

PROMO-LEX ANALYSIS

**on the possibility and opportunity of
holding a Republican referendum on
the day of the parliamentary elections
of 24 February 2019**

No. 345 of 20 November 2018

Sent by e-mail

To factions and parliamentary groups

The Faction of the Democratic Party of Moldova

The Faction of the Party of Socialists of the Republic of Moldova

The Faction of the Liberal Party

The Faction of the Party of Communists of the Republic of Moldova

The Faction of the Liberal Democratic Party of Moldova

The European Parliamentary Group

To the development partners and other stakeholders

PROMO-LEX ANALYSIS

on the possibility and opportunity of holding a Republican referendum on the day of the parliamentary elections of 24 February 2019

I. Context

On 27 July 2018, the Parliament of the Republic of Moldova adopted Decision no. 197 on the date of the parliamentary elections, establishing for that purpose the day of 24 February 2019.

On 13 November 2018, the Democratic Party of Moldova (PDM) announced in a press conference that it prepared an initiative to **hold a consultative referendum on the day of the parliamentary elections, 24 February 2019, thus avoiding the spending of additional money and ensuring a high voter turnout**¹.

The referendum would address two issues:

- a) Reducing the number of deputies in the Parliament of the Republic of Moldova from 101 to 61.
- b) Providing citizens with the possibility to withdraw deputies' mandates.

In accordance with Article 66 clause b) of the Constitution of the Republic of Moldova, the **Parliament is entitled to declare all types of republican referenda by its decision.**

By the date of this analysis, the Parliament of the Republic of Moldova has not approved a decision on the organization of the referendum nor has it published a draft resolution in this respect. At the same time, the Promo-LEX Association considers it necessary to expose on this issue relevant to its mission, which eventually has an impact on the parliamentary elections that are subject to monitoring.

The Constitutional Court (CC) has several times expressed its views on the issue of organizing and conducting various types of referenda, initiated by different subjects and on various occasions,

¹ Press release of the Democratic Party of 13 November 2018, <https://bit.ly/2B7lgxu>

including the reduction of the number of deputies in the Parliament of the Republic of Moldova. In the present analysis, we will refer to the decisions and opinions of the Constitutional Court.

According to **the Electoral Code**, **the referendum** is a poll, by which people express their opinions with regard to the most important issues of the state and society as a whole, with the purpose of solving them, as well as consulting the opinion of the citizens in local issues of particular interest. The Constitutional Court ruled that "if in **elections**, the people participate **in the exercise of state power by appointing** some representatives, who during the given term of office are entitled to make decisions on behalf of the whole people, in the second form - the **referendum**, the state power holder **exercises sovereignty directly**, through an efficient way of consulting the people's will on essential issues."²

To conclude, we are witnessing repeated initiatives of the ruling party to overload the agenda of the election day with issues of a consultative referendum that have no legal effect. In the event of a referendum held on the same day with the parliamentary elections, people will participate in two different polls, they will exercise power both directly in a referendum and, in particular, appoint their representatives in the parliamentary elections.

II. On merging the consultative referendum with parliamentary elections

In Opinion no. 1 of 22.09.2014 of the Constitutional Court on the initiative to revise articles 78, 85, 89, 91 and 135 of the Constitution of the Republic of Moldova through a Republican referendum (Referral no.48c / 2014), the **Court exposed on the possibility of merging the referendum with the parliamentary elections**. In particular³,

1. The Court applied *the fortiori rationale* in interpreting legal norms, when it determined that if according to the legal provisions, the holding of a referendum is prohibited 60 days before and 60 days after the elections, then **the referendum cannot take place on that day**.

Analyzing the current provisions of the Electoral Code, it is noted that the provision on the prohibition to hold the referendum 60 days before and 60 days after the day of the general parliamentary, presidential or local elections, as well as on the day of another republican referendum, can be found in the wording of the Electoral Code in force, in particular, art. 156 par. (2). In this case, the **finding of the Constitutional Court** regarding the logical interpretation of the legal provision by applying *a fortiori rationale* remains **valid in the case of the proposal to hold the consultative referendum on the day of the Parliamentary elections of 24 February 2019**.

