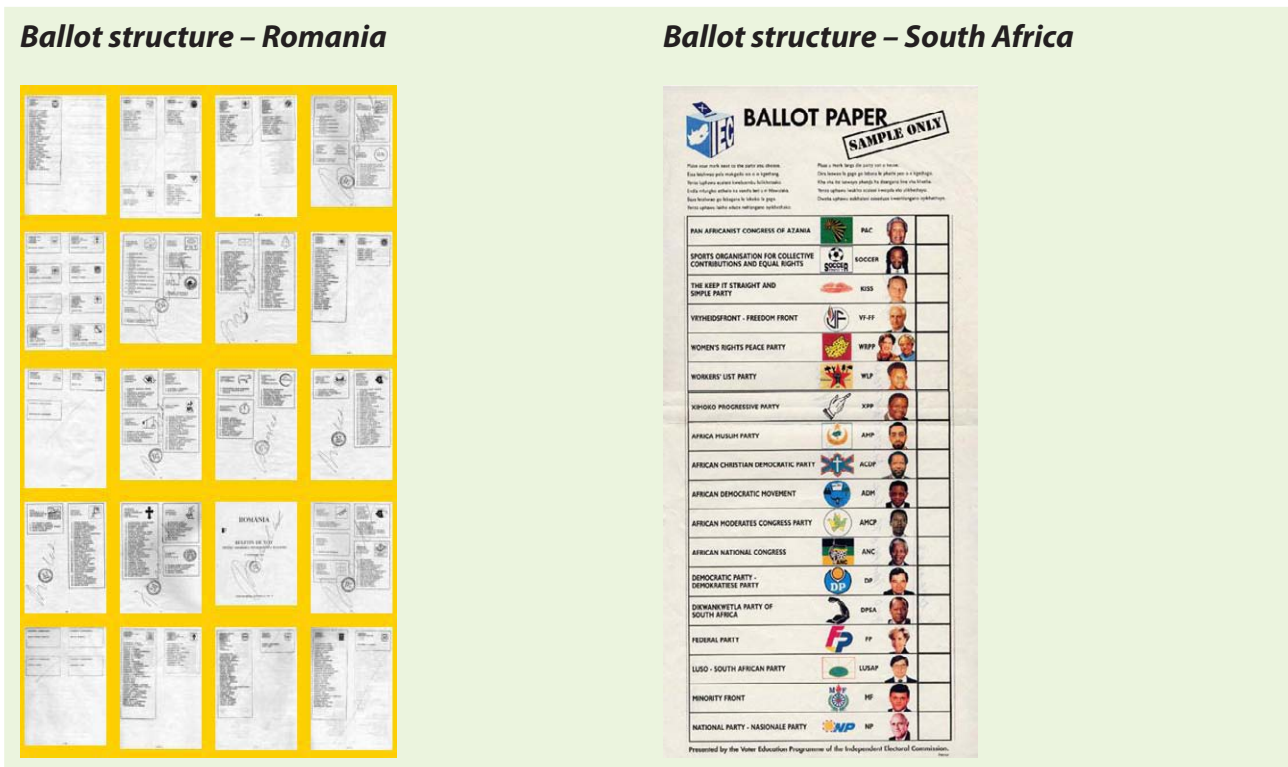
PR Closed List

PR with closed lists (PR-CL) represents the simplest form of PR. It requires voters to cast a vote for a party in a multimember district. Based on the distribution of votes, parties are entitled to a number of seats in the parliament and the positioning of the candidates on the party lists determines who obtain the seats.

Under PR-CL, it is the party central committee or constituency party body that determines the rank-order of the list presented to the voters. The structure of the ballot gives considerable control to the political parties.

| PR-CL in a nutshell | | |
|----------------------------|--------------------|---|
| | Formula | Proportional |
| | Ballot structure | Party-focused (exclusively) 1 vote per voter |
| | District magnitude | Multi-member district |

Countries applying closed list design the ballot differently. South Africa presents a list comprising i) the name of the party; ii) the logo; iii) the acronym; and iv) a picture of the party leader. Voters are simply asked to put an "X" at the party of their liking. In Romania, on the other hand, the law specifies that ballots also outline the candidates on the party list. Voters therefore choose among party list of candidates.



One clear advantage of the PR-CL system is that it is easy to understand on part of the voters. As mentioned, the closed list places considerable powers in the hands of political party leaders, at national or regional level, depending of course on the specific procedures for candidate nomination. In some countries this may be an advantage as the system may promote the strengthening of political parties. In others it may prove a disadvantage by concentrate too much power in such entities.

PR Open List

PR with open list (PR-OL) represents a more sophisticated version of the List PR system. It differs from PR-CL in one important aspect: the ballot structure. Whereas under PR-CL, voters can only cast a vote for a specific party, PR-OL offers voters with an opportunity to influence the choice of candidates on the list.

| PR-OL in a nutshell | | |
|----------------------------|--------------------|--|
| | Formula | Proportional |
| | Ballot structure | Party and candidate focused 1 vote per voter Open list ballot with possibility for expressing preferences among candidates |
| | District magnitude | Multi-member district |

The ballot structure under PR-OL systems differs considerably from country to country. In many countries, the parties competing in the election develops a rank order of candidates that they present to the voters. Voters are, in turn, given the possibility to make changes to the existing rank order as put forward by the parties. In Norway, voters are allowed to change the rank order of the candidates on their selected party list simply by inserting new numbers on the left hand side of the list of candidates as well as to cross out a candidate by putting an "x" mark in the field on the right hand side. Notably, however, in many countries a considerable number of voters need to make the same indications for list changes actually to have an impact on the results. In Norway the threshold for list changes to take effect are so high that indications made by voters have never in practice made a difference to the composition of the parliament. This situation has made the OSCE request Norwegian authorities to change the rules by either ensuring real impact of the so-called "personal voting" voting system or to take away these provisions.

In other countries, voters have considerably more impact on the choice of candidates. In Latvia, the list of candidates presented to the voters is not pre-ranked by the political parties as candidates are merely presented in alphabetic order. Voters can choose to i) cast a ballot for the party without signaling preference to any of the candidates; ii) insert a "+" next to the candidate/s preferred; and iii) cross out names of candidates they reject. When counting, the seat share in the parliament is based on the total number of votes cast to the party whereas the selection of specific MPs is done based on the so-called "highest index" formula which is calculated by taking the total number of the party deducted by the number of "cross-out votes" and adding the number of "+" votes for each and every candidate. The candidates with the highest index are duly elected. Latvia uses the ballot structure for election to the national assembly as well as European Parliament.¹³

Ballot structure – Norway



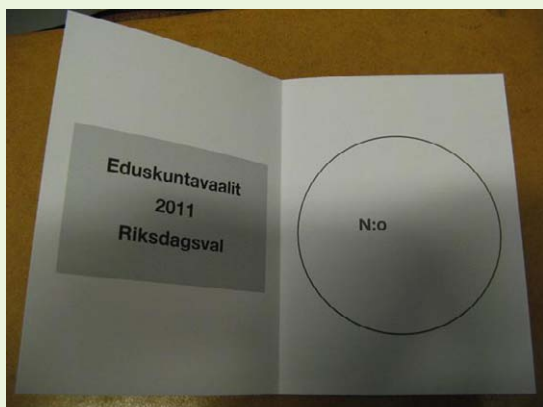
Ballot structure – Latvia



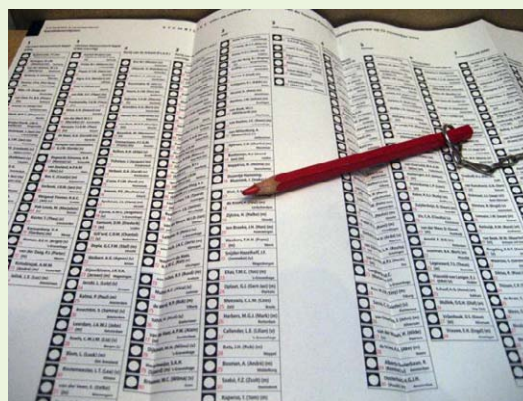
13 <http://electoraldemocracy.com/2014-european-elections-snapshot-electoral-systems-2nd-part-1014>

Other countries that apply a mandatory preferential vote for individual candidates are Finland and Netherlands. In Finland, the ballot is not pre-filled with names of candidates but rather asks voters to insert the three-digit number of their preferred candidate. Similar to Latvia, the vote to a candidate also counts as a vote to his or her political party which are used to calculate the number of votes by party based on which seats are distributed in proportional manner. Also in Netherlands, which is using the whole nation as one single electoral district, voters must vote for a candidate. Voters are presented with a list of candidates and marks off with a red pen next to the candidate of their preference.

Ballot structure – Finland



Ballot structure – Netherlands



Box 3: Introduction of open list in Croatia¹⁴

Prior to the 2016 elections, Croatia changed the electoral laws from PR-CL to PR-OL. Amendments to the Law on Election of Representatives to the Croatian Parliament were adopted in February 2015 – only nine months before the elections organized in November. Political parties were still required to provide for a rank-ordered list of candidates in each of the 10 electoral districts of the country. However, voters now obtained the possibility to cast a preferential vote for one candidate on the party list of their choice. In order for an MP to be elected based on preferential votes, i.e. circumvent the rank order made by the political party, he or she would need to obtain 10 percent of the votes cast for the political party within the electoral district in question.

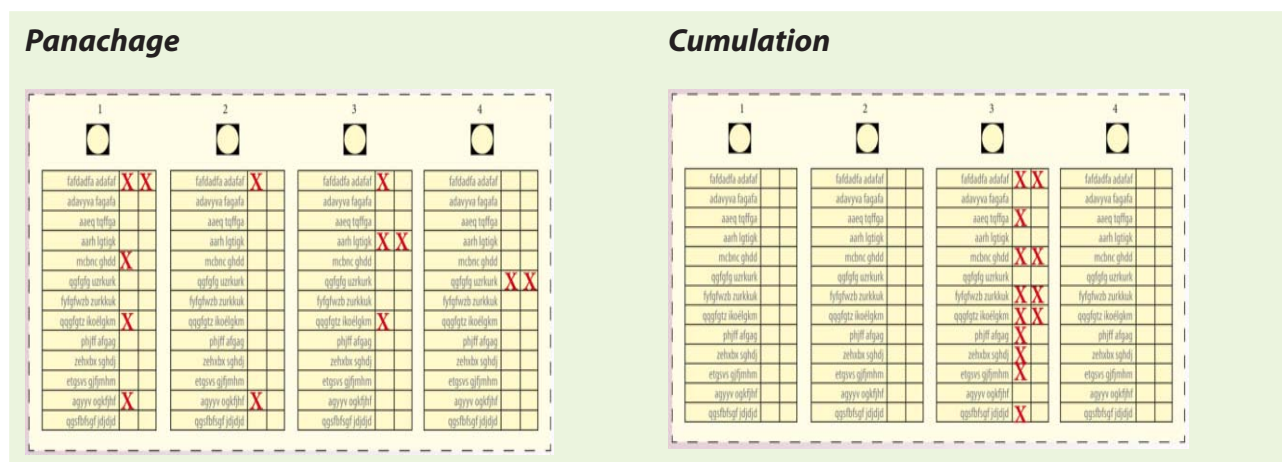
A total number of 66 percent of the votes took the opportunity of the new ballot structure and voted for a specific candidate on the list of parties on Election Day organized on the 8 November. Also worthwhile mentioning is that the change of the ballot did not increase the number of invalid votes, which remained low at only 1.8 percent. In other words, voter not only understood but also appreciated the change made to the ballot structure.

Only five MPs were elected based on the preferential vote whereas the remaining MPs were elected based on the ranking done by the political parties. Based on the fact that 66 percent of the voters cast a preferential ballot, this is low and indicate that the threshold for the preferential ballot to overturn the party list rank-order may be too high.

In other countries, voters are enabled to cast several preferential votes. In the Czech Republic and Slovakia, for example, voters select a party list of their choice and indicate preference for up to four candidates. Candidates that receive 5 percent are given priority when the party's seats are

¹⁴ Source: OSCE Election Observation Report

allocated and will thus circumvent the rank-order as put forward by the political parties. Further options exist: voters can be given the opportunity to vote for several candidates across different party lists (called *panachage*) or to give more than one vote to the same candidate (called *cumulation*). Such options are available to voters in for example Luxembourg and Switzerland.



To sum up, there is an endless variation of the open ballot system. The expression of preferences can be optional versus mandatory. Moreover, voters can be asked to signal their liking and disliking of one or more candidates or to re-arrange the rank-order of the candidates by including a new set of ranking numbers next to the names of the different candidates. It should be noted that many countries using PR-OL use individual party list ballots whereas in PR-CL all parties are indicated on one and the same ballot.

PR-OL mitigates one of the main disadvantages of List PR systems in that it provides voters with a choice not only for parties but also among candidates. It thereby reduces the powers of central party leaderships. Notably, this relies on ensuring that the threshold for preferential votes to take effect is not too high, i.e. that voters have a real chance of impacting on who ends up in the parliament. The way in which open lists increases or decreases the likelihood of women access to parliament has been debated. Some argue that open lists offers an opportunity for voters to overcome the political party leaders' bias towards male candidates whereas others suggests that such lists poses an additional barrier to women representation.¹⁵

1.3.3 Single Transferable Vote

The Single Transferable Vote (STV) is a preferential voting system. Voting takes place in multimember electoral districts and a proportional formula – a quota – is used to determine seat allocation. But at the nerve of the STV system is the preferential ballot: voters are asked to rank-order individual candidates according to preference. When counting the votes, all candidates that receive a number of votes equaling or surpassing the quota are elected. Thereafter, a process of re-distribution of elected candidates' surplus votes and elimination of candidates with the least 1st preferences take place until all seats are allocated.

15 See e.g. Kunovich, Sheri. 2012. Unexpected winners: the significance of an open-list system on women's representation in Poland. In *Politics & Gender*, Vol 8, Issue 2, pp. 153–177.

| STV in a nutshell | | |
|--------------------------|--------------------|-----------------------------------|
| | Formula | Proportional |
| | Ballot structure | Candidate-focused Preferential |
| | District magnitude | Multimember district |

Example 6: STV in practice 16

In this electoral district there are 100 voters and two members of parliament are to be elected. The proportional formula in use is the Droop. The race comprises four candidates.

The quota to be elected is established by the Droop formula and is therefore $100 \text{ votes} / (2 \text{ seats} + 1) + 1$, i.e., 33.3.

Consider the following spread of first preference votes:

Candidate A: 50 votes
 Candidate C: 18 votes
 Candidate B: 20 votes
 Candidate D: 12 votes

Candidate A has received more first preference votes than the quota needed to be elected. Therefore, Candidate A has a transferable surplus of 15.7 votes. The remaining 50 votes list another preference. The transfer value of the excess votes is therefore $15.7/50$ which equals 0.3132. Assume that 30 votes for Candidate A list a second preference as candidate B, and that the remaining 20 list candidate D as the second preference. Taking these votes at their transfer value gives candidate B 29.4 votes and candidate D 18.3. After the transfers the candidates have the following votes:

Candidate A: 33.3 votes therefore elected
 Candidate C: 18 votes
 Candidate B: 29.4 votes (20 original votes + 9.4 transfer votes (i.e. 30×0.3132))
 Candidate D: 18.3 votes (12 original votes + 6.3 (i.e. 20×0.3132))

Note that on second preferences candidate D has now overtaken candidate C as the third ranked candidate.

As further candidates have approached the quota to be elected, the lowest ranked candidate, Candidate C, is eliminated and their votes transferred based on second preference. Since the votes of Candidate C have not been used to elect Candidate C, the votes are transferred at full value.

Assume that 10 votes of the candidate C list the next preference as candidate B and the remaining votes do not list a further preference.

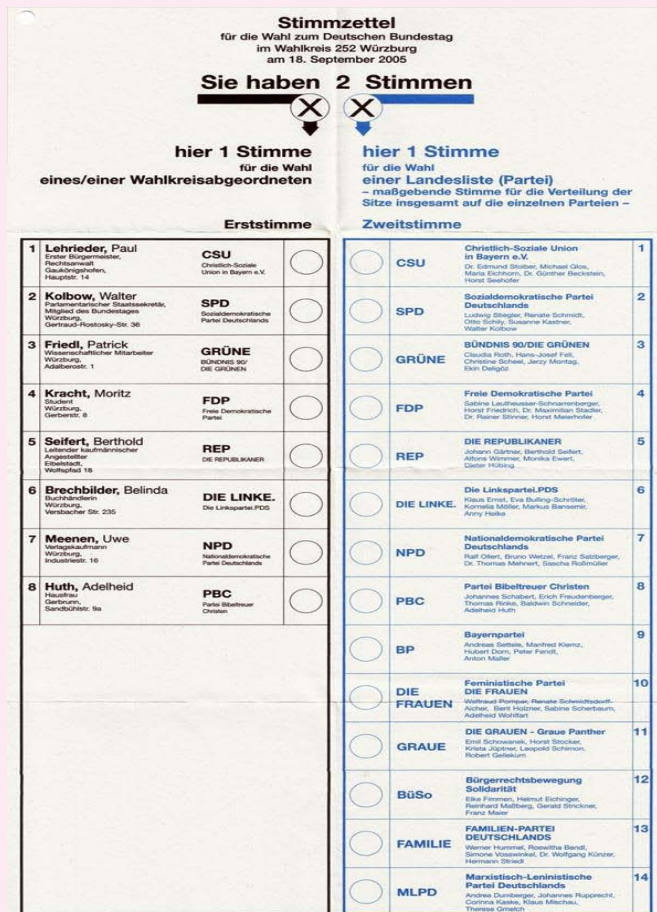
Candidate A: <elected>
 Candidate B: 39.4 votes (29.4 votes + 10 votes)
 Candidate D: 18.3 votes
 Candidate B now has 39.4 votes, which exceeds the quota to be elected and candidate B is therefore elected to the parliament.

16 Source: <https://woodcraft.org.uk/sites/default/files/6%20-%20STV%20worked%20example.pdf> (accessed April 2017)

- *Proportional part:* Mixed systems use List PR for the proportional part with some applying a closed list and others an open list.
- *Seats per system:* Mixed systems may vary when it comes to how many seats are elected from each of the systems – in some instances half of the MPs are elected under each but this may differ from country to country. The number of seats distributed by the different systems influences the outcome.

Box 4: Ballot structure under mixed systems

In mixed systems that utilize one ballot, i.e. where voters vote for a candidate in the majority/plurality system also represents a vote for the candidate's party in the PR part of the system, the ballot will look like the one used under majority/plurality system, i.e. commonly presenting the name of the candidate, party name/logo/acronym etc. In mixed systems that allows voters to cast two ballots, one for a candidate under majority/plurality rule and one for a party under proportional representation, may take a different format. The picture on the right hand side offers an example from Germany who organizes elections under MMP.



1.4.1 Parallel systems

Whilst differing from one another in a number of ways, parallel systems have one common feature that characterize this system: it has two separate electoral systems in place that operates completely separate from one another. In other words, one set of MPs are elected under majority/plurality rules whereas another set of MPs are elected under proportional representation.

| Parallel systems in a nutshell | | |
|---------------------------------------|--------------------|---|
| | Formula | Majority/plurality and proportional |
| | Ballot structure | Candidate and party focused One or two ballots per voter |
| | District magnitude | Single-member district and multimember districts |

Example 7: *Parallel systems in practice*

In this country, 10 MPs are elected to the parliament – 5 under FPTP and 5 in a nation-wide district under PR rules with a largest remainder formula. Altogether 500 voters, 100 voters in each single member constituency, who cast two ballots, i.e. one for each of the two systems. It happens that, in this case, the voters express the exact same opinion on preferred party under FPTP and in PR – i.e. no voter split their votes between two different parties.

| | D1 | D2 | D3 | D4 | D5 | FPTP votes | FPTP seats | PR votes | PR seats | Total seat |
|-------|-----|-----|-----|-----|-----|------------|------------|----------|----------|------------|
| P:A | 55 | 55 | 55 | 0 | 0 | 165 | 3 | 165 | 2 | 5 |
| P:B | 45 | 45 | 45 | 0 | 100 | 235 | 1 | 235 | 2 | 3 |
| P:C | 0 | 0 | 0 | 100 | 0 | 100 | 1 | 100 | 1 | 2 |
| Total | 100 | 100 | 100 | 100 | 100 | 500 | 5 | 500 | 5 | 10 |

In the FPTP part of the election, Party A obtains 3 seats and Party B and C each take 1 single member constituency seat. In the PR contest, the formula prescribes that the parties must receive a quota of 100 votes to obtain a seat (total votes of 500 divided by total seats to be distributed at 5). Four seats are distributed according to the quota whereas the last seat is distributed to the party with the largest remainder – in this case Party A (with a remainder at 60 – as opposed to a remainder of 40 for Party B and 0 of Party C).