2. The Court found that such a merger is likely to cause difficulties in exercising the right to vote, which may ultimately have the effect of **restricting the exercise of that right**. Namely:

- a) Voting with a larger number of ballot papers and, more specifically, carrying out a more complex task of expressing one's choice on several ballot papers;
- b) The essential increase in voting time for each citizen, taking into account the distribution of ballot papers, voting time in booths, the introduction of ballot papers into different ballot boxes;
- c) The complexity of voting procedure may have the effect of **excluding citizens from voting**, who, regardless of their will, will not be able to express their opinion during the time allowed for voting by the time the ballot boxes are closed.

² Point 54 of the Decision no. 24 of 27.07.2017 on the control of constitutionality of the Decree of the President of the Republic of Moldova no. 105-VIII of 28 March 2017 on the conduct of the Republican consultative referendum on issues of national interest.

³ Opinion no. 1 of 22.09.2014 of the Constitutional Court on the initiative to revise Articles 78, 85, 89, 91 and 135 of the Constitution of the Republic of Moldova through a Republican referendum (Session no.48c / 2014), <https://is.gd/OWAoBU>

These difficulties also apply to the elections and referendum of 24 February 2019 as the parliamentary elections of 24 February 2019 are organized for the first time ever under a mixed electoral system, voters being required to vote on two ballot papers.

The Venice Commission stated that the modification of the electoral system in the Republic of Moldova is not advisable⁴. At the same time, it is important to carry out an ample campaign to inform voters about the mixed electoral system. Thus, **besides the fact that an informing campaign about the voting procedure under the new electoral system has to be conducted, the voter will have to be informed about the issues subject to the Republican referendum.**

We consider that the prohibition to change the electoral system, when there was less than a year before the elections, was aimed at avoiding voters' disorientation,⁵ and holding a referendum on the same day with the parliamentary elections will create a **complex task for the voters, who will have to express their options.**

Taking into account that the electoral operations were partially modified in connection with the change of the electoral system, the complexity of the voting operations is amplified by holding of the referendum on the same day with the parliamentary elections. Respectively, the possible **voter exclusion** effect is amplified.

3. The Court reiterated another rule laid down in the Code of Good Practice in Electoral Matters, namely that **the voting procedure should remain as simple as possible** in order to grant the voters full freedom to express their will and thus, ensure the effectiveness of their right to vote and the right to free elections.

Accordingly, the rule on the **simplicity of the voting procedure** set out in the Code of Good Practice in Electoral Matters is violated by the concurrent conduct of parliamentary elections, carried out on the basis of a new electoral system, and a referendum on the number of deputies in the Parliament of the Republic of Moldova and the possibility of their revocation by voters.

The reasons for merging the referendum with the parliamentary elections include **avoiding additional expenditure and the certainty of a high voter turnout.**

As regards the first reason - avoidance of additional expenses - the Constitutional Court noted that the importance and necessity of measures to reduce the budgetary expenditures in a context of economic crisis **cannot, in any cases, constitute arguments supporting restrictions of the exercise of rights or freedoms**, or support measures likely to affect fundamental principles of the rule of law⁶. **Moreover, according to the recent statements and actions of the representatives of the parliamentary majority, expressed by an increase in the wages and retirement pays for large categories of people, we can deduce that, at least declaratively, there is no economic crisis in the country.**

Concerning the second reason - the certainty of a high voter turnout – it should be pointed out that one of the electoral principles, regulated by Article 2 of the Electoral Code, stipulates that: "Participation in the elections is free (voluntary). *No one is entitled to exert pressure on the voter in order to force him or her to participate or not to participate in the election, as well as to express his or her free will.*"

⁴ Opinion of the Venice Commission, <https://is.gd/q3lMoh>

⁵ Code of Good Practice in Electoral Matters, <https://is.gd/v1ayhJ>

⁶ Opinion no. 1 of 22.09.2014 of the Constitutional Court on the initiative to revise Articles 78, 85, 89, 91 and 135 of the Constitution of the Republic of Moldova through a Republican referendum (Session no.48c / 2014), <https://is.gd/OWAoBU>

Respectively, we consider that organizing a referendum on the same day with the parliamentary elections in light of the certainty of a high voter turnout **can hinder the right of voters to participate in the elections freely, without being forced to participate or not to participate in a particular election**, be it parliamentary elections or a referendum.

4. We remind you that the Constitutional Court found that it is **the competence and obligation of the Parliament to remove from the Electoral Code the ambiguities regarding the possibility of merging the elections and the referendum**, which is why it adopted and sent a Referral to the Legislature in this respect⁷. **The Parliament has not responded to this Referral so far.**

In conclusion, it should be pointed out that *the Constitutional Court has explicitly stated that if according to the legal provisions, the holding of a referendum is forbidden 60 days before and 60 days after the elections, then the referendum cannot be held on the day of elections either. The Court's fears of confusing the electorate on 24 February 2019 are even more relevant given the implementation of the mixed electoral system with two ballots for the first time.*

III. On some aspects of organizing two modes of voting simultaneously

In addition to those stated by the Constitutional Court, Promo-LEX points out that **there are provisions in the Electoral Code, which will unduly increase the costs of the voting exercise, artificially complicate the organization and holding of merged elections, and will create unfair conditions for competitors / participants.**

We refer to the **following four procedural aspects** of organizing and conducting parliamentary elections simultaneously with the consultative referendum on 24 February 2019:

a. doubling the number of constituency councils

We remind the reader that according to art. 80 par. (1) of the Electoral Code, **the parliamentary elections** are organized on the basis of **a national constituency**, covering the entire territory of the Republic of Moldova and the polling stations abroad, **as well as on the basis of 51 uninominal constituencies**, including those established for the settlements in the Transnistrian region and abroad. On the other hand, according to art. 69 par. (1), to **organize and conduct a Republican referendum**, **the CEC shall form administrative constituencies that correspond to the second-level administrative and territorial units of the Republic of Moldova** and, respectively, constituency councils.

In other words, the Electoral Code provides for the establishment of **several types of constituencies** and of several **constituency councils (CCs)** - **in addition to 51 CCs, established for the parliamentary elections in uninominal constituencies, it will be necessary to create a minimum of 35 CCs for the conduct of the referendum.** Therefore, **the referendum can only be organized on the election day, if the legal framework will have been modified, or two types of constituencies will have been established at the same time.**

b. multiplying the efforts of electoral bodies in counting, aggregation and reporting of the results

Contextually, we draw your attention to the following aspects related to the organization of voting by merging the two different types of voting: the probability of generating **two types of electoral lists**, as the normative framework does not explicitly regulate this aspect; **the electoral bureaus will have to report on the voting data based on two different lists** and to **two types** of hierarchically distinct

⁷ Referral No. PCC-01/48c of 22.09.2014, <https://is.gd/e2zp62>

bodies; doubling the task of packing electoral materials; transmission of documentation to two electoral bodies that could be located in different places, etc.

c. the probability of creating unfair conditions for the launch of electoral campaign

According to art. 91 of the Electoral Code, **the electoral campaign for the parliamentary elections commences no earlier than 30 days before the election day.** At the same time, the **Electoral Code does not explicitly regulate the beginning of the electoral campaign for the referendum.**