The final results show that Party A receives 5 seats, Party B receives 3 seats and Party C receives 2 seats in the parliament.

Note: See example in Section 2.4.2 to see what the results would have been if this election had taken place under MMP.

Global usage

Parallel systems are in use across the globe. Examples include Hungary, Monaco, Ukraine and Russia in Europe; Nepal, Pakistan, Tajikistan, Kazakhstan and Thailand in Asia; and Guinea, Senegal and Sudan on the African continent.

Main advantages and disadvantages

Parallel systems offer voters with an opportunity to select both an individual candidate and a political party. The complexity of the vote will of course depend on which types of systems are used, but taking from current experiences, most parallel systems apply FPTP in combination with PR-CL both of which ease the act of voting. The way in which seats are distributed is also relatively easy to understand.

In terms of “fair” translation of votes into seats, parallel systems fall somewhere in between those produced under “clean” majority/plurality rules on the one hand and proportional representation on the other hand. Whilst small parties may have a hard time winning a majority/plurality seat, their chances are higher in the PR part of the system in place.

| Parallel systems in a nutshell | | |
|---------------------------------------|--------------------|---|
| | Formula | Proportional (but with majority/plurality elements) |
| | Ballot structure | Candidate and party focused One or two ballots per voter |
| | District magnitude | Single-member district and multimember districts |

The major disadvantage of mixed systems in general is the fact that they may create a situation with two types of representatives in the parliament: those elected in single-member districts are focused towards local issues and concerns whereas those elected under proportional representation gives priority to national (or regional) concerns (depending to some extent on how electoral districts are constructed, i.e. whether a nation-wide district is put into place).

1.4.2 Mixed Member Proportional

The key feature of Mixed Member Proportional (MMP) system is the way in which it links the two systems utilized – more specifically, the way in which seats under the PR system is used to *compensate* for disproportionality produced under the majority/plurality part of the system. Provided that a political party wins 20 percent of the votes but only 5 percent of the seats under the majority/plurality contest, the party is awarded with additional seats under the PR component to adjust for such results.

Votes are cast in the same way as under parallel systems. However, the seat allocation by party is determined by the outcomes in the PR part of the contest. After the distribution of seats by party is determined, the number of seats that each party has obtained in the single member constituencies, i.e. under the majority/plurality part of the system, is deducted from the total seats.

Example 8: MMP systems in practice

In this country, 10 MPs are elected to the parliament – 5 under FPTP and 5 in a nation-wide district under PR rules with a largest remainder formula. Altogether 500 voters, 100 voters in each single member constituency, who cast two ballots, i.e. one for each of the two systems. It happens that, in this case, the voters express the exact same opinion on preferred party under FPTP and in PR – i.e. no voter split their votes between two different parties.

| | PR votes | Total seats | D1 | D2 | D3 | D4 | D5 | FPTP votes | FPTP seats | PR seats |
|-------|----------|-------------|-----|-----|-----|-----|-----|------------|------------|----------|
| P:A | 165 | 3 | 55 | 55 | 55 | 0 | 0 | 165 | 3 | 0 |
| P:B | 235 | 5 | 45 | 45 | 45 | 0 | 100 | 235 | 1 | 4 |
| P:C | 100 | 2 | 0 | 0 | 0 | 100 | 0 | 100 | 1 | 1 |
| Total | 500 | 10 | 100 | 100 | 100 | 100 | 100 | 500 | 5 | 5 |

Based on the vote distribution under the PR part of the election, and considering that the quota to obtain a seat is at 50 votes (that is, 500 votes divided by 10 seats available), Party A is entitled to 3 seats, Party B to 5 seats and Party C to 2 seats. In the FPTP part of the contest, Party A obtains the plurality of the votes in 3 constituencies whereas Party B and C takes 1 seat each. In allocating the compensatory seats, the number of seats allocated to the parties in the FPTP contest is deducted from the total seats that the parties are entitled to under the PR part of the

electoral system. As shown in the column on the right, Party A will have no compensatory seats whereas Party B and C obtains 4 and 1 compensatory seats, respectively.

Thus, finally, under MMP, Party A receives 3 seats, Party B receives 5 seats and Party C receives 2 seats in the parliament. It is worthwhile noting that under MMP, party B becomes the biggest party with a 5 seat majority whereas if the elections were organized under a parallel system, the winning party, also with 5 seats, would have been Party A.

The way in which the PR part of the MMP system is capable of “correcting” for disproportionality under the majority/plurality system depends on the number of seats available for distributing compensatory seats. Countries differ from one another when it comes to the number of seats distributed in each part of the system. For example, in Germany the number of PR seats equals that of those distributed under FPTP, i.e. 299 seats are distributed in each of the systems. Albania’s MMP system, on the other hand, applies 100 FPTP seats and 40 compensatory PR seats. In New Zealand, there are slightly more FPTP seats (65) than PR seats (55). Sometimes the number of compensatory seats is not enough to “correct” for disproportionality produced in the majority/plurality part of the system. To cope with this situation, some systems apply so-called “overhang mandates” (from the German term, *Überhangmandaten*) which increases the overall number of seats of in the parliament.

Main advantages and disadvantages

As MMP aim to produce proportional results, it has many of the advantages and disadvantages as outlined under the PR system. That said, there are important specific pros and cons that must be mentioned. Among the main argument in favor of the MMP system is that it provides an avenue for ensuring proportionality, or “fair”, electoral outcomes whilst at the same time catering for geographic representation and close voter-MP relations due to the elections taking place in single-member constituencies.

Similar to under parallel system, it has been argued that MMP may produce two distinct types of MPs in parliament which in turn may impact on how the parliament as a whole is able to represent and address local and national issues. Moreover, studies have shown that MMP might increase strategic voting, i.e. whereby voters are not encouraged to vote for their most preferred candidate or party as this might result in a wasted vote.

1.5 Electoral system impact on politics and democracy

Political life and democracy represent complex processes with multiple factors influencing one another in various directions. This sub-chapter will overview potential impact of electoral system choice on some key elements of particular interest in the case of Moldova, namely party system development, corruption, conflict and out of country voting.

1.5.1 Electoral systems and party system development

The academic literature on electoral system design has highlighted the way in which the rules of the game impacts on party system development. The so-called Duverger’s Laws from the early

1950s¹⁷ suggests that FPTP systems tend to produce two-party systems whereas PR promotes the development of a multiparty system. The logic is linked to the barriers of access. Under FPTP, smaller and weaker parties are less likely to contest as their gains in terms of seats in the parliament are likely to be smaller. Under more proportional systems, on the other hand, such parties have a much better chance at winning seats and hence they are not encouraged to withdraw from the game. Notably, PR systems differ substantially from one another when it comes to the way in which they promote fair mathematical representation. Electoral formula, district magnitude and legal thresholds of representation is likely to affect the number of parties under PR rules. As a result, countries using a single nationwide constituency with no legal threshold of representation are likely to have more political parties than those applying small electoral districts and high legal thresholds.

A number of counter-examples have challenged Duverger's hypotheses. Research proved that, in particular, the geography of social cleavage structures influences the relationship. In countries with strong regional parties, for example, FPTP rules' "reductive effect" is likely to take effect at the regional level but this effect may not be replicated nationally. In other words, parties with regional strongholds may access parliament and thus produce multipartyism also under FPTP rules. This has been used to explain the number of parties in e.g. Canada as well as many of the new democracies that inherited FPTP rules from the British colonizers in Africa. Reality has also failed Duverger regards how proportional systems tend to pave the way for multiple parties. In Malta, a strong two-party system is in place notwithstanding the use of STV rules for the elections to parliament.

In the debate over the reliability of Duverger's Laws, some have also argued that he completely mistook the direction of causation, i.e. that the party system is determining the electoral systems design rather than vice versa. In the UK, for example, calls for electoral reform have been strongly opposed by the two leading parties who – at the end of the day – would be the ones to change the laws by which they are elected should another system be put into use. For obvious reasons, however, it is not in their political interest to make any such changes.

1.5.2 Electoral system and gender equality

Equal representation of women in elected offices remains a challenge. International instruments, such as the CEDAW – ratified by Moldova in 1994 – obliges State Parties to "take appropriate measures to eliminate discrimination against women in political life". Through the Copenhagen Document (1990), the Moscow Document (1991) and the Charter for European Security (1999), OSCE member states are committed to non-discrimination and to promoting equality between men and women.

CEDAW – Art 7.

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

17 Duverger, Maurice. 1954. *Political parties: their organization and activity in the modern state*. London: Methuen; Duverger, Maurice. 1986. *Duverger's law: forty years later*. In *Electoral Laws and Their Political Consequences*, edited by A. Lijphart and B. Grofman. New York: Agaton Press.

- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

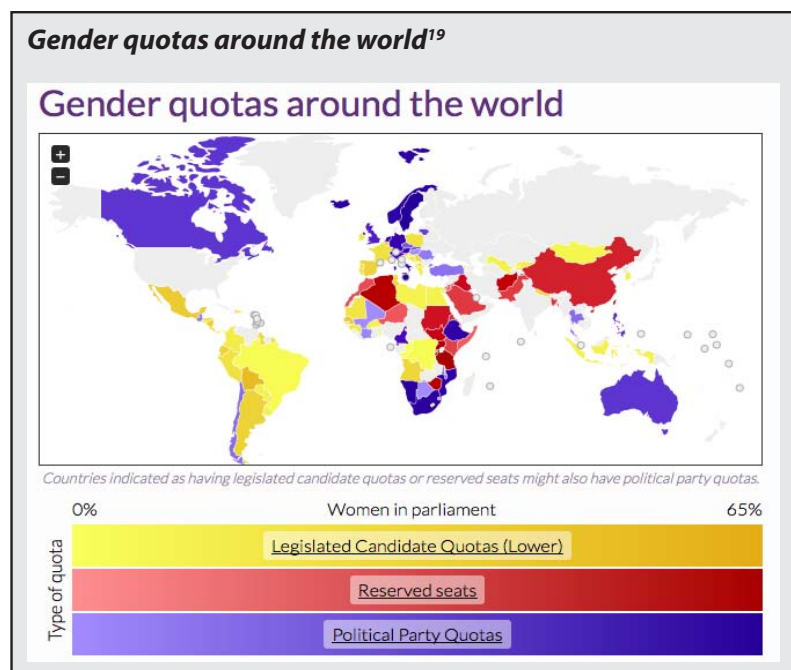
The International Parliamentary Union (IPU) reports that 23 percent of MPs worldwide are women.¹⁸ In OSCE member countries, the figure is slightly higher at 26 percent. In Europe, the Nordic countries have made substantial gains in ensuring equal representation for women – in Iceland, Sweden and Finland more than 40 percent of elected MPs are women. In Norway, Belgium, Netherlands, Denmark, Germany, Slovenia, Portugal, Belarus, Serbia, Switzerland, Macedonia, Italy, Austria and the UK, women make up between 30 and 40 percent of the parliament. Between 20 and 30 percent are countries like Luxemburg, Poland, Estonia, France, Montenegro, Albania, Moldova, Ireland, Bosnia Herzegovina, Lithuania, Romania, Czech Republic and Slovakia. Below 20 percent are Croatia, Bulgaria, Greece, Georgia, Latvia, Malta, Ukraine, Liechtenstein and Hungary and Armenia.

Electoral systems differ when it comes to the way in which they promote representation of women in the parliament. The Venice Commission Report on the Impact of Electoral Systems on Women’s Representation in Politics (para 43–46) notes that:

One of the most well-established findings is that countries applying proportional representation systems have a higher proportion of women in their parliaments than those with majority or plurality systems... Both the British First-Past-The-Post system and the French Two-Round system tend to work against women. Consequently, the electoral system has been considered to be partly responsible for low levels of women’s representation there... <Mixed systems> appear to be more conducive to women’s parliamentary representation than plurality or majority systems, but less favourable to women’s election than traditional proportional representation systems...

There is a number of reasons for why electoral systems impact on women’s opportunity to win elected seats – some of which have been elaborated under the pros/cons of the specific electoral systems in Section I.2–4 above.

One key issue is the way in which the electoral system caters for affirmative action strategies – or quotas. Many countries in Europe apply legislated or voluntary party quotas and both types of quotas are frequently used in countries that apply proportional representation or mixed electoral systems. At the



18 <http://www.ipu.org/wmn-e/arc/classif010117.htm> – accessed April 2017.

19 Source: <http://www.quotaproject.org>

same time, it is important to note that whereas electoral systems can play a role, a number of other issues are at play when it comes to women's access. One of the main barriers to women access is represented by the political parties themselves. In particular, it is argued that women are less likely to succeed with securing electable posts in the party nomination process.

The electoral system may influence political party nomination processes by encouraging parties to present a diverse set of candidates to the electorate. That said, changes in party regulations or establishment of financial incentive structures may provide complementary avenues for increasing the number of women in parliament.

Box 5: Enhancing women representation in Chile²⁰

In 2015, Chile decided to adopt proportional representation. One of the main aims of the reform was to ensure a more representative national assembly. The reform was accompanied by other affirmative action strategies. First, a gender quota was established outlining that neither sex can hold more than 60 percent on the party list of candidate. Second, financial incentives were put into place aiming to attract women candidates and encourage parties to endorse them. Whilst previously all candidates received a campaign reimbursement equivalent to approx. 1.10 USD, the new regulations ensure that women candidates are reimbursed at a higher level – at 1.50 USD. Moreover, for every female candidate elected, the party will receive an addition of almost 10,000 USD from the state party funds.

Obviously, historical and cultural issues as well as socio-economic factors must be taken to account. In countries where the divide between men and women remain wide socially and economically, it is farfetched to believe that this divide will not be reflected in politics unless appropriate measures to bridge such divides are established and enforced.

1.5.3 Electoral systems and political corruption

Whilst the debate around the way in which electoral system impacts on political corruption is still in the making, there is general agreement around the fact that electoral system design create incentive structures for politicians to engage in corruption. The way in which FPTP rules promote a more direct relationship between voters and MPs and enhances accountability have been taken by some to account for decreasing the opportunities for politicians to engage in corrupt practices, whereas others have argued that this direct relationship is actually increasing rent-seeking mechanisms especially at the individual level. In PR systems, voters have fewer opportunities to sanction individual politicians and therefore, corrupt practices shift to the level of political party leaders.

Notably, and similar to the discussion above, it is worthwhile to notice that the causal relationship might work also in the other direction, i.e. that political corruption may contribute to a certain electoral system. Recognizing that some systems are easier to navigate for corrupt political parties and individual politicians, reforms might be undertaken to further enhance structures of political rent-seeking.

The table below provides an overview over European countries ranked by their score on Transparency International's Corruption Perception Index (CPI) in 2016 and color coded according to the electoral system in use (see also left-hand side of the table). Given the complexity of corruption,

²⁰ <http://www.as-coa.org/blogs/electoral-reform-chile-implement-gender-quotas> – accessed April 2017.

in particular the wide range of factors impacting on a country's level of corruption, it is difficult to draw any conclusions in regard to the impact of electoral system design. That said, it is worthwhile noting that countries using PR-OL systems are over-represented at the top of the list.

| Contry | CPI 2016 | Electoral system | Country | CPI 2016 | Electoral system |
|-------------|----------|--------------------|-------------|----------|--------------------|
| Denmark | 90 | PR-OL | Latvia | 57 | PR-OL |
| Finland | 89 | PR-OL | Czech Rep. | 55 | PR-OL |
| Sweden | 88 | PR-OL | Malta | 55 | STV |
| Switzerland | 86 | PR-OL | Slovakia | 51 | PR-OL |
| Norway | 85 | PR-OL | Croatia | 49 | PR-OL |
| Netherlands | 83 | PR-OL | Hungary | 48 | MMP (w/PR-CL) |
| Germany | 81 | MMP (w/PR-CL) | Romania | 48 | PR-CL |
| UK | 81 | FPTP | Italy | 47 | PR-OL |
| Iceland | 78 | PR-OL | Serbia | 42 | PR-CL |
| Belgium | 77 | PR-OL | Bulgaria | 41 | PR-CL |
| Austria | 75 | PR-OL | Turkey | 41 | PR-CL |
| Ireland | 73 | STV | Belarus | 40 | FPTP |
| Estonia | 70 | PR-OL | Albania | 39 | PR-CL |
| France | 69 | TRS | Bosnia Herz | 39 | PR-OL |
| Poland | 62 | PR-OL | Macedonia | 37 | PR-CL |
| Portugal | 62 | PR-CL | Kosovo | 36 | PR-OL |
| Slovenia | 61 | PR-CL | Armenia | 33 | PR-CL/OL |
| Lithuania | 59 | Parallel (w/PR-OL) | Azerbaijan | 30 | FPTP |
| Spain | 58 | PR-OL | Moldova | 30 | PR-CL |
| Georgia | 57 | Parallel (w/PR-CL) | Russia | 29 | Parallel (w/PR-CL) |
| Georgia | 57 | Parallel (w/PR-CL) | Ukraine | 29 | Parallel (w/PR-CL) |

Note: International IDEA's database on electoral system design has been used to identify the electoral system by country. The VC Report on proportional electoral systems: the allocation of seats inside the list (open/closed lists) has been used to identify whether PR systems operates with open or closed lists with some exceptions due to more recent changes to the electoral laws, e.g. Armenia, Croatia, Italy etc.

1.5.4 Electoral systems and conflict

Elections are unavoidably about conflict. In its guide on Elections and Conflict Mitigation, UNDP notes that:

... electoral processes offer a means of channeling societal conflict into respectful and constructive debate and common rules for choosing authoritative representatives of the people who can serve in executive, legislative, and other institutions... On the other hand, precisely because electoral processes are contests through which political power is retained or pursued, and social differences are highlighted by candidates and parties in campaigns for popular support, they can often generate vulnerabilities for the escalation of conflict into violence.²¹

21 UNDP. 2009. Elections and Conflict Prevention: A Guide to Analysis, Planning and Programming, p. 1.

There is a broad agreement among experts that electoral system design can impact on conflict and elections-related violence. Whereas some systems tend to exacerbate conflict, others have a moderating effect.

At the most general level, it is often argued that majority and plurality rules are associated with aggravating conflict. The main reason is that the winner-take-all nature of such electoral systems requires smaller parties and their supporters to accept the mathematical disproportionality built into the system. Voters and parties that are repeatedly “punished by the system” – i.e. that votes for losing candidates (in case of voters) or that obtains a substantial number of votes but nevertheless remains with very few (or any!) seats in the parliament (in case of parties) – might have little incentives to remain devoted to the democratic game in the given format. Provided that this type of punishment is contributing to exclusion of certain groups – whether ideological or minority groups – perceptions of “unfairness” may increase the likelihood of increased conflict and possibility for elections-related violence. Winner-take-all outcomes have in particular been seen as problematic in new democracies and in deeply divided societies.

An example from Lesotho can offer some insights: In 1998, the two major parties, the Lesotho Congress for Democracy and the Basotho National Party won about 60 and 40 percent of the votes, respectively. However, due to the FPTP system in place, the former ruling party won all but one seat – or 79 of 80 – in the parliament. The losing side rejected the results of the elections. Whilst initial peaceful, public protests eventually grew into violent clashes in the capital of Maseru and public and private buildings were set on fire. The emerging crisis eventually made the Southern African Development Community and neighboring South Africa engage in peace talks and the setting up of an inclusive Interim Political Authority. As part of the agreement, the FPTP system was abandoned and replaced with a MMP system – the first of its kind on the African continent.

Many argue that PR systems are better equipped to cater for peaceful elections. How PR systems promote inclusion, i.e. ensures that voters and parties obtain “reasonable” representation, provides the main logic behind this argument. Notably, academics are to some extent divided over the preference towards PR given the way in which it offers an opportunity for parties to rely exclusively on their core supporters. As mentioned above, preferential systems have been proposed in divided societies to encourage political parties to make broad-based appeals across typical divides and thus foster conciliation in political life more broadly.

1.5.5 Electoral system and voting from abroad

Global mobility has resulted in a situation where citizens live in other countries than the country of their origin. To promote their possibility to participate in politics, many countries allow voters to vote abroad. Out of Country Voting (OCV) is a complex and often costly endeavor. From a political perspective, it may also be problematic. Whilst OCV allows for equal participation of citizens of a country, it poses the challenge linked to the political influence of abroad voters: is it fair that people no longer residing in the country and that do not need to live with the outcomes of elections on a daily basis participate on an equal footing?

OCV rights must be included in considerations for electoral system reform. The way in which voters are counted are important. In some countries, e.g. Austria, Finland and Spain, ballots cast abroad are included in the absentee voter’s home district. This would of course require that “home district” is possible to identify. In other countries, e.g. Georgia and Latvia, ballots cast abroad are included in the votes of the capital district. Where citizens do not have a “home district” in national or electoral registers, this option is more viable. Moldova is at the moment using this practice. Be-

cause of the fact that the country is applying a single nation-wide electoral district, where the vote is included in the final tabulation of results has no implication on the seat allocation.

In other countries, e.g. Croatia, Romania and Portugal, OCV ballots are counted in separate OCV districts. In essence, this means that OCV voters have specific OCV representatives. Voters abroad coming from Croatia, Portugal and Romania has 1, 2 and 4 elected seats in the parliament. In Portugal, two constituencies are defined as Europe and outside of Europe and seat allocation is thus based on the plurality formula. A similar system was in place for Romania in the 2008 and 2012 elections, whereby four constituencies were in place for diaspora voters. Prior to 2016, however, the system was changed so that there is now only one electoral district for the four seats allocated to the diaspora and allocation is based in the same manner as any other PR district on Romania mainland.

From a technical point of view, List-PR with a single nationwide constituency offers the least complex solution for OCV. Provided that abroad votes are to be included in the tally of "home districts", the use of smaller multimember districts or single-member constituencies becomes highly complex, as it would require that different ballots are all available at the abroad polling stations.

II.1 Majority systems

There are only four countries in Europe where majority systems are used in elections – Azerbaijan, Belarus, UK and France.

The UK case

The UK example confirms Maurice Duverger's theory according to which FPTP leads to a two-party system. Political life in the country is for more than eight decades dominated by two major parties – the Conservative Party and the Labor Party. Following the latest, 2010 elections, neither of the two obtained a majority. In these circumstances, the Liberal Democratic Party (the third party) practically decided which party would be given the opportunity to form Government after negotiations with each of the other two. Examples of how the FPTP affects seats distribution are provided in the textbox below.

Example 9: FPTP and seat allocations in the UK in past elections

Elections 1979

| Party/Alliance | Number of votes | Percentage of votes | Number of seats | Percentage of seats |
|---------------------------|-----------------|---------------------|-----------------|---------------------|
| Conservative | 13,697,923 | 43.9% | 339 | 53.38% |
| Labour | 11,532,218 | 36.9% | 269 | 42.36% |
| Social Democrat – Liberal | 4,313,804 | 13.8% | 11 | 1.73% |

Elections 1983

| Party/Alliance | Number of votes | Percentage of votes | Number of seats | Percentage of seats |
|---------------------------|-----------------|---------------------|-----------------|---------------------|
| Conservative | 13,012,316 | 42.4% | 397 | 62.51% |
| Labour | 8,456,934 | 27.6% | 209 | 32.91% |
| Social Democrat – Liberal | 7,780,949 | 25.4% | 23 | 3.62% |

Elections 1987

| Party/Alliance | Number of votes | Percentage of votes | Number of seats | Percentage of seats |
|---------------------------|-----------------|---------------------|-----------------|---------------------|
| Conservative | 13,760,935 | 42.2% | 376 | 59.21% |
| Labour | 10,029,270 | 30.8% | 229 | 36.06% |
| Social Democrat – Liberal | 7,341,651 | 22.6% | 22 | 3.46% |

There is a number of interesting aspects to be noticed looking at these results. The first one is the lack of proportionality between votes cast in the elections and seats obtained by the different parties. As demonstrated, the two largest parties are favored at the expense of the third party. For example, in 1983, the Labour Party and the Social Democrat-Liberal Alliance were very closed in terms of votes obtained (27.6% vs. 25.4%) but the difference in terms of seats was huge – 32.91% to 3.62%. Similar results, although not as dramatic, came in the following elections.

Moreover, the Conservatives managed to get quite comfortable majorities in Parliament (especially in 1983 and 1987) with only 42% of votes. Last but not least, in 1983 after four years of Thatcher government, the Conservative Party got around 685,000 fewer votes than in 1979 but nevertheless obtained 58 (9.13%) more seats. So whilst it looks parts of the electorate were dissatisfied and wanted to punish their government, the electoral system circumvented their expression at the ballot box.

Example 10: FPTP and seat allocation in the UK in the most recent election, 2015

| Party | Number of votes | Percentage of votes | Number of seats | Percentage of seats |
|-------------------|-----------------|---------------------|-----------------|---------------------|
| Conservative | 11,334,920 | 36.9% | 331 | 50.92% |
| Labour | 9,347,326 | 30.4% | 232 | 35.69% |
| UKIP | 3,881,129 | 12.6% | 1 | 0.15% |
| Liberal Democrat | 2,415,888 | 7.9% | 8 | 1.23% |
| Scottish National | 1,454,436 | 4.7% | 56 | 8.61% |

Interesting results also emerges from more recent elections, such as the one conducted in 2015. Beyond noticing the lack of proportionality in favor of the two major parties and the fact that the Conservatives managed to get the majority in Parliament after receiving a record-low 36.9% of votes, it's interesting to look at the effect of the FPTP system on another party, the UK Independence Party (UKIP). UKIP obtained 12.6% of votes but got only one – or 0.15% – of the seats in Parliament. Since UKIP is considered an “extremist” party, this example might be used to suggest that FPTP stops extremist parties from getting into the Parliament or at least from playing an important role as also suggested in the theory and used as argument in favor of keeping that system. That argument is a valid one but only when the supporters of such parties are somehow uniformly distributed on the territory so that party doesn't have majorities almost anywhere. In addition, it should be noted that what happened to UKIP in 2015 could happen to any party – whether extremist or not – as it is linked to the territorial distribution of voting support.

Another interesting conclusion we can take from this example comes if we look to the Scottish National Party's results: 4.7% of votes and 8.61% of seats. That shows that under FPTP system the political parties benefiting from strong popular support in some regions are at advantage in comparison to parties that have larger support but where this support is more uniformly distributed across the country.

As it has almost happened in every election, the Liberals were yet again disfavored by the FPTP rules. The Liberals have permanently advocated for changing the electoral system in UK. In 2011 when they were part of the governing coalition with the Conservatives, they managed to initiate a referendum for the adoption of a system based on AV. With the Conservative Party and most of the Labour Party campaigning against the Liberal's proposal, knowing of course that both parties would have a lot to lose in terms of seat numbers, the NO side won (67.9% to 32.1%) and the proposal was thus rejected.

The France case

As noted in section II.2.2, the French electoral law provides for a majority-plurality TRS system: in case no candidate wins an absolute majority in the first round, all candidates who passes 12.5% of the votes are allowed to participate in the second round of the elections which is eventually

determined by the plurality rule. The system has influenced vote-to-seat allocations in the French Parliament.

Example 11: TRS and seat allocation in France, 2007

| Political Party | 1st Round | | | 2nd Round | | | Total | |
|------------------------------|------------|-------|-------|-----------|-------|-------|-------|-------|
| | Votes | % | Seats | Votes | % | Seats | Seats | % |
| Union for a Popular Movement | 10,289,737 | 39.54 | 98 | 9,460,710 | 43.36 | 215 | 313 | 54.25 |
| Socialist Party | 6,436,520 | 24.73 | 1 | 8,624,861 | 42.27 | 185 | 186 | 32.24 |
| Democratic Movement | 1,981,107 | 7.61 | 0 | 100,115 | 0.49 | 3 | 3 | 0.52 |
| National Front | 1,116,136 | 4.29 | 0 | 17,107 | 0.08 | 0 | 0 | 0 |

Although it remains rather complicated to make any conclusion with regards to overall proportionality of the results given that in most constituencies two rounds of elections are organized, it is clear that the largest party received a seat-bonus in the parliament. With 39.54% and 43.36% of the votes in the first and second round of the elections, respectively, the Union for a Popular Movement took up 54% – an absolute majority – of the seats. It is also interesting to note the way in which the electoral system affected the results of the third and the fourth party: The Democratic Movement got 7.61% of votes in the 1st round but it received only 0.52% seats in total while the National Front got 4.29% of votes and received no seats.

Regarding the National Front, the same remarks as in case of UKIP (UK) could be made since both of them are considered extremist parties and the supporters of the French system might say the same thing – that the majority system stops the extremist parties to play a major role in the political life of the country. But – again – that has happened because the NF supporters are uniformly distributed throughout the national territory and the same thing could happen to any other political party with a similar support structure.

II.2 Proportional representation systems

PR systems are very widespread across Europe. As outlined in Section II.3, PR systems may differ from country to country – when it comes to formula, district magnitude and ballot structure as well as legal thresholds, the use of multiple tiers etc. In what follows, we will present the most popular systems used by most of the countries.

Countries where the “closed party list system” is used

The closed party list systems are the least complex proportional representation systems and are used in Portugal, Romania²³ and Spain if we refer to EU countries. Among the outside EU countries,

²³ In 2008 Romania had switched to a proportional representation system based on single-member constituency vote. The seats were not necessarily allocated to those candidates who received the highest number of votes in their constituencies (unless they get at least 50%) but based on a complex formula that took into account the votes of every candidate as well as the total number of votes every political party gathered in every county and nationwide, so the percentage of seats allocated would reflect the percentage of votes every party got. In 2016, Romania switched back to the closed party list system.

Macedonia, Moldova, Montenegro and Serbia. It's worth to mention that Macedonia and Romania allocate special seats for MPs elected by people living in Diaspora. In Romania four MPs are elected in a special constituency set up for Diaspora through a party list vote. In the case of Macedonia, three single member constituencies were established for Diaspora where MPs are elected through a FPTP system.

The systems used in the above-mentioned countries are different in some degree depending on three major characteristics: a) number and magnitude of constituencies – in Moldova, Montenegro and Serbia there is one nationwide constituency while in the other countries there are several multi-member constituencies; b) the electoral threshold – it varies from no threshold in Macedonia, 3% in Montenegro, 5% in Romania and Serbia and 6% (the highest) in Moldova; c) the seat allocation formula.

All the above mentioned countries are characterized by a quite broad spectrum of political parties represented in Parliament – obviously determined (or facilitated) by the proportional representation system. That diversity of political ideologies in Parliament has usually led to coalition majorities (as the only solution to appoint governments) and a sort of “consensual parliamentary democracy”. However, electoral thresholds were introduced (and modified in some countries) in order to limit the number of political parties that get into the Parliament, to decrease the Parliament's fragmentation and to contribute to a better political stability.

Open party list proportional systems

There are quite many countries where proportional representation systems are used and legislators have designed the electoral system so voters can play a more important role in the selection of their MPs. One of the solutions used is the so called “open list with preferential vote”. Countries using this kind of electoral systems could be grouped into two major groups depending on the role and importance of the preferential vote:

a) countries where voters have to choose between party lists with candidates placed in the order pre-ranked by the party leadership but they also can express one or more preferences for some candidates and even erase other candidates' names from the list (in some cases): Austria, Belgium, Bulgaria, Bosnia & Herzegovina, Croatia, Czech Republic, Cyprus, Denmark, Italy²⁴, Latvia, Netherlands, Slovakia, Sweden. Outside EU we can find Armenia, Iceland, Norway and Switzerland where such systems are used.

An interesting aspect regarding the Italian system refers to the way the voters express their votes: electors receive a ballot allowing them to vote for a single party and for its head of list candidate (pre-printed on the ballot), and are given the option to express up to two additional preferential votes for other candidates of that party, by writing their name next to the party symbol. If two preference votes are expressed, they must be of a different sex: otherwise, the second preference is discarded.

As it was presented in the Chapter I (at I.3.2) this system makes voters able to practically change the order pre-established by the political party leadership but in reality that happens very seldom because a considerable number of voters need to make the same indications for list changes actually to have an impact on the results and because most voters don't express preferential votes for

24 In 1993 Italy had switched from an open party list system to a Mixed Member Proportional (compensatory) system after a decision resulted from a referendum. 475 deputies would be elected in single member constituencies through a FPTP system while the other 155 would be elected on regional lists. In 2005, Italy switched back to an open party list proportional system.

candidates other than the ones placed on the top of the list. However, there are some examples of elections when voters re-ordered the candidates on the party list they voted. For instance, in Netherlands, in the 2003 elections a former minister of migration and integration was elected into parliament for the Pim Fortuyn List by preference votes even though he was the last candidate on the list.

Latvia represents a special case among countries where this system is used because the Latvian voters have considerably more impact on the choice of candidates. The list of candidates presented to the voters is not pre-ranked by the political parties as candidates are merely presented in alphabetic order. Voters can choose to i) cast a ballot for the party without signaling preference to any of the candidates; ii) insert a "+" next to the candidate/s preferred; and iii) cross out names of candidates is not preferred.

b) Countries where voters have to choose between party lists with candidates no pre-ranked by the party leadership, so they are asked to rank them by expressing mandatory preferential votes. These system is somehow similar with the one used in Latvia but unlike in Latvia, the preferential vote is mandatory and in case the voter doesn't express his/her vote in favor of a candidate on the list he/she wants to vote, that vote is invalid. We can meet such systems in countries like: Estonia, Finland, Greece, Poland.

A major aspect that makes difference among the electoral systems belonging to the open party list systems category is the power the voter has got to interfere in the party list and that power is given by two elements:

- i. the number of preference votes a candidate needs in order improve his/her position on the party list – that varies from 3% in Slovakia, 5% in Sweden, 7% in Bulgaria and in Czech Republic, 25% of the Hare quota in Netherlands or 50% of the total votes expressed for the party list in Norway;
- ii. the number of preference votes an elector can express and the number of candidates he/she can erase from the list – in Austria, Denmark, Finland, the Netherlands, Poland, Spain (for the Senate) and Sweden every voter can express one preference vote while in Cyprus the voter has got one preference for every four seats per constituency, in Czech Republic he/she has got up to 4 preferences, in Greece – up to 4 preferences, and in Slovakia – up to 4 preferences. In Belgium, Bosnia & Herzegovina, Bulgaria, Latvia and Norway the voters can express as many preferences as there are candidates in the selected party list. In some countries, in addition to reordering the ranking of individual candidates given by the party, voters may delete candidates from the list selected. In Iceland, voters can reject candidates on a list by crossing their names out. In Latvia, the voter may choose to put a "+" mark opposite the surname of any candidate, to cross out a candidate's name or surname or to leave the ballot paper unannotated. In Norway, voters may also delete the names of some candidates.

The three major factors – the number and magnitude of the electoral constituencies, the electoral threshold and the formula used for seat allocation have got the same impact on the degree of proportionality under an open party list system as they have under a closed party list system.

Armenia

As of the last elections organized in April 2017, elections to the 101 membered national assembly in Armenia take place under a rather unique two-round proportional representation system. Elections take place in two tiers – half of the seats are allocated based on a nation-wide party list

whereas the other half is distributed in 13 multimember districts. The ballot has two sections and requires voters to indicate their party preference for a national party list and for one candidate of their liking, belonging to the same party, on the district list. Following the tally, seats are distributed to parties and coalitions that surpass the national-level legal threshold of 5 and 7 percent, respectively. Notably Four seats are reserved for minority groups.

The exceptionality of the Armenian system is related to the stable parliamentary majority requirement as outlined in the Electoral Code. If a stable majority of at least 54 seats is not established by one party or by a coalition of parties within 6 days after the elections, a second round of elections is organized four weeks later in which only the two parties/coalitions that gathered most support in the first round are entitled to run. Notably, the seat allocation after the second round guarantees that the opposition – i.e. all parties not forming part of the Government – has a minimum of 33 percent of the seats in the parliament.

The system replaced the mixed parallel system previously in use and was approved by a popular referendum prior to its adoption. Notwithstanding popular support of the system, the way in which votes were translated into seats was criticized by international observers for being too complex for voters to understand.

II.3 Mixed systems

Mixed systems are also relatively well represented in Europe. MMP systems are used for the election of national assemblies in Germany and Hungary. Although in both countries the results of the proportional part of the election remain most important, they differ considerably from one another. A substantial number of countries in Eastern Europe have opted for the parallel system – Georgia, Lithuania, Russia and Ukraine. Bulgaria has also tested the parallel system, but it reverted to List PR shortly thereafter.

MMP in Germany and Parallel system in Russia – compared

To demonstrate the way in which the two types of mixed systems differ from one another, a comparison of the German MMP and the Russian Parallel system provides further insight.

Example 12: MMP and Parallel systems – and vote-to-seat allocation

Germany 2013 elections

| Party/Alliance | Votes under single-member constituencies [%] | Seats won in single member constituencies | Votes on lists [%] | Seats won on lists | Total seats | Total seats [%] |
|-----------------|--|---|--------------------|--------------------|-------------|-----------------|
| CDU/CSU | 45.3% | 236 | 41.5% | 75 | 311 | 49,28% |
| Social Democrat | 29.4% | 58 | 25.7% | 135 | 193 | 30,5% |
| Left | 8.2% | 4 | 8.6% | 60 | 64 | 10,41% |
| Green | 7.3% | 1 | 8.4% | 62 | 63 | 9,98% |

Russia 2016 elections

| Party/Alliance | Votes in single member constituencies [%] | Seats won in single member constituencies | Votes on lists [%] | Seats won on lists | Total seats | Total seats [%] |
|----------------|---|---|--------------------|--------------------|-------------|-----------------|
| United Russia | 50.12% | 203 | 54.20% | 140 | 343 | 76,22% |
| Communist | 12.93% | 7 | 13.34% | 35 | 42 | 9,33% |
| Liberal Dem. | 10.09% | 5 | 13.14% | 34 | 39 | 8,66% |
| A Just Russia | 10.00% | 7 | 6.22% | 16 | 23 | 5,11% |

Looking to the German example, it's easy to notice how that system works: although CDU/CSU received 41.5% of votes for their lists, they didn't get 41.5% out of 299 seats to be allocated for lists. Because they had already got a large number of seats in single member constituencies – 236, they received only 75 more seats for their lists, so the total number of seats they won would be proportional to their electoral support (which is considered to be 41.5%). On the other hand, the Social Democratic Party that received 25.7% of votes for its lists received 135 seats for its candidates on lists because the number it had won in single member constituency was too small in comparison with its electoral support (25.7%).

We can notice that the percentages representing the total number of seats won by political parties are somehow proportional to the number of votes their lists received but higher than that because of the redistribution of votes cast to those parties that didn't pass the threshold.

In Russia, on the other hand, the parallel system favored the largest party quite substantially – with 54.20% of the proportional representation part of the votes, United Russia finally ended up with 76.22% of the seats in Parliament. All the other parties were at disadvantage since the percentages of seats they won are lower than the percentages of votes they got.

Ukraine

Elections are currently run under a mixed parallel system. Of the 450 seats in the national assembly, 225 are distributed based on FPTP rules whereas the other 225 ones are allocated to parties surpassing the 5% threshold based on PR-CL in one national electoral district.

Under the PR part of the system, six parties with slightly above 12.2 million votes combined (77.5 percent) surpassed the legal threshold. The remaining votes cast, approx. 3.5 million (22,5 percent), were "wasted" and did thus not translate into any representation in the parliament. Under the FPTP part of the system, however, almost half of the seats – or 96 (48,5 percent) to be more exact – were won by independent candidates. Only one party managed to secure a significant number of FPTP seats. As a result of the Russian annexation of Crimea and the ongoing conflict in the Donbas region, elections to the single-member constituency seats allocated to these regions were not contested. As a result, 27 of the 225 FPTP seats in parliament remain vacant.

The experience from the 2014 elections highlights how electoral system impact on women access to elected seats. A total of 50 women obtained a seat in the parliament following the elections. What is striking is the access rate looking at the two different systems in place: whilst 48 women

gained a seat through the PR-CL part of the system, only 2 female candidates were elected in the single-member constituencies.²⁵

*Table 1: Election results – parliamentary elections in Ukraine, 2014*²⁶

| Party | Party list | | | SMD seats | Total seats won |
|-------------------------------|------------|---------|-------|-----------|-----------------|
| | Votes | Votes % | Seats | | |
| Popular Front | 3,488,114 | 22.1 | 64 | 18 | 82 |
| Petro Poroshenko's Block | 3,437,521 | 21.8 | 63 | 69 | 132 |
| Self-Reliance | 1,729,271 | 11.0 | 32 | 1 | 33 |
| Opposition Block | 1,486,203 | 9.4 | 27 | 2 | 29 |
| Radical Party of Oleh Liashko | 1,173,131 | 7.4 | 22 | 0 | 22 |
| Fatherland | 894,837 | 5.7 | 17 | 2 | 19 |
| Svoboda | 742,022 | 4.7 | 0 | 6 | 6 |
| Communist Party | 611,923 | 3.9 | 0 | 0 | 0 |
| Strong Ukraine | 491,471 | 3.1 | 0 | 1 | 1 |
| Civic Position | 489,523 | 3.1 | 0 | 0 | 0 |
| Zastup | 418,301 | 2.7 | 0 | 1 | 1 |
| Right Sector | 284,943 | 1.8 | 0 | 1 | 1 |
| Volia | n/a | | | 1 | 1 |
| Independents | n/a | | | 96 | 96 |
| Total seats | | | 225 | 198 | 423 |

25 OSCE/ODIHR. 2014. Ukraine Early Parliamentary Elections, 26 October 2014: OSCE/ODIHR Election Observation Mission Final Report. Available at <http://www.osce.org/odihr/elections/ukraine/132556?download=true>, see p. 4.