Therefore, on the basis of the provisions, set forth in points 2-7 of the *Instruction on the manner of participation of political parties and other social and political organizations in the electoral campaign for the Republican referendum*, one could assume that the **participants in the referendum have the possibility to start their election campaign at the moment of their registration**, which may theoretically be about 57 days before the election⁸. *In fact*, this implies that while the election contenders will be **collecting signatures** for their registration **for parliamentary elections, parties that eventually registered for the participation in the referendum will already have the right to conduct electoral campaigns for the referendum**, including through possible candidates for parliamentary elections.

d. creating unfair conditions for the financing of electoral contenders by opening an additional Electoral Fund account for the same electoral party / electoral bloc, which is a participant in the referendum

According to art. 41 of the Electoral Code, all the expenses incurred in the electoral campaign shall be made through the account with the mention "Electoral Fund". At the same time, the Instruction of the CEC states that as of the time of registration, the participant in the referendum will open a bank account with the mention "Electoral Fund". Thus, **the party, which is an electoral contender and a participant in the referendum, has the possibility to double its general ceiling of funds that can be transferred to its Electoral Fund accounts.**

In conclusion, the current provisions of the Electoral Code, as well as the regulations and instructions of the CEC, lead us to the conclusion that from an organizational point of view, carrying out two completely different types of voting on the same day is a very complicated procedure. The concurrent organization of these elections involves either the opening of electoral constituencies that are different from the uninominal ones, the adjustment of voting procedures and the aggregation of results, or the modification of the Electoral Code. Contextually, there is a risk of creating unfair campaigning conditions for competitors / participants, and in relation to the pursued outcome, it is irresponsible and unjustified from a financial point of view.

IV. On the issue of the referendum

Pursuant to Article 155 (4) of the Electoral Code: "The referendum proposal must include the issues to be subject to the referendum, they should be **clearly outlined, excluding ambiguous interpretation**, stipulate the **purpose of the conduct** and the expected date of the referendum. Mutually exclusive issues cannot be subject to the referendum."

The Code of Good Practice in matters on Referendums provides that the issue, which is subject of the referendum must respect⁹:

⁸ Instruction on the manner of participation of political parties and other social and political organizations in the electoral campaign for the Republican referendum, approved by the CEC Decision no. 1025 of July 18, 2017, <https://is.gd/Uee2bP>

⁹ The Code of Good Practice in matters on Referendums p.11, <https://is.gd/7UUKpz>

- **the unity of form:** the same question should not combine a proposed amendment, drafted in specific terms, with a generic proposal or a matter of principle;
- **the unity of content:** except for a full revision of a text (Constitution, law), there must be an intrinsic relationship between the different parts of each issue put to the vote so as to guarantee **voter's freedom of vote, which should not be called to accept or reject in bulk** unconnected **provisions**; simultaneous review of several chapters of a text is equivalent to a full revision;
- **hierarchical unity:** it is desirable that the same question does not refer, at the same, time to different legal norms in the normative hierarchy.

Examining the referendum initiative in the light of the criteria outlined above, we found that the presented issues respect the unity of form and the hierarchical unity, being generically formulated proposals. Instead, the unity of content is not respected, as the issues included in the initiative address different fields. (The unity of content is to be discussed in detail in the next section.) We mention that the issues raised could be formulated as amendments to the Constitution of the Republic of Moldova, in which case a constitutional referendum should be held.

Also, in the Code of Good Practice on Constitutional Referendums at National Level¹⁰, the Venice Commission mentions the following: "The referendum on draft laws **specifically drafted as amendments** will generally be **binding and its implementation** will not pose any particular problems. A referendum on **principle issues** or **generic proposals** should be **just consultative**".

The issue of reducing the number of deputies seems to have been addressed twice in referendum initiatives:

- once through the referendum on the amendment and revision of the Constitution¹¹, which referred to **number** (1) and immunity (2) of **members** of the Parliament; the way of electing (3) and dismissing (4) the President of the Republic of Moldova;
- and the second time, through the consultative referendum, initiated by the Decree of the President of the Republic of Moldova no.105- VIII 28 March 2017¹², which concerned (1) the repeal of a law; (2) granting the President the constitutional right to dissolve the Parliament; (3) **reducing the number of deputies**; and (4) studying the discipline of "History of Moldova" in the educational institutions.

In conclusion, *The Constitutional Court decided that the adoption of the amendment on the reduction of the number of deputies does not affect the unitary constitutional framework on the functioning of the Parliament*¹³.

With regard to the **issue of revocation of deputies**, the Venice Commission expressed its views on the draft laws on the modification of the electoral system¹⁴, pointing out that the **revocation** of elected **candidates is** contrary to the provisions of the Constitution and is not in line with international standards. Mandatory mandate is prohibited by art. 68 par. (2) of the Constitution of the Republic of Moldova. The Constitutional Court also specified that parliamentary mandates are irrevocable and are exercised in the interests of the entire nation¹⁵. Moreover, the revocation procedure contradicts the international standards and has been a cause for concern for the OSCE / ODIHR and the Council of

¹⁰ Opinion of the Venice Commission, 6-7 July 2001, <https://is.gd/NMGP0a>

¹¹ Opinion of the Constitutional Court no. 2 of 10.11.2015 on the Civic Initiative for the Revision of Articles 60, 70, 78 and 89 of the Constitution of the Republic of Moldova through a Republican Referendum, <https://is.gd/uAwxGG>

¹² The decree was declared unconstitutional by the Decision of the Constitutional Court no. 24 of 27.07.2017

¹³ Opinion of the Constitutional Court no. 2 of 10.11.2015 on the Civic Initiative for the Revision of Articles 60, 70, 78 and 89 of the Constitution of the Republic of Moldova through a Republican Referendum, <https://is.gd/vlNcLA>

¹⁴ Opinion of the Venice Commission, p.5, 16-17, <https://is.gd/EdqTXG>

¹⁵ See: Judgment on the interpretation of Art. 68 par. (1) and (2), and art. 69 par. (2) of the Constitution, no. 8b / 2012, 19 June 2012, par. 53, 57, 67 and 68, <https://is.gd/H7o3yx>

Europe¹⁶. In addition, from a technical point of view, **given the current mixed electoral system, it is not clear how the procedure of revocation will be applied to deputies on the national list**, they become advantageous compared to those in the uninominal constituencies.

All these aspects serve as a basis for reasonable suspicions about the political opportunity of the issues to be subject to the referendum.

In conclusion, in principle, offering citizens the possibility to withdraw deputies' mandates is unconstitutional and contrary to international standards.

V. On the formulation of several questions in a single referendum (unity of content in the referendum)

Referring to **the unity of content** of the issues that are subject to the referendum, we draw the reader's attention to the fact that the Constitutional Court ruled¹⁷ "In the constitutional jurisprudence of the European countries established the principle, according to which the question in a referendum can concern only **a single and homogenous issue**."

The requirement of a monothematic referendum is designed to avoid confusion regarding both the subject matter of the consultation and the response of the population. The Court notes that **issues that are not related by content and nature, as well as legislative amendments, cannot be subject to a referendum forming a single subject, as they would alter the possibility of determining the true will of the people**".

It is also essential that there be an intrinsic relationship between the questions submitted to the referendum so as to guarantee the voters' freedom of vote. **Questions of a different nature cannot be asked in the same referendum, even if these questions are contained in separate ballot papers**¹⁸. In the same sense, Article 156 par. (2) of the Electoral Code prohibits the holding of a Republican referendum on the day of another Republican referendum.

It should be noted that both in the case of the referendum, initiated by the President of the Republic of Moldova, and in the case of the one, initiated by the citizens (cases where one of the questions related to the reduction of the number of deputies), the Constitutional Court found that each question concerned different fields¹⁹ and there is no intrinsic relationship between the issues included in the initiative (including questions on the number (1) and immunity (2) of deputies, therefore, **they are to be formulated separately according to the subject matter**, including separate subscription lists and separate ballot papers²⁰).