26 Shevel, Oxana. 2015. The parliamentary elections in Ukraine, October 2014. *Electoral Studies* 39, pp. 153–177.

III. The electoral system of Moldova

III.1 Electoral system design in Moldova since 1990s

In 1990, altogether 380 representatives to the Supreme Soviet were elected under the two-round majority system rules in the last elections organized whilst Moldova still formed part of the Soviet Union. In May 1991, the Supreme Soviet decided on replacing the name of the “Socialist Soviet Republic of Moldova” by “Republic of Moldova” as well as on changing its own name into “The Parliament of the Republic of Moldova”. After the declaration of independence in August 1991, the issue of electoral system design quickly became a topic. The negotiations on the draft law first led to a solution consisting of a party list scrutiny organized within several regional constituencies. However, because of the “Transnistria problem” and lack of possibility to draw electoral constituencies and to organize elections on that territory, the final decision was that (only) for the 1994 elections there would be only one (nationwide) constituency.

Initially, the electoral threshold for political parties was set up at 4% of the valid votes. Before the 2001 parliamentary elections it was increased to 6%. For the July 2009 elections it was lowered back to 4% and then it was raised up again to 6% for the 2014 elections. The electoral threshold for alliances (“electoral blocks”) has also varied – the same as for the political parties since 1994 until 2001, 9% for the 2005 elections, 7% in 2010 and 9% again in 2014. In 2009, electoral alliances were not allowed to participate but only political parties.

Another important modification was brought in 2010 when the method for allocating seats in party-list proportional representation was changed from the D’Hondt formula to the so-called Robin Hood method.²⁷ This method allocates “remainder seats” on an equal basis to all parties that pass the threshold to enter parliament rather than on a proportional basis, resulting in a possible distribution of a greater number of seats to small parties.

Independent candidates were discouraged from the very beginning by a high legal electoral threshold that candidates were required to pass – 4% in 1994 and 1998, 3% from 2001 to 2009 and 2% since 2010. For political parties able to make it above the threshold, the equivalent voting “cost” for an MP is 0.99%.

In 2013 the ruling majority tried to replace the current electoral system by a mixed parallel system. The draft law provided that 50 deputies would be elected in single-member constituencies while the other 51 would still be elected on nationwide party lists. No discussions or consultations with the opposition party, the parties within the coalition, specialized body or civil society organizations took place at that stage. After the bill was adopted on April 19, different stakeholders as well as the international community voiced their concerns about the changes. Subsequently, an ad hoc parliamentary committee determined that the law would violate constitutional provisions guaranteeing voting rights and that its adoption did not comply with parliamentary rules of procedure. Because of the internal and international tough critics, the amendments to the electoral system were repealed on May 3, 2013 and the Election Code reverted back to the proportional electoral system.

In November 2013, the Speaker of the Parliament of Moldova, requested the Venice Commission to comment on the text of the draft law regarding the introduction of a mixed electoral system to

²⁷ Botan, Igor. 2010. Why the d’Hondt Seat Distribution Method was Given Up? Published at E-Democracy, available at <http://www.e-democracy.md/en/monitoring/politics/comments/robin-hood-formula> (accessed April 2017)

replace the current system for the election of the Parliament of Moldova. The Venice Commission released its report on March 2014.²⁸ The main findings and conclusions contained by that report might be summarized as follows:

“While the choice of an electoral system is a sovereign decision of a State, the proposed amendments in the draft submitted for consideration, which specify changing from a proportional to a mixed system within a year of parliamentary elections, raise serious concerns:

- *The Code of Good Practice stipulates that basic elements of the electoral system should not be changed within a year of an election, and that when changing fundamental aspects of an election law, “care must be taken to avoid not only manipulation [of the election system] to the advantage of the party in power, but even the mere semblance of manipulation.” [...]*
- *Public discussion will enrich the comparative perspective and the analysis of other experiences on mixed electoral systems, as well as the understanding of the various factors that may explain advantages and shortcomings of such an electoral option. The draft reform has not yet been discussed with all electoral stakeholders in Moldova [...]*
- *[...] In the present Moldovan context, the proposed reform could potentially have a negative effect at the local level, where independent majoritarian candidates may develop links with or be influenced by local business people or other actors who follow their own separate interests.*
- *Achieving better accountability of the political institutions towards the citizens is a key goal in Moldova, which requires adopting pending legislation, rather than launching a new comprehensive electoral reform. To that end, it is strongly recommended to approve pending legislation regarding political parties and electoral campaign finance, as advised in the Joint Opinion of the Venice Commission and OSCE/ODIHR on Draft legislation of the Republic of Moldova pertaining to financing political and election campaign (CDLAD(2013)002).*
- *Although the creation of electoral districts could improve representation of minorities, it presents important challenges. A clearer methodology for the delimitation of constituencies, further assessment and provision for periodical review are highly recommended.*
- *The problem of the representation of Transnistria and of Moldovan citizens living abroad has not been addressed in a convincing and implementable solution in the present draft.”*

Whilst the report mentions in its explanatory statement that mixed electoral systems exist in different countries, such as Ukraine, Romania or Germany, but highlights that *“the practical consequences of similar electoral systems can vary, since party systems, institutional structures or social environment are always different”*. The authors states that *“Germany is a recurrent example in comparative law of a mixed system, which has been able to build trust, but it is unlikely to be comparable with the Republic of Moldova”* and continues with: *“this is the case not only because of the specifics of the Federal State, the size or the different institutional structure, but also because it is a system of proportional representation, which also includes provisions for compensation through additional seat distribution to maintain the overall proportionality of the parliament with that of votes received by the political parties”* – what the mixed parallel systems (as the one proposed for Moldova) do not do.

Beyond the Venice Commission’s remarks, it is worth mentioning that also the Romanian experiment with the mixed system in 2008 and 2012 was also based on proportionality and not on a parallel system. In any case, after two elections, the country went back to electing their represen-

28 [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2014\)003-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)003-e)

tatives based on “pure” List-PR in 2016 (see Section IV.4.1 for more details around the Romanian electoral system reforms).

III.2 Effects of List-PR on party system development and government stability

There is a broad spectrum of opinions regarding how the current electoral system has impacted the political life in Moldova during the last 23 years. However, a sort of consensus can be observed around the idea that the PR system has facilitated the political pluralism to rise and to consolidate and for a country that abolished the communist dictatorship in 1990 that’s a very important thing. Not only that many political parties have been founded representing various ideologies, values, opinions, interests, etc. but also people has become familiar with the variety of political ideologies and opinions.

The current electoral system has offered the proper ground for political parties to appear and to grow but in the same time facilitated the permanent refreshment of the party system. Over the years, a number of political parties have also disappeared or become insignificant. Looking more closely at the election results we notice that political parties and leaders who used to play an important role in the political life of Moldova for a period of time but have later collapsed and not managed to get into the Parliament or have been absorbed by other political forces. Examples include the Agrarian Democratic Party of Moldova (ruling party between 1994–1998), the Party of Rebirth and Reconciliation of Moldova (led by Mircea Snegur who served as the President of Moldova between 1990–1996), the “Unity-Единство Movement”, the “Our Moldova” Alliance or parties such as the Popular Christian Democratic Party (under different names) that used to be in Parliament until the 2009 elections but has played only a marginal role after that.

The electoral threshold has influenced party system development. As the threshold was raised from 4% to 6% prior to the 2001 elections, only three forces managed to get into the Parliament – two political parties and one political coalition. The number of so-called wasted votes increased dramatically to almost 25%. This resulted in the decline of some parties that had played an important role before but also a moment at which all political actors started to reconsider their strategy. In the subsequent election, the situation was very different: the percentage of total votes expressed for political parties under the electoral threshold was much lower which can be explained by two phenomena. First, voters got familiar with the “utilitarian vote” and stopped voting for political parties that did not seem to be able to pass the threshold. Second, many small political parties reconsidered their strategy and either decided not to run for the next elections or to join a certain political coalition.

In sum, we may say that the electoral system has provided “sound fluidity”. Some might say that the degree to which the party system has changed, with new players coming in and others disappearing, is a sign of weakness – i.e. an “unstable” party system. On the other hand, taking into consideration the fact that Moldova remains a new democracy and noticing that some political parties have managed to go on throughout the period, fluidity might be positive. It signals that citizens have had the possibility to throw out from Parliament those political parties and politicians they dislike and replace them with new political actors they believe in.

As a matter of fact, the continuous refreshment of the political party system of Moldova has not impacted the government stability. Moldova had relatively stable governments between 1994–1998 (although there were two prime ministers, both of them represented the same party), be-

tween 2001–2005 and 2005–2009 (with the same political party in power and only two prime ministers) and even between 2009–2013 (with the same Prime Minister after the 2010 elections).

In the period 1994–2016, Moldova had early elections for three times. The 2001 early elections were organized not because the Government had failed or the Parliament had become nonfunctional but because its lack of capacity to elect the President (according to the Constitution in place at that time the President of Moldova had to be elected by the Parliament and 61 votes were needed for that). Notably, Moldova passed through a period of political crisis that resulted in early elections in 2009 and 2010. Another crisis occurred in 2015 when the ruling coalition fell apart but as a new governing majority was formed the country avoided snap elections.

Overall, from taking into consideration the average duration of all governments and the number of the early elections organized since 1994 Moldova could be categorized as a relatively stable country in political terms.

III.3 Other advantages and disadvantages linked to List-PR in Moldova

Beyond the fact that the List PR system has created premises for the political pluralism, access to new parties and relatively stable governments (see section IV.2.), the current electoral system has brought about other advantages.

First, the system has been capable of absorbing the multi-ethnic and multi-cultural character of the Moldovan society as well as deep ideological divides. Besides the ones who consider themselves as being either Moldovans or Romanians, there is quite a large percentage of ethnic minorities such as Russians, Ukrainians, Gagauz, Roma, Bulgarians, etc. living in Moldova. In addition, there is a deep political-ideological cleavage within the Moldova society between the “Pro-West” parts on the one hand, who believe Moldova must look towards EU for its future, and the “Pro-East” parts on the other hand, who believe Moldova ought to become more oriented towards and strengthen links with its eastern neighbors and Russia. Finally, there is also a divide between supporters of Moldova as an independent state and “unionists” – people who promote the reunification with Romania.

Under such circumstances it has been critical that all views, interests and opinions have been represented in the Parliament under the current electoral system. Although political parties in Moldova may not be founded based on ethnical criteria the general opinion is that citizens who belong to different ethnic minorities have found political parties and leaders to represent their needs and interests in Parliament. The pro-West orientation’s supporters and the pro-East ones have also been represented in Parliament in good balance as well as the independency supporters and the “unionists”.

With regards to ensuring adequate representation of women in the parliament, Moldova has fared relatively well. Currently almost 22,8% of the Moldovan MPs are women – slightly below the global and OSCE country averages, at 23,3% and 26.4% (or 24.9% if the Nordic countries are excluded).

Notably, in 2016, the Parliament introduced a new rule in the Electoral Code according to which party lists of candidates must have at least 40% of each gender. Although those 40% of candidates can still be grouped at the bottom of the list, the legal quota represents an important step forward in promoting the role of women in politics.

One of the major disadvantages of the system is the very low level of voters' involvement in selecting their MPs. Under the current PR-CL system, political parties play a key role in determining who will actually be elected and voters have no opportunities to impact on the selection of individual politicians. Voters are unlikely to know who they are actually voting for – of the maximum of 103 names on a party list, the most likely scenario is that voters know who the leaders are and possibly also some of the candidates on the list that comes from their own region or who are more visible and recognizable due to their positions within the central and local public administration positions. In many parties, the process of candidates' assignment is very centralized and the top political leaders have become powerful in deciding who is going to become an MP and who is not. On the other hand, the situation varies from a party to another and depends very much from that party's internal democracy as well as from the degree of financial dependence of the party towards its leader(s).

Another drawback many people bring to the current system is that the MPs are not encouraged to keep close to their voters during their mandate given the closed list and the nation-wide electoral district in use. However, there are political parties that compensate that disadvantage by designating every MP (once elected) to be in charge of relation with a certain region ("raion") and it happens often that it is the region that MP comes from.

Criticism has also been raised linked to the way in which the system is not providing adequate access to independent candidates. Some see such candidates as a solution for refreshing the political class or for assuring the representation of some groups that have never been represented (religious minority groups or ethnic minority groups that want to represent in the Parliament by themselves but not through a political party). From the very beginning, independent candidates have been discouraged through a high legal electoral threshold – 4% in 1994 and 1998, 3% between 2001 and 2009, and 2% since 2010 (while the quota for a candidate on a party list is 0,99%). On the other hand, others claim that independent candidates must be discouraged because a high number of independent MPs would increase parliamentary fragmentation and could contribute to the political instability. In modern democratic theory, political parties remain key to ensure that interests are aggregated and effectively protected in political decision-making.

Returning at last to a major advantage of the current electoral system is that the system represents the easiest solution to deal with the right and possibility of people living in Transnistria and those in diaspora to vote in parliamentary elections – both from a political as well as from a technical point of view. Either it is considered an advantage or only a solution to a constraint, the way the current system solves the problem of those two categories of voters represents a strong argument in its favor.

III.4 Satisfactions and dissatisfactions among electoral stakeholders

Stakeholder satisfaction is connected to the way they perceive the advantages and disadvantages. It is obvious that many voters are dissatisfied by the gap between politicians and the rest of society accusing main political parties of becoming nothing else than vehicles of oligarchic groups. Those voters consider that the current electoral system contributed to that and would prefer to vote for somebody they know to represent them in the Parliament instead of having to choose between several national lists decided in centralized procedures that lacks transparency.

According to the results of an opinion survey released by Promo-LEX at the end of March this year, 23% of the country's population is for maintaining the current proportional voting system and 12% of them would like the proportional representation to be kept but only by introducing open

party lists (instead of the current closed ones) – so 35% of voters all together would be favor of the proportional representation. 32% of people prefer the majority system and 21% of them want a mixed one. That opinion poll results are confirmed by the results of the Barometer of Public Opinion²⁹ (done by the Institute for Public Policy) released at the end of April: 37% of people prefer to elect their MPs through a proportional party list system, 29% of them would prefer the majority system and 23% want a mixed system to be adopted.

The civil society sector, in particular those supporting the adequate representation and political influence of minority groups, are strongly advocating for retaining the proportional representation system. Maybe the most prominent example is the case of those NGOs promoting women in politics. With the new legislated quota in place, these groups are reluctant to consider any major reform that could jeopardize the gains made. The civil society seems to remain open to the introduction of adjustments to the PR system, such as e.g. lowering the threshold for independent candidates to access parliament.

The small political parties are also strong supporters of the current electoral system. Some suggests that the electoral threshold could be lowered. The new political parties acknowledge that the proportional representation is the best (if not the only) vehicle that might ensure their access to the Parliament, so they are unsurprisingly in favor of the current electoral system.

In opposition to them (as in many other countries) the major parties as well as those ones strongly represented in local public administration (by many mayors and/or local councilors) acknowledge that the current electoral system does not allow them to take the maximum advantage from their current privileged position for the next elections.

Another category of stakeholders that is worth to be mentioned is formed by the electoral administrators at the Central Electoral Commission (CEC). For those persons involved in organizing and managing elections the current electoral systems implies a low degree of complexity. Reforms to the electoral system would make considerable impact on the utility of the work carried out in relation to the recent State Automated Information System Elections (SAISE) and would, in particular if any type of single-member districts are introduced, require the CEC to look for a new administrative set-up.

29 <http://www.ipp.md/libview.php?l=ro&idc=156&id=820>

IV. Electoral system choice for Moldova

IV.1 Pros and cons of the current electoral system

The “Pros” and “Cons” for the current electoral system could be seen in a very different way by different stakeholders. And it’s not only about every stakeholders’ role in the electoral process and the political life of Moldova that made for instance the voters’ perception to be very different from what politicians might think but also about the interest everyone has got in elections.

However, there are some facts difficult to be denied by any honest observer, so it’s worth taking the risk to make an inventory of “Pros” and “Cons” of the electoral system of Moldova.

In terms of “Pros”, the first thing to be mentioned is that it secures fair representation in Parliament of not only political ideologies but also major opinions among citizens, views interests, etc. if we accept that political parties represent those political ideologies, opinions, views, interests, etc. For a multi-ethnic and multicultural country like Moldova that is also characterized by a cleavage between those who want a pro-West orientation and those ones who prefer a pro-East way for their country, the correct representation of all opinions and interests is a very important element.

In terms of representation, the current system is one of the most supportive ones for some categories of people who are generally at disadvantage in politics especially in the more “conservative” societies like Moldova (as many studies has shown) – women and youth.

Another thing in favor of the current system is that it facilitates the permanent refresh of the political life of Moldova by offering good chances to see new political movements rising and getting people’s support and votes.

The closed party list system in a nationwide constituency is also the easiest system to deal with for almost all stakeholders – political parties, electors, election administrators, mass media. Last but not least the current system is the easiest solution to two major problems Moldova has been confronting – the impossibility to organize elections on the territory of Transnistria; the huge number of Moldovans living in diaspora.

There are obviously important “Cons” that might be invoked in regard with the current Moldovan electoral system. One of them is that gap between electors and MPs many people claim saying that the electoral system has contributed to that. Since voters have to choose between parties at national level (the candidate lists are not even printed on the ballots) only few top leaders of every party are known and watched by citizens. The current system doesn’t stimulate the MPs to keep close to their voters since they were not and are not going to be elected by a group of people (in a regional constituency) but by being placed on candidate lists’ that gather enough votes. Although there are political parties that assign every MP for being responsible with the relations with a certain region, the idea that the electoral system doesn’t stimulate that is true.

The system has to provide for geographical representation. Again, political parties have their interest in placing candidates coming from different regions of Moldova on their lists (and some parties do so) but that interest is not as high as it would be in case of regional constituency list or majority vote.

IV.2 Pros and cons of proposals registered in Parliament

Two electoral system reform proposals were recently registered in Parliament. This section provides a brief overview over the proposals and an analysis of their main advantages and disadvantages. On 5th May, the law proposals were swiftly passed in the first reading in the parliament. Notably, neither had been included on the agenda of the parliamentary session the day before and only one week before the Venice Commission launched its mission to engage with stakeholders in its preparation for the opinion statement expected in mid June. The situation made a number of civil society organizations issue a statement concerning possible procedural breaches. They also noted the passing of the two proposals would make VC recommendations must more difficult (if not impossible) to incorporate. Finally, they suggested that the “hurry” by which the proposals were introduced signaled that the lawmakers would “pursue the political interests at any cost, even if it means breaking the law, democracy and common sense”.³⁰

This section provides a brief overview over the two proposals and an analysis of their main advantages and disadvantages.

IV.2.1 The FPTP proposal

The draft law initiated by the Democratic Party of Moldova (PDM) refers to the introduction of FPTP system for parliamentary elections so that all 101 MPs would be elected in single member constituency. Another important component of that draft law is the proposal regarding the voters’ possibility to revoke their MPs.

Referring to the “**Pros**” of that draft law, the most important ones (the initiators have been spoken to in their efforts to promote their initiative) are that the new system would bring the MPs closer to their voters and would assure a better geographical representation of the population in Parliament. Some of the supporters of that initiative also say that such an electoral system would oblige the leadership of every party to appoint candidates well known and appreciated by the people they will ask votes from and that would lead to the improvement of the quality of individual MPs.

There also many “**Cons**” to the proposal that have to be taken into consideration.

About the revoking institution

Maybe the first one that has to be mentioned is the revoking institution included in the draft law. Regarding that issue, it has to be mentioned that the article 68 of the Constitution of Moldova states that “Any imperative mandate is null” and starting from that article the Constitutional Court of Moldova released on June 19, 2012 the decision no. 8 regarding the “nullity of the imperative mandate and irrevocability of the representative mandate”, so it’s hard to imagine how such a provision could be adopted by the Parliament.

The Central Electoral Commission released its report³¹ on the PDM’s draft law in which it referred to the revoking topic. Among many aspects, CEC noticed that the point 24 of the art.1 of that bill saying that “The revocation of the MP by referendum can be initiated if the MP does not respect the interests of the community in the constituency, does not adequately exercise the duties of

30 The Declaration, including list of signing organizations, can be found at <http://www.crijm.org/wp-content/uploads/2017/05/2017-05-05-Declaratie-OSC-pr-60-si-123-final1.pdf> (accessed May 2017)

31 <http://cec.md/index.php?page=news&id=1001&rid=19844&l=ro&attempt=2>

deputy provided by the law, violates moral and ethical norms – facts confirmed in the established manner”, has got a vague and interpretable character, and “it is not clear how the violation of moral and ethical norms, the interests of the community or the failure to perform the duties by the MP is to be determined”.

It's worth mentioning that the Venice Commission released a report on the imperative mandate in 2009³² and one of the important findings included is that:

“imperative mandate is generally awkward to Western democracies. Plainly, the constitutions of a number of countries explicitly prohibit imperative mandate (Andorra, Article 53; Armenia, Article 66; Croatia, Article 74; France, Article 27; Germany, Article 38.1; Italy, Article 67; Lithuania, Article 59 – which refers to no restriction of representatives by other mandates; Romania, Article 69; Spain, Article 67.2). No European state (apart from Ukraine) has imperative mandate and it is worth noticing that some former communist regimes have vigorously rejected attempts to re-introduce imperative mandate”. That report concluded that “at present, imperative mandate stricto sensu and recall are unknown in practice in Europe. Moreover, there are very few countries among the Council of Europe member States which have legislation giving the power to political parties to make members of the elected bodies resign if they change their political affiliation [...]. These mechanisms come closer to the model of “party administered mandate” which is or has been characteristic in countries such as India or South Africa with the objective of preventing massive turn round of voters’ decision by means of party switching. Whilst in these countries these practices have considered consistent with their own constitutions, the Venice Commission has consistently argued that losing the condition of representative because of crossing the floor or switching party is contrary to the principle of a free and independent mandate. Even though the aim pursued by this kind of measures (i.e. preventing the “sale” of mandates to the top payer) can be sympathetically contemplated, the basic constitutional principle which prohibits imperative mandate or any other form of politically depriving representatives of their mandates must prevail as a cornerstone of European democratic constitutionalism”.

Regarding the representativeness and legitimacy of those elected and Parliament

Another aspect that has to be highlighted is the issue of the MPs’ representativeness and legitimacy – two things invoked by the promoters of that initiative. The truth is that under FPTP with such a wide political spectrum it is very likely that in many single-member constituencies the winner will be the one who gets 25–30% of votes or even fewer while the vast majority of voters would be against him/her.

On the other hand, the MPs’ representativeness is more a moral and psychological factor and less a juridical one. Because an MP cannot take any decision in Parliament or anywhere else on behalf or for his/her constituents but his/her vote has got the same value for every Moldovan citizen no matter where he/she lives. Moreover, for a citizen living in Chisinau (for instance), the vote expressed by an MP coming from Chisinau has got the same value and is as important as the vote of any MP elected in Balti, Cahul or anywhere else on the territory of Moldova is.

That is why the representativeness of the Parliament as a whole is the one that counts and from this point of view FPTP might generate serious problems. If we look to election results in countries where FPTP is used (e.g. UK) we’ll find cases of political parties receiving almost 25% of votes at

32 [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2009\)027-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2009)027-e)

national level and getting around 3% of seats or parties benefiting from around 15% of votes and having just symbolic representation in the Parliament (see II.1., the *UK case*).

Moreover, Moldova has already got the experience of using FPTP – in Gagauzia and could take important conclusions from that. During the research done for this study, one of the participants to the focus group organized in Gagauzia expressed an opinion that was supported by most of the other participants:

“In Gagauzia we are using this system and we want to get rid of it, because it is manipulative, for instance many MPs are migrating from large constituencies to the small ones to win easier elections. Moldova should study the experience of Gagauzia in using this system and we are ready for public, round table debates to share our experience.”

Many other people who were interviewed during the research expressed their concerns that the “Gagauzia phenomenon” would be extended to the national territory if FPTP will be adopted. That phenomenon refers to that fact that most of the TAU Gagauzia Popular Assembly’s members were voted in on independent candidate tickets. However, shortly after securing the seat in the elections, a considerable number of independents crossed the floor and joined a political party. The question remains, thus, whether the expression of popular will at the ballot box is actually translating into real representation.

We can also have a better image of the possible effects of FPTP on the Moldovan election results by simulating the seat allocation based on territorial vote distribution at the 2014 parliamentary elections.

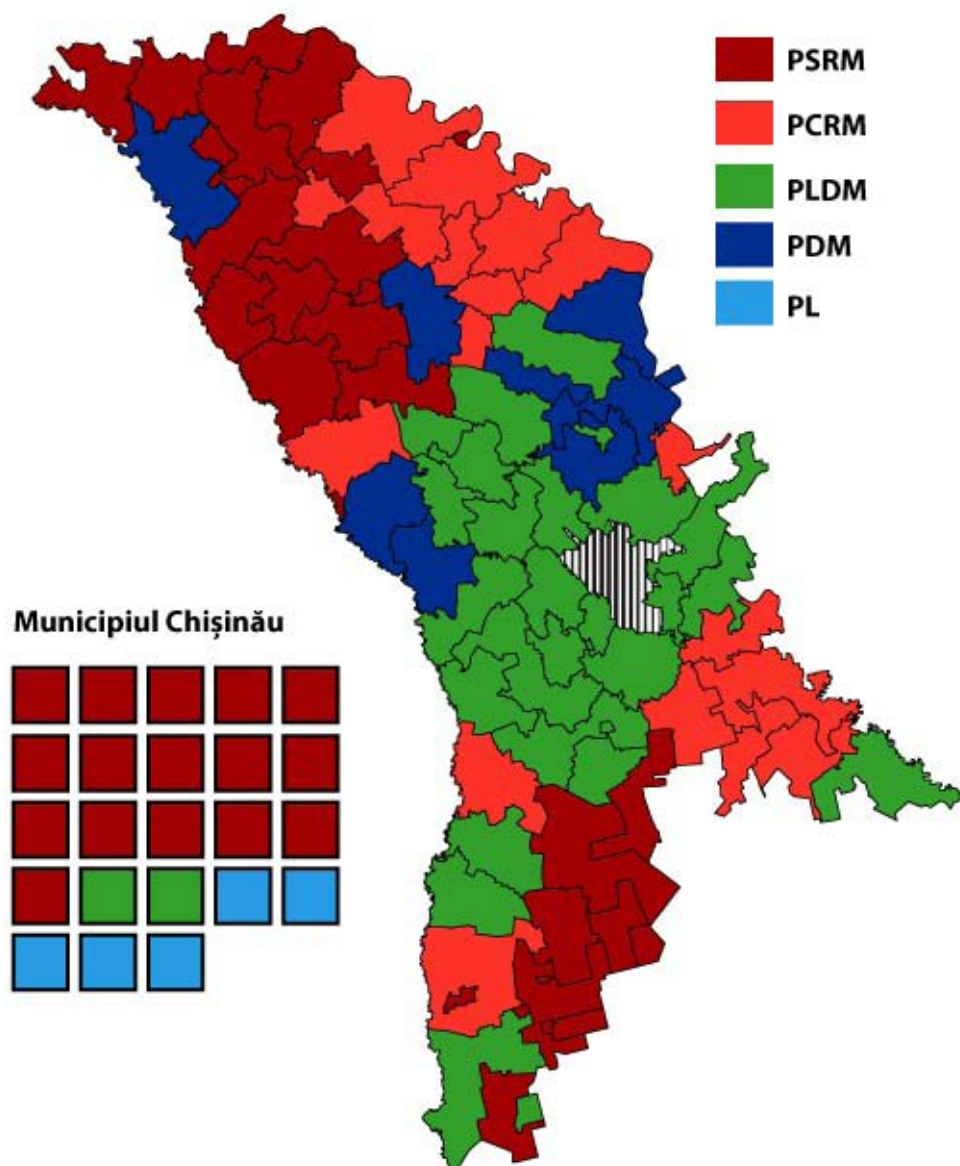
Since we do not know how the single member constituencies would be drawn in Transnistria and in diaspora, we excluded the Transnistria electors’ votes from the simulation and cut one seat out of 101 (corresponding to the number of votes expressed by voters coming from Transnistria) and we also took the votes expressed in Diaspora out. We divided the territory of Moldova into 100 single member constituencies (taking into account all the criteria recommended at international level) and in every constituency the seat was allocated to the party that got the highest number of votes.

Table 2: Simulation analysis – FPTP

| Party | Votes received in 2014 [%] | Seats received in 2014 | Seats received in 2014 [%] | Seats received in FPTP (simulation) | Seats received in FPTP (simulation) [%] |
|-------|----------------------------|------------------------|----------------------------|-------------------------------------|---|
| PSRM | 21.14% | 25 | 24.75% | 44 | 44% |
| PLDM | 19.51% | 23 | 22.77% | 27 | 27% |
| PCRM | 18.09% | 21 | 20.79% | 16 | 16% |
| PDM | 16.12% | 19 | 18.81% | 8 | 8% |
| PL | 9.14% | 13 | 12.87% | 5 | 5% |

Simulation analysis (Table 2) indicates that FPTP would, in line with the lessons learned from around the globe, distort proportionality between the votes cast for different political parties and the seat allocation in Parliament. The party obtaining most votes would have been granted a considerable seat-bonus – with 21% of the votes, the Party of Socialists of the Republic of Moldova (PSRM) would obtain 44% of the seats. The second most-winning party would also benefit some-

what from the system. Notably, the remaining parties would all stand to lose substantially. The map below shows the territorial distribution of seats that each party would have got.



Note: The FPTP system might change the electors' way of choosing between candidates. Besides that, the candidate's image and reputation counts more than in the context of a closed party list system, FPTP determines voters to use what we call the "utility vote" – the vote expressed not necessarily in favor of the most preferred candidate but in favor of one of those who have chances to win. That's why such a simulation has to be read by paying attention to the above-mentioned aspects. On the other hand, it shows very clearly how important the territorial distribution of votes is and what impact different electoral systems have on seat allocation because of that.

The gender issue

The current Electoral Code provides for the obligation of every political competitor to set up the candidate list by allocating at least 40% of the seats to each of the two genders. Obviously, that obligation could not remain in place under a FPTP system as parties would no longer present their candidates on party lists.

Sociological research and opinion surveys suggest that stereotypes regarding women still prevail. Notably, these stereotypes are shared even by many women. An opinion survey carried out by IRI Moldova in September 2016, revealed that if there are two candidates running for office and they have the same qualifications, aside from the fact that one is a man and one is a woman, 44% of people would vote for the man while it would make no difference to only 37% of them.

The effects of FPTP versus List PR have proven clear in Ukraine. Looking at the 2014 elections, where a parallel system was in place, we can notice how electoral system impact on women access to elected seats. A total of 50 women obtained a seat in the parliament following the elections. What is striking is the access rate looking at the two different systems in place: whilst 48 women gained a seat through the proportional representation – closed lists part of the system, only 2 female candidates were elected in the single-member constituencies.

If a FPTP system would be introduced in Moldova, it is likely to be detrimental to women representation. Given the opportunity to choose among individuals in a single-member constituency, the number of women MPs is likely to decrease.

Youth and other minorities

The same IRI survey highlights the same stereotypes against youth as those against women and that indicates that despite of competence and high education a young candidate can prove he/she would be at big disadvantage under a FPTP system.

Also, with the exception of Gagauzia, minorities groups in Moldova are geographically disbursed around the country which decreases their opportunity to access parliament.

Transnistria and diaspora issue

As mentioned, Moldova is confronted with two major issues that impacts on elections: 1) the territory of Transnistria that is not under the control of the Moldovan authorities, so elections cannot be organized there (those people living in Transnistria who want to vote in Moldova elections have to travel to the West bank of the Nistru river) and 2) the huge number of citizens living in the diaspora³³.

Switching to a FPTP system would require the CEC to establish single-member constituencies in Transnistria. It is not likely that any Moldovan authority (the CEC or other) would be granted access to the territory to carry out such an exercise. At the moment, there is also uncertainty around how many voters are living on the territory as a whole. As multiple single-member constituencies would be warranted, it would also require those responsible for boundary delimitation to obtain information about where in the region voters are actually residing. It is difficult to see a viable solution to this problem. One avenue would be to require residents in the region to actively register to vote. By doing so, authorities would obtain exact information regards numbers and geographical distribution of voters. Notably, the practice by which certain parts of the population are exposed to additional barriers for participation (here, the requirement of active registration) would pose a threat to principle (or international standard) linked to equality. Finally, provided that polling sta-

33 According to the official information presented by the Ministry of Foreign Affairs and European Integration (MFAEI), received from the diplomatic missions and consular offices and provided by the authorities of the host states, the number of Moldovan citizens abroad account for 805,509 people. This information was provided by the MFAEI in the run-up to the presidential election of 30 October 2016 for the estimation of the number of potential voters. <https://promolex.md/wp-content/uploads/2016/10/Raport-electoral-2016-3-ro.pdf> (p. 15)

tions are not possible to establish on the ground but will continue to be organized on the western side of the River Dniester, the number of voters and turnout is likely to remain low.

Another solution would consist of taking into account all citizens who live in Transnistria and having right to vote in Moldova and drawing the single-member constituencies accordingly. This is a solution mentioned by PDM's representatives in different debates although it is not mentioned in the draft law. It's important to highlight that such a solution would imply that a number of seats in the Parliament (around 10%) would remain vacant as long as the Moldovan authorities are not able to organize elections on the territory of Transnistria and the initiators of the draft law admit that. Some claim that keeping a number of seats in Parliament vacant might be unconstitutional since the Constitution provides that "the Parliament is formed by 101 deputies" (art.60, al. (2)). At the same time, it could be argued that the spirit of the constitution would be preserved even if seats become or remain vacant seats. The authors of the study consider that a decision of the Constitutional Court on this topic would be needed. In line with constitutional provisions for the Constitutional Court to "give interpretation of the Constitution" (art. 135b), the parliament or other stakeholder might formulate a request for interpretation in order to bring clarity on this issue.

Diaspora voting can be catered for under FPTP rules. The main possibility would be to give diaspora voters separate constituencies. The challenge would be related to the establishment of such constituencies given uncertainties around where out of country voters are situated and how many they are. Yet again, the possibility of requesting out of country voters to actively register is a technical solution to this problem.

Overlapping the MPs activity with the local administration's activity

Many stakeholders who were interviewed during the documentation phase suggested that electing MPs in single-member constituencies might bring them closer to their voters but it would also motivate them to overlap the local administration's attributions. To promote their own re-election, they will become more focused towards solving their voters' local problems (that belong to the mayors' and local councilors' responsibilities) at the expense of setting national priorities and engage in national-level policy-and lawmaking.

IV.2.2 Mixed-Parallel system proposal

The Party of Socialists of the Republic of Moldova draft law, of which the basic ideas were first publicly presented by President Dodon, provides that 50 deputies would be elected through FPTP in single-member constituencies while the other 51 would be elected through PR party closed scrutiny organized at national level (in a nationwide constituency). The current electoral threshold would be kept as it is – 6% for political parties, 9% or 11% for coalitions but it is applied only for the PR scrutiny (not for those candidates running in single-member constituencies). There is no more threshold for the independent candidates (who can run only in single member constituencies).

The issue of voters living in Transnistria and in Diaspora raises the same questions as in the case of FPTP since the system proposed by PSRM requires 50 single-member constituencies to be established. It seems that the initiators passed the whole responsibility of dealing with that issue on the Central Electoral Commission by introducing the following text (art.72, al. (6)):

"The Central Electoral Commission will determine the number, demographic and geographical coverage of the single-member constituencies for the localities on the left bank of the Nistru River (Transnistria). The exact criteria and modalities for forming the single-member constitu-

encies for the localities on the left bank of the Nistru River (Transnistria) are approved by the Central Electoral Commission through a rule of procedure”.

The Central Electoral Commission already stated (in its report on the PDM’s draft law) that the solution of transferring to it the full responsibility of drawing the constituencies’ boundaries “threatens the stability of legal relations, the Commission’s normative act being susceptible to judicial review at the request of any interested party. Therefore, the delimitation of the boundaries of the uninominal constituencies may also have a political character based on voters’ preferences, the Commission being an apolitical organ after its status, which also creates institutional risks”.

Another challenge associated with parallel systems as proposed by PSRM is the way in which such systems undermine proportionality between political parties’ electoral support and seat allocations (see III.3). Under that system, there would practically be two parallel scrutinies and their results would be simply summed. Since the FPTP scrutiny in those 50 single-member constituencies could generate a lack of proportionality between votes and seats political parties get, the total result (obtained by adding the PR scrutiny results) will have the same characteristic.

We could have a better image about the possible effects of that system on the seats distribution in Parliament by simulating that distribution based on the 2014 election results after we divide the territory of Moldova in 50 single member constituencies. Similar to the FPTP simulations, the votes expressed by people living in Transnistria and a seat (corresponding to those votes) were eliminated from the analysis as well as the votes expressed in Diaspora (see Annex C for more details on the simulation exercise).

Table 3: Simulation analysis – Mixed Parallel (2014)

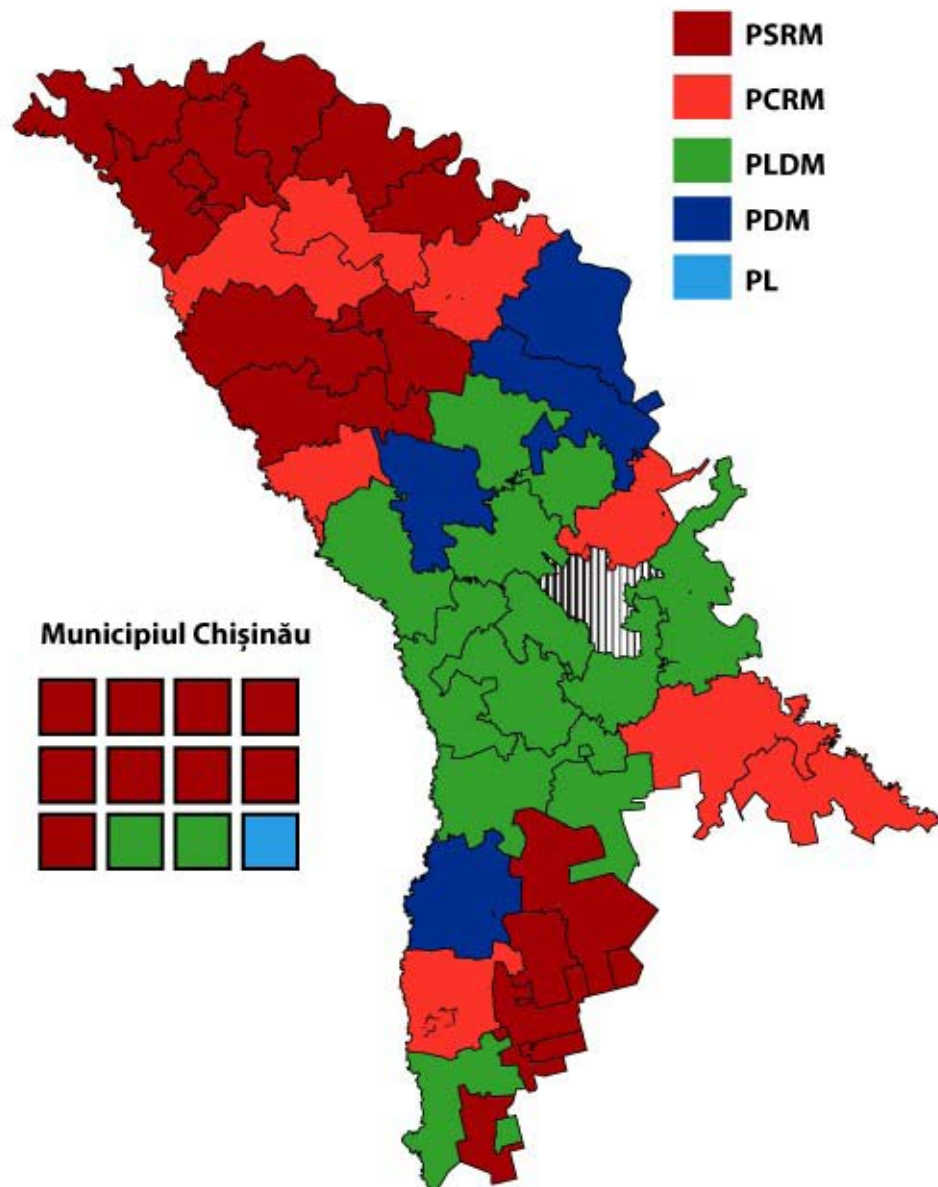
| | PSRM | PLDM | PCRM | PDM | PL |
|-------------------------------------|--------|--------|--------|--------|-------|
| Seats won through FPTP | 23 | 14 | 8 | 4 | 1 |
| Seats won from nationwide list (PR) | 13 | 12 | 10 | 9 | 6 |
| Total seats | 36 | 26 | 18 | 13 | 7 |
| Total seats [%] | 36.00% | 26.00% | 18.00% | 13.00% | 7.00% |

Table 4: Comparative perspective on mixed parallel outcomes (2014)

| | PSRM | PLDM | PCRM | PDM | PL |
|---|---------------|---------------|---------------|---------------|---------------|
| percentage of votes | 21.14% | 19.51% | 18.09% | 16.12% | 9.14% |
| Seats – simulation | 36 | 26 | 18 | 13 | 7 |
| Percentage of seats – simulation | 36.00% | 26.00% | 18.00% | 13.00% | 7.00% |
| Percentage of seats – current | 24.75% | 22.77% | 20.79% | 18.81% | 12.87% |
| Seats – actual | 25 | 23 | 21 | 19 | 13 |

Beyond what the above simulation results demonstrate, all the remarks regarding the possible impact and effects of the FPTP system are valid at least for half of Parliament if elected through a mixed parallel system.