In conclusion, even if despite the above arguments, the legislature will consider it appropriate to subject the two issues to a single referendum, considering them to be of the same nature, their formulation must necessarily be separated according to the subject of regulation and the issues must be included in two different ballot papers.

VI. On the public interest and the political opportunity of the referendum

¹⁶ Paragraph 7.9 of the 1990 OSCE Copenhagen Document states that elected officials "may remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law, in conformity with democratic parliamentary and constitutional procedures." See also Resolution of PACE 1303 (2002), Functioning of democratic institutions in Moldova, par. 8, and the Report on the Mandate and Related Practices (CDLAD (2009) 027), par. 39.

¹⁷ § 83 of the Constitutional Court Decision no. 24 of 27.07.2017

¹⁸ § 132-133 of the Constitutional Court Decision no. 24 of 27.07.2017

¹⁹ § 131 of the Constitutional Court Decision no. 24 of 27.07.2017

²⁰ § 58- 59 Opinion of the Constitutional Court no. 2 of 10.11.2015

The Constitutional Court has stated that it is necessary to distinguish between the questions that pursue a **public interest** and the questions of **political interest**. The questions of **public interest** are those that have behind them a **transparent public action** as a whole, characterized by a strong and unequivocal message, belonging to the whole political class and directed towards the realization of the common good.

Questions of **political interest** are used as a political weapon and seek to gain advantages in a political struggle. Therefore, questions addressed to the people that **fail to coordinate the political action that political leaders want to implement with the political, economic and social context** in the state automatically become of political interest and **should, therefore, be avoided in order not to aggravate the crisis**²¹.

Contextually, it should be mentioned that in the case of **reducing the number of deputies, we can speak of a coincidence of opinions of the most parliamentary factions**²² - the PDM and PSRM²³. In this respect, it **becomes unclear why this issue could not be discussed and decided upon in the Parliament during the term of office of the present legislature**.

Taking into account several arguments, namely the fact that the questions are to be proposed for a consultative referendum (1), they are submitted by the political party currently holding the parliamentary majority (2), the term of the current Parliament is expiring (3), the questions refer to the number of deputies and the possibility of their revocation, being of a constitutional nature (4), and that one of the proposed questions is unconstitutional and contrary to international standards (5), **we can conclude that the questions put forward pursue political interest and gaining advantages in the political struggle**.

Promo-LEX points out that *by initiating a consultative referendum on issues that are of political rather than of public interest on the same day with the parliamentary elections, the initiator of the referendum violates the principle of equal opportunities.*

The PDM will have both the status of an electoral contender and that of a participant in the referendum. The party will have two separate Electoral Fund accounts. Even if other parties will also have the status of a participant in the referendum, the image of the PDM may be more advantageous, once it assumes the role of the referendum initiator.

VII. On the effects of the consultative referendum

According to art. 154 par. (4) of the Electoral Code, **the consultative referendum** is organized **in order to consult people's opinion** on issues of national interest **and subsequent adoption** by the competent public authorities **of final decisions**.

The Constitutional Court has stated that "**formulation of the issue** subject to the referendum **is influenced by the type of referendum**, which in its turn produces different legal effects.²⁴" Thus, the Court noted that only constitutional and legislative referendums **produce binding legal effects**, while the consultative one **produces no legal effects**²⁵.