The below map shows the territorial distribution of the seats every party would have got out of those 50 disputed in single-member constituencies (through FPTP).



IV.3 Possible effects of other electoral systems

Since the possible effects of FPTP and Mixed-Parallel system were already analyzed (within V.2), the sub-sections below provide a short analysis of potential effects of some other electoral systems: a) Proportional Representation on regional constituency lists; b) Mixed-Member Proportional.

IV.3.1 Proportional Representation in regional constituencies

One of the solutions to the issue of bringing MPs closer to people and assuring a better geographical representation of people in Parliament that resulted from the interviews done during the documentation phase consists of dividing the territory of Moldova into several constituencies and organizing a proportional scrutiny in those constituencies.

Table 5: Simulation analysis – PR in multimember districts, with no national redistribution (2014)

| | PSRM | PLDM | PCRM | PDM | PL |
|------------------------------|---------------|---------------|---------------|---------------|---------------|
| Seats, simulation | 27 | 24 | 23 | 17 | 9 |
| Seats, simulation [%] | 27.00% | 24.00% | 23.00% | 17.00% | 9.00% |
| Seats, real 2014 [%] | 24.75% | 22.77% | 20.79% | 18.81% | 12.87% |
| Seats, real 2014 | 25 | 23 | 21 | 19 | 13 |

Table 6: Simulation analysis – PR in multimember districts, with no national redistribution (2014) – by county constituency

| County Constituency | PSRM | PLDM | PCRM | PDM | PL |
|---------------------|-----------|-----------|-----------|-----------|----------|
| Bălți | 5 | 2 | 3 | 2 | 1 |
| Cahul + Taraclia | 2 | 2 | 1 | 1 | 0 |
| Chișinău | 1 | 4 | 3 | 2 | 1 |
| Edineț | 3 | 1 | 2 | 1 | 0 |
| Lăpușna | 1 | 3 | 2 | 2 | 0 |
| Orhei | 1 | 3 | 1 | 2 | 1 |
| Soroca | 2 | 1 | 3 | 1 | 0 |
| Tighina | 1 | 1 | 2 | 1 | 0 |
| Ungheni | 1 | 2 | 1 | 2 | 1 |
| UTA Găgăuzia | 3 | 0 | 1 | 1 | 0 |
| M Chișinău | 7 | 5 | 4 | 2 | 5 |
| TOTAL | 27 | 24 | 23 | 17 | 9 |

Table 7: Simulation analysis – PR in multimember districts, with national redistribution (2014)

| | PSRM | PLDM | PCRM | PDM | PL |
|------------------------------|---------------|---------------|---------------|---------------|---------------|
| Seats, simulation | 25 | 23 | 22 | 19 | 11 |
| Seats, simulation [%] | 25.00% | 23.00% | 22.00% | 19.00% | 11.00% |
| Seats, real 2014 [%] | 24.75% | 22.77% | 20.79% | 18.81% | 12.87% |
| Seats, real 2014 | 25 | 23 | 21 | 19 | 13 |

Table 8: Simulation analysis – PR in multimember districts, with national redistribution (2014) – by county constituency

| County Constituency | PSRM | PLDM | PCRM | PDM | PL |
|---------------------|------|------|------|-----|----|
| Bălți | 5 | 2 | 3 | 2 | 1 |
| Cahul + Taraclia | 1 | 2 | 1 | 1 | 1 |
| Chișinău | 1 | 4 | 3 | 2 | 1 |
| Edineț | 2 | 1 | 2 | 2 | 0 |
| Lăpușna | 1 | 3 | 2 | 2 | 0 |
| Orhei | 1 | 2 | 2 | 2 | 1 |
| Soroca | 3 | 1 | 2 | 1 | 0 |
| Tighina | 1 | 1 | 2 | 1 | 0 |
| Ungheni | 1 | 2 | 1 | 2 | 1 |

| | | | | | |
|--------------|-----------|-----------|-----------|-----------|-----------|
| UTA Găgăuzia | 3 | 0 | 1 | 1 | 0 |
| M Chişinău | 6 | 5 | 3 | 3 | 6 |
| TOTAL | 26 | 23 | 22 | 19 | 11 |

The two simulation highlight how important the seat allocation formula is. They show that if the seat allocation is done exclusively at the regional constituency level (a), some parties (with the smallest number of votes received) are at disadvantage. But if it is done by cumulating remainders at national level and distributing the remaining seats at that level (b), the results reflect better the percentage of votes every party obtained.

Note: In the above simulations, the PL's results are affected by the fact that the votes from diaspora – where that party got a high percentage, were not taken into consideration.

IV.3.2 Mixed Member Proportional System

Since quite many interviewed stakeholders referred to mixed systems as a possible solution to replace the current system and there is already an initiative of the PSRM in that regard, we considered that the Mixed Member Proportional version might be taken into discussion. Here is a simulation showing possible effects of such a system and again the simulation on Mixed-Parallel system, so the differences could be noticed

Table 9: Simulation analysis – Mixed Member Proportional (2014)

| | PSRM | PLDM | PCRM | PDM | PL |
|---|---------------|---------------|---------------|---------------|---------------|
| percentage of votes | 21.14% | 19.51% | 18.09% | 16.12% | 9.14% |
| Seats – simulation | 25 | 23 | 21 | 19 | 12 |
| Percentage of seats – simulation | 25.00% | 23.00% | 21.00% | 19.00% | 12.00% |
| Percentage of seats – current | 24.75% | 22.77% | 20.79% | 18.81% | 12.87% |
| Seats – actual | 25 | 23 | 21 | 19 | 13 |

Table 10: Simulation analysis – Mixed-Parallel (2014)

| | PSRM | PLDM | PCRM | PDM | PL |
|---|---------------|---------------|---------------|---------------|---------------|
| percentage of votes | 21.14% | 19.51% | 18.09% | 16.12% | 9.14% |
| Seats – simulation | 36 | 26 | 18 | 13 | 7 |
| Percentage of seats – simulation | 36.00% | 26.00% | 18.00% | 13.00% | 7.00% |
| Percentage of seats – current | 24.75% | 22.77% | 20.79% | 18.81% | 12.87% |
| Seats – actual | 25 | 23 | 21 | 19 | 13 |

It is easy to notice the significant differences of the seat allocation based on the same vote distribution but using different mixed electoral systems: the Mixed Member Proportional system secure a better proportionality between seat distribution and votes received.

IV.4 Experiences of other countries' electoral system reform Moldova could take into consideration

Major changes to electoral system design – i.e. change from one system to another – remain rare. More common is adjustment of electoral systems in place, i.e. changes of electoral formula, district size, legal thresholds, number of MPs, introduction of some type of open/preferential ballot etc.

When major changes are taking place, the general trend is for countries to change from a less proportional to a more proportional system. Examples include Albania (from MMP to PR in 2009), Bulgaria (restoration of the PR system in 2012 after a once-off trial with a mixed system in 2009), Kyrgyzstan (from TRS to PR in 2007 election), Kazakhstan (from mixed to PR in 2012 election). There are no examples of countries that have made a move from PR to FPTP. Over the past decade, only four countries have shifted to FPTP. In three cases the change was from another majority/plurality system (Belarus from TRS; and Maldives and Tonga from BV) and one from a mixed parallel system (Mongolia).

IV.4.1 Romania: from closed party lists to spreading up the list's candidates to single member constituencies – and back again

After 2000 the public opinion pressure on political parties for changing the electoral system increased. All opinion polls questioning on that issues revealed the people's wish to "vote persons but not lists anymore". Under that pressure, in every electoral campaign political parties and their candidates used to promise that they would fight for a significant electoral reform.

2005 – a special committee for the Electoral Code was set up in Parliament and the debates of the proposal submitted by a civic organization – Asociația Pro Democratia (APD) started. The proposal referred to a Mixed Member Proportional electoral system similar to the German one to some extent. The major difference is that while in Germany the voter has got two votes – one for a candidate in a single member constituency and one for the list at the *land* level. Under the system proposed by APD the list would be formed by all candidates in single member constituencies on the territory of the multi-member constituency and for every political party the votes obtained by its candidates in those single member constituencies would be put together in order to determine the number of votes for the list they form. The two major parties of the ruling coalition – PNL and PD – supported the APD proposal, while the other two ones – UDMR and PC – had a sort of neutral attitude

June 26, 2007 – PSD (an opposition party at that time), PNL and PD approved the Electoral Code draft proposed by APD (114 MPs voted it) and put it on the agenda of the Electoral Code Committee.

July 2007 – The President of Romania (who had become a supporter of the electoral reform) started to threaten political parties with a referendum if no compromise is reached.

August 28, 2007 – The Electoral Code Committee decided to adopt the project negotiated with the APD and forwarded it to the Chamber of Deputies

October, 2007 – the talks in Parliament prolonged and the President of Romania announced that he gave Parliament a week to adopt a new system. In the meantime, the ruling coalition broke and the President concluded that a majority system would be more in the benefit of the party he

came from – PD. In that context, PD stopped supporting the APD proposal and switched on the President's side.

President Basescu convened a referendum on that issue and started to promote very aggressively the two round majority system.

PNL concluded that the only way to break the deadlock is for the Govern to assume its responsibility on the bill on which it happened October 29, 2007.

November 25, 2007 – the referendum was held and invalidated, because of the only 26% turnout (out of 50% + 1 needed), although 81.36% voted for the change.

Two articles in the Election Law (that had been adopted by the Govern taking responsibility in front of the Parliament) were declared unconstitutional (after the President asked the Constitutional Court to check their constitutionality) and, after December 12, the law would return to Parliament.

The parties return to the discussion table. Instead of replacing or fixing those two unconstitutional articles, on February 26, the Electoral Code Committee's members finalized a report on the introduction of another system. That system was inspired from the Slovenian one and consisted of splitting every county electoral constituency into as many single member constituencies as many MPs were to be elected in that county. In every single-member constituency, the party list would be represented by one of the candidates on that list. So, when the voter votes for one of the candidates in his/her single member constituency, he practically voted for the entire party list (that candidate belongs to). In the end the seat allocation was done by taking into account two factors – a) the total number of votes obtained by every party in every county and at national level; b) the number of votes obtained by every candidate representing his/her party in a single member constituency. As a consequence, the candidate that got the seat in a single member constituency didn't necessarily have to be the first one (with the highest number of votes) unless that candidate got 50% of votes but it could be the second or even the third one. Unfortunately, the new system was not presented to the people as it was but under the name of "majority system".

On March 4, 2008, the Chamber of Deputies adopted the Law.

The 2008 and 2012 elections were organized based on the new system. There were two major dissatisfactions that system brought to the people:

- 1) People noticed that the candidate declared elected in their single member constituency was not the "winner" of the elections in that constituency in case he/she didn't get 50% of votes but the second or even the third one according to the number of votes obtained
- 2) Especially in 2012, in order to rebuild the proportionality (damaged by the fact that the Liberal – Social Democrat coalition won 50% of votes in more than 75% of single member constituencies but it had the right to get around only 66% of the seats in Parliament) around 100 seats had to be added to the total number of seats in Parliament (both Chambers).

In addition, the general perception was that the quality of MPs and Parliament didn't improve at all as a consequence of the new system – and that was one of the target of changing the electoral system.

In 2016, Romania switched back to the closed party list proportional electoral system.

IV.4.2 Ukraine – towards PR-OL?

Since the declaration of independence from the Soviet Union, Ukraine has engaged in frequent reform of the electoral system. The two first elections of 1991 and 1994 were organized under TRS. The country was split into 450 single-member districts and the outcomes of the elections were determined by a majority rule – if no candidate obtained 50 percent + 1 vote in the first round, a second round of voting was organized. In 1998 and 2002, elections were run under a parallel system with half of the MPs selected in single-member districts under plurality (simple majority) rule. To qualify for seats under the PR part of the system, a party would need at least 4 percent of the vote. Under the two elections that followed in 2006 and 2007, the system of single-member districts was scrapped altogether and a full-blown PR system was used. The country made up one single nation-wide electoral district and the electoral threshold was lowered to 3 percent. Finally, the parallel system of voting was re-introduced in the two last elections of 2012 and 2014. Yet again, the *Rada* is made from 225 MPs elected on the basis of FPTP rules whereas the other 225 are elected from PR-CL with the country making up one single electoral district and seats are allocated to parties that surpasses the threshold – now set to 5 percent.

With its four major electoral system reforms – from TRS to Parallel to PR and back to Parallel – Ukraine remains one of the countries worldwide that has made most changes to the rules of the game. Last year, the discussion on electoral system design was revived yet again. In meetings with various electoral stakeholders, an IFES report developed in 2015 suggests that there is high degree of consensus around:

1. *The need to abolish the single-member districts:* It is argued that the election of MPs from single-member districts has “accentuated corruption, produced unrepresentative MPs and allowed for seat bonuses which skewed fair representation of parties”.
2. *From closed list to open list:* Stakeholders suggest that a PR-OL system will “reduce internal party corruption, increase accountability, and generate more legitimacy for government and parliament”.
3. *From national to regional lists:* The move away from one single nation-wide electoral district to several multimember districts will enhance voter relations with the MP and ensure better geographical representation.
4. *Meaningful gender equality:* Electoral system reform must take into consideration impact on gender equality. Notably, in the last elections of 2014, only two women was capable of being elected in the single-member district part of the election.³⁴

In February 2016, the Venice Commission, Council of Europe and IFES organized a week with a series of events on electoral system design. Beyond reiterating the issues as outlined about – i.e. broad consensus on the need for the country to opt for a PR-OL system with multiple multimember districts and take measures to ensure adequate gender representation – the Statement on the Outcome calls for the establishment of a Working Group on electoral system reform. The WG ought to be tasked to 1) develop a Road Map for the electoral reform process that includes public debates and ensures transparency and openness around the process and 2) draft amendments to the electoral laws. The Statement also calls for the organization of a comprehensive awareness raising campaign to ensure that members of the government, the parliament and the president’s

34 OSCE/ODIHR. 2014. Ukraine Early Parliamentary Elections, 26 October 2014: OSCE/ODIHR Election Observation Mission Final Report. Available at <http://www.osce.org/odihr/elections/ukraine/132556?download=true>, see p. 4.

office as well as political parties and citizens at large understand the advantages and disadvantages of the systems available and are capable of making meaningful contributions to the debate.³⁵

IV.5 Obligations and advise for electoral system reform

IV.5.1 International and regional standards/obligations

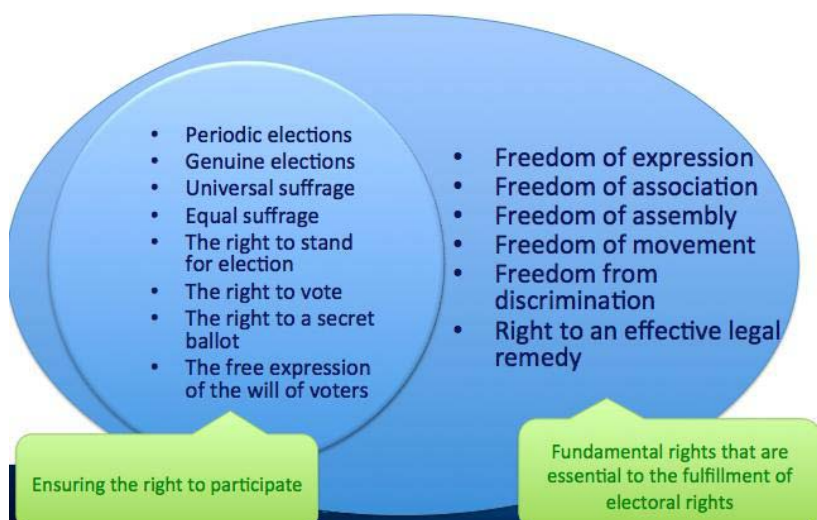
International and regional standards or obligations for elections are made up by universal and regional human rights as well as case law. They are politically or legally binding on state parties and have implications on how states organize elections.

The main international standards or obligations, which forms the backbone of elections around the globe, are the Universal Declaration of Human Rights (UDHR, of 1948) and the International Covenant on Political and Civil Rights (ICCPR, of 1966). Drawing on these two instruments, fundamental freedoms and basic principles relevant to the conduct of elections can be extracted. Over and above, elections must be organized in an environment that guarantees freedom of expression, association, assembly and movement as well as freedom from discrimination and effective legal remedies. Further to this, genuine elections must be universal and guarantee the equal right of people to vote and to stand for elected office. Moreover, voting must be secret and take place with regular intervals (see Figure below).

Other relevant international instruments that expand on equal right for participation and freedoms against discrimination are the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, of 1966), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, of 1979), the Convention on the Rights of Persons with Disabilities (CRPWD, of 2006).

Also worthwhile noting is the UN's Convention against Corruption (CAC, of 2003), which is particularly relevant when it comes to ensuring transparency and openness around processes such as elections from a political and administrative point of view.

Figure 3: Fundamental freedoms and principles for elections



35 Information provided by IFES Ukraine office by email correspondence during April 2017.

The above-mentioned freedoms and principles are echoed in regional instruments relevant for Moldova. The Copenhagen Document of 1990 Art. 7 obliges all OSCE countries to “hold free elections at regular intervals”, “guarantee equal and universal suffrage”, “ensure that votes are cast by secret ballot or equivalent free voting procedure”, “respect the right of citizens to seek political or public office” and also outlines the rights for people to associate, for parties to contest in election (including campaign) and media access.³⁶

On the subject of electoral reform more specifically, it is important to note that any reform must take into account applicable international and regional standards and obligations. Notably, neither international nor regional instruments provide guidance regards electoral system choice. OSCE/ODIHR notes that:³⁷

“Democratic elections require that there be an election system in place to convert the will of the people (votes) into seats or mandates to be held by a group of elected representatives (legislature). This system may be a proportional voting system, a majoritarian voting system, or a combination of both. Regardless of the system chosen, there must be an established mechanism for converting the popular vote of the people into representative government in the legislature.”

At the same time, the regional body highlights that:

“... whatever system is chosen, elections must result in a legislature representative of the country’s main political forces.”

In other words, electoral systems ought to provide for appropriate representation. Representation can, as outlined in Section 2, take many forms – e.g. mathematical representation (or “fair” representation) of electoral contestants for the translation of votes into seats, descriptive representation that recognizes the existence of various societal groups (men/women, old/young, urban/rural, ethnic/religious groups etc.) and geographical representation of territories within the country. The priority given to representation has been further underlined by International IDEA:³⁸

“...while there is no legal stipulation that a particular kind of electoral system is preferable to another, there is an increasing recognition of the importance of issues that are affected by electoral systems, such as the fair representation of all citizens, the equality of women and men, the rights of minorities, special considerations for the disabled, and so on.

IV.5.2 Venice Commission and the Code of Good Practice

The Venice Commission’s Code of Good Practices on Electoral Matters: Guidelines and Explanatory Report of 2002 provides further details on the election principles relevant to the debate on electoral system reform in Moldova.³⁹ In line with other obligations, the Code establishes that elections must be universal, equal, free, secret, based on direct suffrage and organized at regular intervals. With regard to the electoral system design, it establishes that

36 Available at <http://www.osce.org/odihr/elections/14304> (accessed April 2017)

37 OSCE/ODIHR. 2002. International Standards and Commitments on the Right to Democratic Elections: A Practical Guide to Democratic Elections Best Practice. Available at <http://www.osce.org/odihr/elections/16859?download=true> (accessed April 2017) – see pp.

38 International IDEA (2005), p. 14.

39 Available at [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2002\)023rev-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2002)023rev-e) (accessed April 2017)

Within the respect of the above-mentioned principles, any electoral system may be chosen (Art. 4).

However, the document goes on to specify conditions for these principles to be fulfilled and presents guidelines for electoral reform processes.

On the reform process

The Code of Good Practice highlights the legislation concerning the electoral system design – together with that of the composition of electoral commissions and the drawing of district boundaries – represent decisive elements of an electoral process. Due to the way in which these elements can be used as means for political goals, these elements require a degree of legal stability. The Code of Good Practice notes that:

These three elements are often, rightly or wrongly, regarded as decisive factors in the election results, and care must be taken to avoid not only manipulation to the advantage of the party in power, but even the mere semblance of manipulation. (Art. 64).

To prevent manipulation, or perceptions of such, the Code warn state parties against frequent change and proposes that such elements are established in the Constitution or other higher laws or, for a more flexible solution, that the Constitution provide that amendments to such legislation may take effect only after the following elections (Art. 65–66).

Electoral stakeholders have expressed considerable concerns regards the way in which, in particular, the FPTP system, as proposed by the PDM, is likely to strengthen the PDMs position in politics in Moldova. As mentioned in section III.2, civil society organizations noted, in its statement on the passing of the proposals in parliament on 5th May, that the apparent rushing of the reform process suggested the relevance of manipulation for political interests. These perceptions underscore the importance of ensuring that the electoral system reform debate must be inclusive and open and that the outcome of such a process is based on broad consensus. These crucial features of the reform process were also highlighted by the Venice Commission in its Opinion Statement linked to the 2013–2014 reform debate.

On timing of reform

The Code of Good Practice proposes that the electoral system should not be changed less than one year before any election (Art. 65).

Whilst the current reform debate is taking place well in advance of the “one-year rule”, with the next elections foreseen to take place towards the end of 2018, the possibility for political parties and voters to get to know and adapt to a new system expands with a longer timeframe. The option of allowing the next elections to be organized under the present system and for any possible new electoral system to be implemented in the subsequent election would cater for a longer learning and adaption period. Possibly most important is that it gives the CEC and civil society actors with a better timeframe for planning and implementing civic and voter education campaigns and hence expanding voter understanding of how the new system will work. Political parties may also choose to change their strategies prior to elections organized under different rules, e.g. set up alternative internal mechanisms for candidate nomination etc.

On electoral districts

Related to the principle of equality, and more specifically equal voting power, the Code of Good Practice establishes that seats must be evenly distributed across electoral districts. Provided that electoral reforms in Moldova would entail dividing the country into single- or multimember districts, it is worthwhile noticing that equal voting powers entail

... a clear and balanced distribution of seats among constituencies on the basis of one of the following allocation criteria: population, number of resident nationals (including minors), number of registered voters, and possibly number of people actually voting (Art. 2.2.ii)

... and that:

The permissible departure from the norm should not be more than 10%, and should certainly not exceed 15% except in special circumstances (protection of concentrated minority, sparsely populated administrative entity) (Art. 2.2.iv).

With regard to the timing of boundary delimitation, to account for geographical mobility, the Code outlines that:

In order to guarantee equal voting power, the distribution of seats must be reviewed at least every ten years, preferably outside election periods (Art. 2.2.v)

For multimember districts, preference ought to be given to using existing administrative boundaries and ensuring stability through the redistribution of seats rather than re-districting to account for population mobility. For single-member districts, on the other hand, the importance of impartiality and the use of technical expertise and drawing or reviewing constituency boundaries are underscored.

Notably, equality of voting powers would be essential should Moldova opt for a system that set aside separate electoral districts – whether multimember or single-member districts – to citizens living abroad. In order to abide by the spirits of the Code of Good Practice, the number of MPs set aside for such districts ought to take into account the relative numbers of citizen/voters abroad.

On minorities

The Guidelines specify that special rules to ensure effective representation of minority groups are not contradictory to equal suffrage (Art. 2.4). However, it should be noticed that the one person-one vote applies, i.e. giving minorities additional ballots is problematic (Art. 2.1). To ensure freedom of minorities to form political opinions, lists of parties and candidates ought to be made available in appropriate languages.

On gender equality

The Code on Good Practice allows for affirmative action strategies to promote equal participation and representation. More specifically, it states that “rules requiring minimum percentage of persons of each gender among the candidates should not be considered as contrary to the principle of equal suffrage” (Art. 2.5).

Further elaborating on this issue, the Parliamentary Assembly of the Council of Europe Resolution 1706 (2010) on “Increasing Women’s Representation in Politics through the Electoral System” notes:

Changing the electoral system to one more favourable to women's representation in politics, in particular by adopting gender quotas, can lead to more gender-balanced, and thus more legitimate, political and public decision making (Art. 4).

It furthermore suggests that “in countries with a proportional representation list system, consider introducing a legal quota which provides not only for a high proportion of female candidates (ideally at least 40%), but also for a strict rank-order rule (for example, a “zipper” system of alternating male and female candidates), and effective sanctions (preferably not financial, but rather the non-acceptance of candidacies/candidate lists) for non-compliance, ideally in combination with closed lists in a large constituency and/or a nation-wide district” (Ar. 6.3.1). Moreover, it proposes that “in countries with majority or plurality systems, consider introducing the principle of each party choosing a candidate amongst at least one female and one male nominee in each party district, or find other ways of ensuring increased representation of women in politics, such as, for example, applying innovative mandatory gender quotas within political parties, or “all-women shortlists” or “twinned” constituencies, again accompanied by effective sanctions for non-compliance” (Art. 6.3.2).

Notably, neither of the two electoral system reform proposals currently registered in the parliament, in favor of changes towards FPTP and a mixed parallel system, respectively, take an active approach towards ensuring improvements to gender equality in politics in Moldova.

On the contrary, the current electoral system in place, with the modifications adopted in 2016 concerning a 40% gender quota on party lists, is in line with the above-mentioned recommendations. Notably, the Parliamentary Assembly proposes state parties to further ensure that positive measures have real impact through use of zipping strategies etc.

On electoral fraud

In order to ensure free elections, electoral system reforms must take into account how such reforms impact on elections-related corruption. Key issues of concern is to ensure simple voting procedures, strict rules for special types of voting procedures – e.g. postal voting, electronic voting and mobile ballot boxes – that take into account local infrastructure capacities. Moreover, the Code of Good Practice suggests that counting ought to take place in the polling stations rather than centralized and that counting and transmission of results must ensure transparency.

IV.5.3 Ten criteria for electoral systems design

International IDEA's Handbook on Electoral Systems Design has proposed a set of ten criteria for electoral systems design.⁴⁰ The criteria, which are widely acknowledged and reiterated by many organizations working in the field of elections including OSCE,⁴¹ may provide a useful tool for structured debates around the basis for electoral system reform.

The criteria are as follows:

⁴⁰ International IDEA, 2005. Handbook on Electoral Systems Design, IDEA: Stockholm, pp. 9–15.

⁴¹ During the “Change of the electoral system in the Republic of Moldova” seminar organized by the Konrad Adenauer Stiftung and the Friedrich Ebert Stiftung in Chisinau on 8 April 2016, Mr. Oleksii Lychkovakh, Election Advisor at OSCE/ODIHR, made specific reference to these 10 criteria in his speech on benefits and threats to electoral system reform in Moldova.

1. *Provide for representation:* The degree to which the electoral system caters for or maximizes representation can take three main forms. First, geographical representation entails representation of regions, towns and cities. Second, fair (or mathematical) representation of electoral contestants as reflected at the ballot box has to do with ensuring that a party obtaining 20 percent of the vote obtains approx. 20 percent of the seats available). Third and finally, descriptive representation relates to the importance of ensuring that the legislature is, to some extent, mirroring the composition of the population at large in terms of e.g. gender, age, economic well-being, religion, ethnicity, language etc.
2. *Make elections accessible and meaningful:* Accessibility is enhanced under a system that, under given country contexts related to literacy and numeracy, is easy for voters to understand. Meaningful participation is promoted by systems that lowers the number of wasted votes and where outcomes of the election has a real impact on the composition of the government and on future development policies.
3. *Provide incentives for conciliation:* Electoral system design impacts on the way in which parties are encouraged to make broad and inclusive appeals across societal divides vs. make exclusionary appeals to certain groups. In choosing among electoral systems, a view towards the way in which a system provides incentives for accommodation and unity may be important.
4. *Facilitate stable and effective governments:* Electoral system choice should reflect on the ability of the systems to produce a "fair" government. Some systems may kick the party winning the second largest amount of votes into a position where they can form a majority government – in some societies it might be seen as an acceptable outcome whereas in others it might not. Moreover, the electoral system may impact on the establishment of an effective government, which relates to its capacity to ensure that the government of the day enjoys a working majority in the legislature.
5. *Hold governments to account:* This criterion speaks to the electoral systems ability to ensure that voters can hold governments accountable – it should be possible for voters to "throw the rascals out" if they are not satisfied with the way in which they run the country.
6. *Hold individual representatives to account:* Electoral systems differ from one another when it comes to their capacity to provide voters with a possibility to reward or punish performance of their representatives. It is often argued that individual accountability is enhanced with voters vote for one single individual or when voters are given a chance to impact on candidate choices through signaling their views on an open or preferential ballot.
7. *Encourage political parties:* Political parties remain the bedrock of modern representative democracy and therefore the electoral system ought to play a role in ensuring the development of stable and effective political parties. Electoral systems differ from one another when it comes to encouraging party fragmentation and internal party competition. Some systems are also better fit to avoid that political parties turn into vehicles for individual politicians. Many experts agree that the electoral system ought to discourage political parties that are exclusive in their appeals – be it towards specific regional, ethnical, religious or other group belonging. Related to criteria #3 above, some systems encourage political parties to be based on broad and inclusive platforms.
8. *Promote legislative opposition and oversight:* The electoral system ought to promote the development of an effective opposition in parliament that, in turn, can allow for adequate oversight and protection of minority rights and views.

9. *Make the electoral process sustainable:* Electoral system choice must take into account financial and operational realities – some systems are simply more costly than others and require human resources and skills that are not available in the country.
10. *Take into account international standards/obligations:* In line with international and regional standards (or obligations), the choice of electoral system must consider the degree to which the systems considered cater for principles linked to the organization of free, fair and period elections that are based on universal suffrage and guarantees the secrecy of the ballot. See more under section 5.6 on “rules” of electoral reform.

Notably, the criteria are to some extent at conflict with one another. For example, the two criteria related to encouraging stable and effective governments on the one hand and viable oppositions on the other hand counteract one another. The same applies to the criteria related to holding individual politicians accountable vs. catering for a strong and effective political party system. At the end of the day, countries need to make priorities among the different criteria based on the socio-political realities in the country where the system will operate.

Box 6: Electoral systems from a complexity and costs perspective

Criterion #9 underlines the need to ensure that electoral system reform takes into account a country’s resources – financial and human/technical capacities. The below picture provides a “rough guide” to complexity and costs of election operations under different electoral systems.

| | Drawing Electoral Boundaries | Voter Registration | Ballot Paper Design and Production | Voter Education | Number of Polling Days | By-elections | The Count |
|----------|------------------------------|--------------------|------------------------------------|-----------------|------------------------|--------------|-----------|
| FPTP | ☹ | ☹ | 😊 | 😊 | 😊 | ☹ | 😊 |
| BV | 😐 | 😐 | 😐 | 😐 | 😊 | ☹ | 😐 |
| TRS | ☹ | ☹ | ☹ | 😐 | ☹ | ☹ | 😐 |
| AV | ☹ | ☹ | 😊 | ☹ | 😊 | ☹ | 😐 |
| PBV | 😐 | 😐 | 😊 | 😊 | 😊 | 😊 | 😊 |
| List PR | 😊 | ☹ | 😐 | 😐 | 😊 | 😊 | 😊 |
| STV | 😐 | 😐 | 😐 | ☹ | 😊 | ☹ | ☹ |
| Parallel | 😐 | ☹ | 😐 | 😐 | 😐 | 😐 | ☹ |
| MMP | 😐 | ☹ | 😐 | ☹ | 😐 | 😐 | ☹ |
| BC | 😐 | ☹ | 😐 | ☹ | 😊 | ☹ | 😐 |
| SNTV | 😐 | 😐 | 😐 | 😊 | 😊 | ☹ | 😊 |
| LV | 😐 | 😐 | 😐 | 😐 | 😊 | ☹ | 😐 |

Key: 😊 = Low cost and complexity; 😐 = Medium cost and complexity; ☹ = High cost and complexity.

Source: *International IDEA Handbook on Electoral Systems Design, 2005, p. 156.*

It should be noted that the list of criteria is not exhaustive – in some contexts the additional issues may be at hand. In the Best Electoral System Test⁴² (see the Annex C), International IDEA includes questions linked to e.g. how important it is for the electoral system to limit the possibility of strategic voting and how important it is for the system to reduce the need for boundary delimitation – to mention a few.

IV.5.4 Perspectives on the process

Given the importance of electoral system design on election outcomes, changes to laws on how votes are translated into seats warrants particular attention. It is clear that a scope for political manipulation is considerable – time and again parties in power have used electoral system reform as a strategic tool to enhance their power base.

As noted in Section IV.2, the Venice Commission's Code of Good Practice and opinion statements on electoral system reform proposals in the region highlights the need for such reform to i) be inclusive and open, ii) promote the building of broad consensus among electoral stakeholders; and iii) take place in a timely fashion with a minimum of a one-year period between new laws are enacted and the next elections.

To promote a process by which electoral system reform aims towards the public good – i.e. enhancing the ability of democracy to deliver to its citizens – a strategy incorporating the following elements is warranted:

- Careful *research and analysis* of best practices and lessons learned that takes into considerations the key advantages and disadvantages of all types of electoral systems in order to identify best possible solution/s taking into consideration contextual factors related to political, economical, social and cultural background.
- Build *capacities* among electoral stakeholders on how different electoral systems operate and what are their pros and cons.
- The organization of *wide-ranging and inclusive multi-stakeholder consultations* on the subject to discuss the different options as well as to build mutual trust, cooperation and transparency in the process of reform per se.
- The establishment of *constructive and collaborative discussions among political parties*, i.e. through the use of existing inter-party platforms or mechanisms.
- Clear *plans and timelines* for the roll-out of various stages of the reform process – research and capacity building, debate and discussions, drafting of legislation, and final decision.
- The availability of *financial means* to guarantee an open and inclusive reform process.

42 The Best Electoral Systems Design Test is available here: <http://www.idea.int/data-tools/tools/best-election-system-test>

Box 7: Advice to electoral system designers

International IDEA outlines a set of advice to electoral system designers (or “engineers”) – in short:⁴³

- ✓ Ensure that changes promote *simplicity and clarity* – neither voters nor politicians are better off with a system that is too complex to understand.
- ✓ There is a lot to learn from experiences around the world and in neighboring countries but also consider *innovations* that can address specific contextual challenges.
- ✓ Be sure to account for *contextual and temporal factors*.
- ✓ Notwithstanding the emphasis on simplicity, electoral system designers should *not underestimate the voter abilities* to make sophisticated choices.
- ✓ Divided societies warrants designers to *err on the side of inclusion* – exclusion of political opinions have time and again proven catastrophic.
- ✓ The *process* by which electoral systems are change is crucial to ensure legitimacy of the electoral system finally chosen but also to ensure that political contestants accept electoral outcomes in future elections.
- ✓ *Maximize voters influence* – it will increase voters’ perception “real” democracy where they can directly impact on the outcome of political processes
- ✓ At the same time, designers ought to balance voter influences against the need also to promote *viable political parties* capable of aggregating voice and developing policies.
- ✓ Electoral system designers ought to take into account that *short-term electoral advantages may be incompatible with longer-term political stability*.
- ✓ Whilst electoral system is important, it cannot fix all political ills of a country.
- ✓ That said, a well-crafted electoral system may “nudge” political systems and processes in the right direction
- ✓ Consider the *electorate’s willingness to accept reform*.
- ✓ Once in place, electoral systems become part of the political landscape and it might provide *difficult to correct system defects later*.
- ✓ *Do not hang on to an inappropriate electoral system* – if change is needed, make it happen.
- ✓ Ensure to analyze the impact of a potential new electoral system on *conflict*.
- ✓ *Avoid overreacting* – creating a new system that goes too far in terms of fixing previous problems may cause unintended consequences and cast a country into trouble.

43 For full text, see International IDEA 2005. Electoral System Design: The New International IDEA Handbook. Available at <http://www.idea.int/publications/catalogue/electoral-system-design-new-international-idea-handbook?lang=en> (accessed April 2017), pp. 160–164

V. Conclusions & Recommendations

The electoral system in place has proven to carry both advantages and disadvantages as they were presented in Chapter III. Opinion polls suggest that citizens of Moldova are very dissatisfied with political parties, Parliament, Government – in other words: most institutions linked to politics more generally. The same opinions surveys show that people are dissatisfied with the current electoral system and most of them would like it to be replaced. First and foremost, people would like to vote individuals instead of party lists. The question to what extent the electoral system change might be a solution to the people's dissatisfaction or it could bring any improvements in political class and, if it could, what electoral system would bring the most advantages and the least disadvantages.

The current electoral system debate emerged as a response to the proposal put forward in parliament by the PDM, in March 2017, for future elections in Moldova to be organized under FPTP rules. The proposal has been submitted to the Venice Commission for review and an opinion statement is expected in June. In April, the President of the Republic publically promoted the introduction of a mixed parallel system and a few days later the PSRM initiated a draft law based on that system. The two law proposals were speedily passed in the first reading in parliament on 5th May.

To the knowledge of the authors of this report, no country has ever undertaken a change from List PR to FPTP for election to the parliament. The electoral reform attempts in UK has failed due to the way in which the system brings advantages to the biggest parties. After the fall of communist regime in Eastern Europe, first post-independence elections were carried out under majority rules (Macedonia, Moldova, Ukraine etc.) but all – except for Belarus – later changed the systems to either List PR or a mixed electoral system. A number of examples exist of countries switching from PR to a mixed system but with variable success: in a number of cases, countries have moved back to PR after only a few elections. It might be worthwhile to examine the lessons learned more systematically to explore how these systems “failed during testing”.

Moreover, for the election of the European Parliament, since 2009 all countries (including France and UK) can organize elections only on the basis of a proportional representation systems – either party candidate lists of single transferable vote (Article 1 of Council Decision 2002/772/EC). In other words, Europe is to a considerable extent going in the direction of embracing fair representation as a cardinal value for the election of representatives to legislative assemblies. Provided that the FPTP bill would be adopted, the reform would be highly unusual – possibly unique.

Major changes to electoral system design may have profound impact on political life and democratic consolidation. In Moldova, it is unclear what would be the result from making a full-blown reform from one system to another. Careful analysis and discussions around potential unintended consequences has not yet taken place. Policy-makers ought to be aware of the risks associated with “getting it wrong”. Minor changes, on the other hand, may offer an avenue for addressing key problems as experienced under existing rules.

V.1 Recommendations

Enhancing voter-MP relations

There is general consensus around the fact that enhancing voter-MP relation, from a representation and accountability perspective, remains a key challenge for the current electoral system in Moldova. One way of enhancing voters' ability to have a more direct impact on who is elected and

also hold individual politicians to account would be to introduce an open list system. While it is important not to underestimate Moldovan voters' ability to cast a sophisticated vote, changes to the ballot should take into considerations that voters might want to cast a simple vote for their party of preference – the way in which they have voted since 1994. An optional (rather than mandatory) system could therefore be considered most appropriate. When designing the details of how voters may express preferences, it is important to ensure that preferences have actual influence on results, i.e. that thresholds of impact are not too high.

→ Open list system whereby parties establish a priority list of candidates but where voters can make real impact on the rank-ordering and hence influence who accesses parliament.

To further build incentives for stronger voter-MP relations and thereby promote accountability and representation, lawmakers may consider possibilities to divide Moldova into a number of multi-member districts. Either former existing county boundaries or grouping the current "raions" into larger territorial units that would become electoral constituencies could be used. As an alternative, and considering issues linked to counties of small size as well as the persistent challenge of preserving national unity in the context of the ongoing conflict with the self-proclaimed Transnistria region, another solution would be to establish larger electoral districts (or "zones", e.g. north/south/east/west/central). The allocation of seats across any multimember districts established ought to be established and regularly reviewed based on population statistics. It should be noted that, with larger electoral districts, the district magnitude (i.e. number of MPs elected in each district) will increase which, in turn, will have a negative influence on the voter-MP linkages. A trade-off – or compromise solution – must be identified that balances the need for the strengthening of voter-MP relations vis-à-vis other priorities (e.g. preserving the unity of the country in electoral terms – see below).