²¹ § 87 of the Constitutional Court Decision no. 24 of 27.07.2017

²² Structure of the Parliament. Parliamentary factions, <https://is.gd/Fiekav>

²³ We refer to the Decree of President Igor Dodon, the former president of the PSRM: the Decree of the President of the Republic of Moldova No. 105 of 28.03.2017 on the conduct of the Republican consultative referendum on issues of national interest, <https://is.gd/I2diGB>

²⁴ Constitutional Court Decision no. 24 of 27.07.2017, point 65, <http://lex.justice.md/md/371426/>

²⁵ Constitutional Court Decision No 32 of 15 June 1999, <https://is.gd/An4jfx>

At the same time, even if the decisions adopted as a result of consultative referenda do not have supreme legal power, **their results can serve as a basis** for subsequent **political decisions** taken by the authorities, motivated by these results. Following the organization of this type of referendum, the authorities can get acquainted with people's opinion on a matter of national concern, **but without having an obligation**. At the same time, we cannot overlook the fact that the referendum is initiated practically at the end of the term of office and the composition of the parliamentary majority and / or the subsequent Government is unpredictable. It is not clear whether the results of the consultative referendum will be a priority for the future parliamentary majority.

The experience of the referendum, held in Romania in 2009 for the transition to a unicameral parliament and the reduction of the number of deputies is conclusive in this respect.

In conclusion, *we cannot be sure that the results of a consultative referendum initiated by a parliament will serve as the basis for further political decisions in a new legislature, motivated by these results.* In this respect, we note that according to art. 47 par. (12) of the Parliament's Rules of Procedure²⁶, legislative initiatives registered in the Parliament that have not been examined during the legislature become null and void.

VIII. General conclusions and recommendations

Considering the above, **the Promo-LEX Association notes that the holding of a consultative referendum on the same day with the parliamentary elections of 24 February 2019 is not based on an explicit legal framework. Furthermore, the Constitutional Court issued a negative opinion on the subject of merging such polls. Additionally, the political interests of the party that proposed the initiative is evident.**

Promo-LEX points out that **the merger initiative will unduly increase the costs of the exercise, will substantially complicate the organization and conduct of the elections, and will create unfair conditions for competitors / participants.** In this case, we refer to such important technical aspects as:

- doubling the number of constituency councils;
- complicating the procedures of vote counting, aggregation and reporting of results;
- the probability of creating unfair conditions with regard to the beginning of electoral campaign;
- creating unfair financial conditions for electoral competitors by opening an additional Electoral Fund account for the same electoral party / bloc, which also acquires the status of a participant in the referendum;
- the possibility of avoiding financial reporting for parliamentary elections by camouflaging costs and expenses for two types of elections.

We remind the reader that one of the issues - the **revocation of deputies** - is **unconstitutional, contrary to international practice and technically impossible to implement under the current system of election of deputies.**

As for the second issue - **the reduction of number of deputies**- we attest to a consensus among the **most numerous factions in the Parliament (the PDM and the PSRM)**, from which we conclude that this modification could be debated and adopted by the legislature without holding a costly public consultation with uncertain results.

²⁶ The Law for the Adoption of the Parliament's Regulation no. 797-XIII of 02.04.1996

In line with the conclusions of the Constitutional Court, Promo-LEX shares the view that the merger of two distinct types of voting will make the voting procedure more difficult, particularly in the context of the implementation of a new electoral system that involves two ballots, which is to be supplemented by another two.

Promo-LEX reiterates that **by initiating a consultative referendum on issues that are rather of political than of public interest on the same day with parliamentary elections, the initiator of the referendum violates the principle of equal opportunities**. The PDM will have both the status of an electoral contender and that of a participant in the referendum. The party will have two separate Electoral Fund accounts. Even if other parties will also have the status of a participant in the referendum, the image of the PDM will be more heavily present, once it assumes the role of the initiator of the referendum.

Promo-LEX suggests the following **recommendations to the Parliament of the Republic of Moldova**:

- 1. Not to legalize the conduct of the Republican referendum on the same day with the parliamentary elections of 24 February 2019.**
- 2. To amend the legislation in conformity with the Referral of the Constitutional Court**, namely: "taking into account the necessity of observing the 6-month term for the revision of the Constitution, removing by legislative means the ambiguities in the Electoral Code regarding the possibility of merging the elections and the referendum."

Respectfully,

Ion MANOLE / _____ / Executive Director, Promo-LEX Association