→ A set of multimember districts ought to be established. The establishment of districts should take account for existing administrative structures.

Protecting proportionality of outcomes

A considerable number of stakeholders expressed that the legal threshold for access to parliament is too high. In 2014, altogether 16.4 percent – or more than 303.000 – of the votes cast were cast on electoral contestants that eventually did not make the threshold. In other words, these votes were "wasted" and did not contribute to the seat allocation. At 6 percent for individual political parties, the threshold is among the highest in the world. The need to ensure fair representation must be balanced against the need to prevent extensive fragmentation in the parliament, which can overly complicate and impact on the functioning of the parliament. It is worthwhile noting that the European Council Decision 2002/722 provides for member states to determine their own threshold as long as such thresholds are not exceeding 5%.

→ The legal threshold for political parties should be reduced – to 3 or 4 percent – for single parties. In line with traditions in Moldova, incremental threshold may be used for party blocks.

Consensus exists around the need for lowering the threshold for independent candidates. The current threshold at 2 percent, operating at the national level, have effectively excluded the possibility for independent candidates to access parliament. The need to ensure access to independent candidates must be balanced against the need to promote an effective party system as well as viable governments and oppositions. That said, provided that Moldova retains the PR system, it is not plausible that the number of independent MPs would increase dramatically and pose a threat to such development.

→ The legal threshold for independent candidates should be removed. A natural threshold – resulting from other mathematical properties (electoral formula, district magnitude) of the electoral system – should apply. I.e. provided that an independent candidate receives voting support surpassing the required quota, as per the formula in place, he/she ought to be considered elected.

Provided that the country is divided into a number of electoral districts, lawmakers may consider establishing a national tier that can account for disproportionalities as produced under the vote in the electoral districts.

→ The effect of a two-tier system ought to be explored to guarantee proportionality of the results at the national level.

Considerations for equal access to elected offices

The number of women in parliament remains low. In 2016, the legislature adopted provisions that require candidate lists of political parties to be made up by at least 40 percent of each gender. This is a positive development but may not produce the desired effects, as parties are free to place women anywhere on the list. Experiences from previous elections signals that parties tend to include women on the lists but they are more often than not placed on non-electable spots on their lists.

→ Electoral system reform efforts, including adjustments to the existing PR system in use, must pay attention to how changes might interact with the recently introduced 40 percent quota rule. In conjunction with other changes, lawmakers might do well to already now strengthen the provisions – e.g. by applying the 40 percent quota to every five spots on the party lists – to ensure positive impact from head on.

The multi-ethnic and multi-cultural character of the Moldovan society is an important aspect that has to be taken into account. From this point of view, it's been important that almost all needs, interests and opinions have been represented in a fair manner in the Parliament. Although political parties in Moldova may not be founded based on ethnical criteria, the general opinion is that citizens who belong to different ethnic minorities have found political parties and leaders to represent their needs and interests in Parliament. The pro-West orientation's supporters and the pro-East ones have also been represented in Parliament in good balance as well as the independency supporters and the "unionists".

→ Provided that Moldova changes the system by which representatives are elected to parliament, the issue of minority representation ought to be carefully monitored.

Considerations for meaningful participation

Taking into account the huge number of Moldovan citizens living abroad, the electoral system has to be designed so it can secure the meaningful participation of those citizens to the election of Parliament. As long as the Electoral Code of Moldova doesn't provide for absentee voting and that voters living abroad do not have a formal "home" residential connection, any change that requires regional or single-member constituencies may add political and technical complications. Experiences from countries that have applied separate constituencies for out of country voters may be further explored.

→ Provided that electoral reform entails the division of the country into electoral districts, one solution for Moldova is to establish separate electoral districts or constituencies for

citizen abroad. One important aspect to consider is how many representatives should represent people living abroad. Considerations must take into account the number of persons living abroad (to secure an equal vote) but balance this against the fact that these persons are not experiencing the outcome of the vote on a daily basis (as compared to persons actually living in the country).

One of the main reasons for establishing a single nation-wide electoral district back in 1994 was the issue of Transnistria. As the region remains in *de facto* control of local authorities, and as the possibilities to effectively provide Transnistria's citizens with a real and equal opportunity to exercise their right to vote, provisional solutions must be identified.

Looking at similar experiences in neighboring Ukraine, the issue has been sorted with vacant seats. Stakeholders working on various reform initiatives in Moldova might need to carefully analyze to what degree this would constitute a violation of the Constitution of the republic.

The alternative to accepting vacant seats would consist of activating an "active registering" procedure for citizens living in Transnistria and deciding on the number of multi-member constituencies depending on those registered while assuring their possibility and facilities to vote in polling sites on the right bank of the Nistru River (as it has happened so far). In case the number of those registered is too small for a separate constituency, the territory of Transnistria could be merged to a piece of the territory on the right bank of the Nistru River so they would form together a constituency.

→ Provided that electoral reform entails the division of the country into electoral districts, policy-makers ought to explore the possibility for Moldova's Parliament to operate with vacant seats.

V.2 Final remarks

The final conclusion of this analysis is that Moldova would do well in avoiding any reform towards a full-blown FPTP system. The system works well in established democracies that have used it and where political parties and voters alike have adapted to it over many decades. The fact that no other country has made the move from List PR to FPTP ought to serve as a warning sign for such a move.

Furthermore, at this point in time, Moldova ought to resist moving to a mixed system, especially to a mixed-parallel one. The system is prone to produce disproportional results. Notably, many countries in the region that have adopted such systems have either abandoned them (Bulgaria, Ukraine) whereas others are currently discussing reform away from the system (Georgia, Ukraine). Provided that Moldova will continue discussing the possibility for shifting towards a mixed system, the MMP system ought to be seriously discussed – as opposed to a parallel system – as it ensures that fair representation can continue to prevail.

The authors consider that the best solution would consist of improving the current electoral system, the List-PR system, by organizing elections in 10–12 constituencies (instead of a national one as it is now) and by replacing the closed party lists with open lists to provide voters with a possibility to influence or even decide on who is elected at the individual candidate level. As it was presented within this study, a considerable number of countries in Europe are using multiple multimember electoral districts and open list systems. In designing a new ballot, Moldova can draw on these experiences and examples but stand free to design a ballot that gives meaning to the voters.

Annex A: List of interviewees/focus group participants by organization/institution

| Institution/Organization | Interviewed person (position) |
|---|---|
| Public authorities and institutions | |
| Constitutional Court | President |
| Central Electoral Commission | Chairperson |
| Centre for Continuous Electoral Training | Director |
| Bureau for Diaspora Relations | Chief of the Bureau |
| Presidency of the Republic of Moldova | Adviser on Institutional Relations and Legal Issues |
| Gagauz Yeri | Vice-Baskan |
| Central Electoral Commission of Gagauz Yeri | Chairperson |
| Moldova State University, Faculty of International Relations and Political Science | Dean |
| Political parties & MPs | |
| The Socialists' Party of the Republic of Moldova | MP, Chairman of the "Parliamentary Committee for Human Rights and Inter-ethnic Relations" |
| The Communists' Party of the Republic of Moldova | President |
| The Democratic Party of Moldova | Vice-President |
| The Liberal Democratic Party of Moldova | Vice-President |
| The Liberal Party | Vice-President, Mayor of Chisinau municipality |
| The "Action and Solidarity" Party | Vice-President |
| The "Our" Party | Local Councilor, Chisinau mun. |
| The "Dignity and Truth" Party | President |
| The European People's Party of Moldova | Vice-President |
| The "Right" Party | President |
| | Independent MP |
| Nongovernmental organizations & political analysts | |
| Promo-LEX Association | Executive Director, Program Director, Program Coordinator |
| Association for Participatory Democracy (ADEPT) | Executive Director, Political analyst |
| Pilgrim-Demo Association | Executive Director |
| Legal Resources Centre from Moldova | Executive Director |
| "Petru Movila" Ukrainians' Community of Chisinau/ Ukrainian Community of Moldova | Vice-President |
| National Roma Center | Director |
| CALM (Congress of Public Authorities from Moldova) | President |
| Women Political Club 50/50 | President |
| Platform for Gender Equality | Vice-President of the Platform, President of Gender Center |

| | |
|--|--------------------------------|
| Center for Partnership Development | President |
| Association of Independent Press | Executive Director |
| Vesta (Gagauzia) | Director |
| Pro Europa (Gagauzia) | Director |
| | Political Scientist (Gagauzia) |
| <i>International organizations</i> | |
| International Institute of Monitoring Democracy Development, parliamentary and electoral rights of citizens of member states of CIS Interparliamentary Assembly, Chisinau branch | Branch Director |
| IRI Moldova | Director |

Annex B: Simulation analysis – detailed overview

The simulations were done based on the votes expressed in the last parliamentary elections that took place in 2014⁴⁴. In order to do the simulations, the votes expressed by people living in Transnistria and those living in Diaspora needed a special treatment as follows:

- since the initiators of different draft laws or proposals on electoral system reform hasn't offered any solution for those voters, the votes expressed in 2014 by people from Transnistria as well as those expressed in Diaspora were taken out of simulations;
- taking into account the number of votes that belonged to voters from Transnistria, a parliamentary seat was also take out of the simulation as well;
- no seat was taken out for Diaspora, since nobody can say for the moment if there will be separate constituencies established for Diaspora or the votes cast there are would count for in-country counstituencies.
- so, the number of seats taken into account for simulations is 100 (instead of 101).

Proportional representation

For the simulation of possible results under a proportional representation scrutiny organized in several multi-member constituencies, the territory of Moldova (excepting Transnistria) was divided into 11 constituencies respecting the boundaries of the former counties as well as of the TAU Gagauzia and of the Municipality of Chisinau. Each county received a number of seats proportional to the number of voters registered in localities on the county's territory, so the total would be 100. The following constituencies and number of seats for each of them resulted: Balti – 13, Cahul + Taraclia – 6, Chisinau – 11, Edinet – 7, Lapusna – 8, Orhei – 8, Soroca – 7, Tighina – 5, Ungheeni – 7, TAU Gagauzia – 5, Mun. of Chisinau – 23.

Majority system

The territory of Moldova was divided into 100 single-member constituencies respecting the following rules (some of the recommended by the Venice Commission):

- An average number of registered voters for each single-member constituency was calculated by dividing the total number of registered voters to 100;
- For every former county, the number of single-member constituencies on its territory was calculated by dividing the number of registered voters living in localities of the county to the "average number" and considering the closest entire number;
- The single member constituencies were formed either by grouping localities together or by dividing those big localities that could include two or more single-member constituencies. There were not pieces of a locality merged with pieces of other localities;
- The permissible departure from the "average number" should not exceed 15%;
- Every single-member constituency has to have territorial continuity.

44 <http://cec.md/index.php?pag=news&id=1548&rid=12866&l=ro>

In every single member constituency resulted the number of votes received by each of the five parliamentary party after 2014 elections was calculated and based on that number: a) the party that won elections in that constituency resulted – in case of simulating FPTP; b) the two parties going to the second round resulted – in case of simulating TRS.

The list of localities or pieces of localities forming each of the 100 single-member as well as the number of voters and the winning party for every constituency can be seen at: <https://promolex.md/wp-content/uploads/2017/05/Circumscriptii-100-localitati-alegatori-castigatori-RO.pdf>

Mixed systems

The same rules as for the simulation under majority systems were considered in drawing the 50 single-member constituencies needed for simulating results under mixed systems. The list of localities or pieces of localities forming each of the 50 single-member as well as the number of voters and the winning party for every constituency can be seen at: <https://promolex.md/wp-content/uploads/2017/05/Circumscriptii-50-localitati-alegatori-castigatori-RO.pdf>

In order to simulate the results under the “mixed-parallel” system:

- the number of seats allocated to every party’s list (out of the total of 50) was calculated based on the formula that is used for the seats allocation under the current system;
- the seats resulted from the seats allocation to party lists were added to the seats won in single member constituencies (through FPTP), for each party.

In order to simulate the results under the “mixed member proportional system”:

- the total number of seats every party has got the right to (out of the total of 100) was calculated based on the formula that is used for the seats allocation under the current system;
- for every party, the number of seats won in single member constituencies (through FPTP) was extracted from the total number of seats the party has the right to get (out of the total of 100) and the number of seats the party list receive (out of 50) resulted.

Annex C: Best Electoral Systems Test



Best Electoral Systems Test

Rank among priorities for what the electoral system should contribute to. How important are these issues in your political/social/economic/cultural context?

A score of 1 = NOT IMPORTANT

A score of 10 = VERY IMPORTANT

| Question | Score |
|--|-------|
| <p>How important is it that the system has low ballot paper printing costs?</p> <p><i>Explanation: Printing costs depend on the number, size, colour and quality of ballot papers needed to carry out the elections. In case where money is scarce, it is important to keep printing costs in mind when designing the electoral system.</i></p> | |
| <p>How important is it that the system leads to descriptive representation?</p> <p><i>Explanation: Descriptive representation refers to the idea that candidates in democratic elections should be elected to represent ethnic, religious, gender and other majority/minority groups, rather than the population at large. According to this idea, an elected body should resemble a representative sample of the voters they are meant to represent concerning outward characteristics.</i></p> | |
| <p>How important is it that the system leads to geographical representation?</p> <p><i>Explanation: Geographical representation refers to representation of all parts of the country: north/south, east/west, urban/rural etc. In some countries where the population identifies by region, it may be important to choose an electoral system which allows people to choose representatives from their own geographic area. On the other hand, it may be important to choose an electoral system that helps move away from regional fiefdoms by allowing/encouraging representation not based on geography.</i></p> | |
| <p>How important is it that the system facilitates individual accountability?</p> <p><i>Explanation: Individual accountability refers to the possibility for voters to identify, nominate, vote for and remove individual representatives from the legislature, as opposed to entire parties or governments only.</i></p> | |
| <p>How important is it that the system leads to an accountable government?</p> <p><i>Explanation: Government accountability refers to the possibility for voters to change governments if they are unhappy with their performance.</i></p> | |

| | |
|--|--|
| <p>How important is it that the system produces little or no need for boundary delimitation?</p> <p><i>Explanation: Electoral systems with single member districts always require boundary delimitation to be carried out. Electoral systems with multi-member districts sometimes use boundary delimitation and sometimes reapportionment (increasing or decreasing the number of seats in a district based on census figures or other requirements). Boundary delimitation is often costly and sometimes the basis of conflict relating to claims of gerrymandering – trying to draw boundaries to favour one group over another.</i></p> | |
| <p>How important is it that the system limits the possibility of strategic voting?</p> <p><i>Explanation: Strategic voting refers to the act of casting a vote for someone other than the voters first preference in order to prevent an undesirable outcome.</i></p> | |
| <p>How important is it that the system leads to few wasted votes?</p> <p><i>Explanation: Wasted votes are votes that are not counted towards the election of a candidate</i></p> | |
| <p>How important is it that the system results in a high number of women in the legislature?</p> <p><i>Explanation: Women’s representation is facilitated in party-centred systems with large districts and high party magnitude.</i></p> | |
| <p>How important is it that the system calculates results in a way that is easy to explain and understand?</p> <p><i>To ensure transparency and increase trust in the system, it is important that voters understand how votes are translated into seats, that it is done in an intuitive and credible way.</i></p> | |
| <p>How important is it that the system makes it easy to vote?</p> <p><i>Explanation: Some electoral systems require voters to make multiple choices, rank order or read while others only require a mark to be made next to a picture or a logo. Especially in countries where illiteracy is a problem, it may be important to consider the ease in which voting itself is carried out, to ensure an inclusive process.</i></p> | |
| <p>How important is it that the system leads to high voter turnout?</p> <p><i>Explanation: Voter turnout is affected by the electoral system as voters tend to turn out when their vote is likely to make a difference. Either in tight races in single member districts or when the system counts all votes in the country or in a large part of the country towards the election of the next candidate.</i></p> | |
| <p>How important is it that the system creates strong linkages between voters and representatives?</p> <p><i>Explanation: Linkages between voters and representatives may be strengthened when the voters knows and has access to his/her representative.</i></p> | |

| | |
|---|--|
| <p>How important is it that the system creates little or no incentive for pork barrel politics?</p> <p><i>Explanation: Pork barrel politics refers to the practice of representatives spending public funds in a particular constituency with the aim of increasing chances for re-election.</i></p> | |
| <p>How important is it that the system creates effective opposition?</p> <p><i>Explanation: An effective opposition is one which has sufficient representation to provide a counterweight to a governing party or coalition, has reasonable future election prospects, and is not internally divided.</i></p> | |
| <p>How important is it that the system excludes extremist parties from representation in the legislature?</p> <p><i>Explanation: Small extremist parties at the end of the political spectrum will have a greater chance of being represented in proportional systems, unless the party's electoral support is geographically very concentrated.</i></p> | |

Annex D: Experts

Mette Bakken is a political scientist and with 10 years of experience in the field of democratization and elections. She is specialized in fields linked to electoral assistance with a particular focus on electoral systems design, law reform and women & youth participation, capacity building and electoral management, but has also worked in the areas of parliamentary strengthening and civil security. Bakken has worked with international organizations like United Nations Development Programme (UNDP) and European Centre for Electoral Support (ECES), both in Brussels, and International Institute for Democracy and Electoral Support (International IDEA) in Pretoria and Addis Ababa. Moreover, she has experience from observing elections with the Organization for Security and Cooperation in Europe (OSCE). Bakken, who is a Norwegian national, has a Master's degree in comparative politics from the University of Bergen (Norway) and a Master's degree in Research Methods from the European University Institute in Florence (Italy).

Adrian Sorescu is a political scientist and has been involved in the conception and implementation of national programs concerned with improvement of democracy and civic participation for 25 years. He has got an intensive activity related to the domain of electoral systems – studies, publications, workshops, conferences, meetings and debates with MPs and other politicians, draft law writing, advocacy campaigns, etc. He worked with international organizations like National Democratic Institute for International Affairs (NDI) in Romania and Benin (Africa), Freedom House in Ukraine, International Foundation for Electoral Systems in Romania. Adrian Sorescu developed and published comparative studies on electoral systems in 27 European countries (including Eastern European ones). He provided consultancy to different politicians and MPs on the issue and was involved in national debates on the electoral system reform in Romania after 2000. He participated to many international workshops and conferences and conducted training sessions on election monitoring in Romania and abroad, participated to international election monitoring missions in different countries. He has got a post-graduation degree in Political Science from the National School of Political and Administrative Studies, Bucharest, Romania.

Annex E: Abbreviations

APD – “Asociatia Pro Democratia” (Romania)

AV – Alternative Vote

BC – Borda Count

BV – Block Vote

CAC – Convention Against Corruption

CDU – Christian Democratic Union

CEC – Central Electoral Commission

CEDAW – Convention on the Elimination of all Forms of Discrimination Against Women

CL – Closed List

CPI – Corruption Perception Index

CSU – Christian Social Union

FPTP – First-Past-The-Post

ICCPCR – International Covenant on Political and Civil Rights

ICERD – International Convention on the Elimination of All Forms of Racial Discrimination

IDEA – International Institute for Democracy and Electoral Assistance

IFES – International Foundation for Electoral Systems

IPU – International Parliamentary Union

LV – Limited Vote

MMP – Mixed-Member Proportional

MP – Member of Parliament

OCV – Out of Country Voting

ODIHR – Office for Democratic Institutions and Human Rights

OL – Open List

OSCE – Organization for Security and Cooperation in Europe

PBV – Party Block Vote

PCRM – The Communists’ Party of the Republic of Moldova

PD – The Democrat Party (Romania)

PDM – The Democratic Party of Moldova

PL – The Liberal Party

PLDM – The Liberal Democratic Party of Moldova

PNL – The National Liberal Party (Romania)

PR – Proportional Representation

PR-CS – Proportional Representation – Close Lists

PR-OL – Proportional Representation – Open Lists

PSD – The Social Democratic Party (Romania)

PSRM – The Party of Socialists of the Republic of Moldova

SAISE – State Automated Information System Elections

SNTV – Single Non-transferable Vote

STV – Single Transferable Vote

SV – Supplementary Vote

TRS – Two Round System

UDHR – Universal Declaration of Human Rights

UDMR – “Uniunea Democrata a Maghiarilor din Romania”

UK – United Kingdom

UKIP – United Kingdom Independence Party

US – United States

USD – United States Dollar

VC – Venice Commission

Promo - LEX

Advancing democracy and human rights

Promo-LEX Association

127 Stefan cel Mare, Chisinau, Republic of Moldova

tel./fax: + 373 / 22 45 00 24, 44 96 26

e-mail: info@promolex.md, web: www.promolex.md, www.monitor.md

For correspondence: C.P. 89, MD - 2004, Chisinau, Republic of Moldova