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NDI PRE-ELECTION FACT-FINDING MISSION TO ROMANIA *Delegation Statement*

From October 4-7 NDI sponsored a delegation of international experts whose purpose was to conduct civic education and election monitoring training sessions for Pro-Democracy Association of Romania, a non-partisan civic association, and other such organizations. In addition, the delegation surveyed a broad spectrum of opinions concerning the pre-election environment in Romania.

The participants were:

SANDRA COLLIVER: Principal legal officer of Article 19, International Center Against Censorship, and formerly a member of the board of Amnesty International USA.

PETER FENN: Partner, Fenn and King Communications, Washington D.C., and a participant in NDI training programs in Nicaragua, Northern Ireland, and Hungary.

SERGIO GODOY ETCHEVERRY: Communications Director, PARTICIPA, a Chilean non governmental organization that conducts civic and voter education programs.

MARIANO QUESADA: Chair, National Citizens Movement for Free Elections (NAMFREL) of the Philippines, and one of its original founders.

MIKE MARSHALL: National Field Director, Citizens for Reliable and Safe Highways (CRASH), California, who has also worked on California state and local political campaigns.

TOM MELIA: National Democratic Institute Program Director

PATRICK MERLOE: International human rights law professor and attorney with Heller, Ehrman, White, and McAuliffe, San Francisco, California, who has participated in NDI programs in Bulgaria and Romania.

The delegation was charged with:

- 1) Reviewing the present status of the draft electoral law and identifying potential impediments to the conduct of free and fair elections;
- 2) Examining the roles of the media in the elections, particularly access to television coverage by political parties;
- 3) Evaluating the political conditions in Romania in light of the events of late September, and the subsequent formation of a new government cabinet;
- 4) Identifying the issues that should be considered by additional international observer delegations that will visit Romania prior to and at the time of the elections.

The delegation met with representatives of all the major political parties, with members of the Central and Local Administration Committees of both houses of parliament, as well as with other parliamentary leaders, journalists and representatives of non-governmental organizations in Bucharest and two municipalities, Sibiu and Craiova. The Pro-Democracy Association facilitated many of the meetings and provided additional briefings to the delegation.

The delegation is persuaded that the government and the Parliament have created a general framework adequate for the conduct of fair and meaningful elections. However, the mission noted many important issues concerning the Romanian election process which remain to be resolved in the immediate future, and the integrity of the Romanian election process as viewed by the international community will be determined by how these issues are addressed.

This statement highlights several points regarding the Romanian election process as findings of importance to all Romanian political parties, as well as guidance to future fact finding missions.

A. The delegation encourages the use of all means possible to ensure an effective monitoring of the elections, and urges the incorporation of specific language providing for non-partisan Romanian monitors of the election period. We were encouraged by statements of parliamentary representatives in this regard, and we look forward to the clarification of Article 50 of the draft law on local elections, which regulates the accreditation of observers on election day. The mission strongly recommends that accreditation be extended to include non-partisan Romanian observer organizations. The presence of trained, non-partisan observers can greatly enhance voter confidence in the electoral process and assist all parties interested in assuring free and fair elections.

With regards to electoral participation, Article 4 of the draft law on local elections includes the provision that "persons who have committed abuses while holding political, judicial, and administrative positions, who have violated basic human rights, and who have intentionally committed criminal acts for which they were convicted, even if their rights have been restored,

may not run for office. This provision is similar to a section of article 10 in the election law decree governing the 1990 national elections.

Unless the terms "committed abuses" and "violated basic human rights" are elsewhere defined, this standard is much too vague for application. At a minimum, clarification should refer to the legal process through which determination that one has "committed abuses" or "violated basic human rights" has been made.

Broader consideration should also be given to the implications of restrictions on electoral participation in a democratic system. Many democratic countries restrict persons convicted of certain criminal offenses from seeking elective office. Generally, however, suffrage (and by extension, participation) in the electoral process should be as inclusive as possible. Restrictions should be firmly grounded on decisions reached through due process of law. Further, the law should provide for an appeal of a decision by the county court concerning Article 4 cases.

Article 4 also excludes the candidacies of "persons under contract to carry out work for and provide services and supplies to the respective administrative organ directly or through intermediaries." This provision is too vague and does not offer adequate guidance to officials charged with implementing the law. The principle that a potential conflict of interest should be avoided is commendable but is expressed here too broadly to be reasonably applied.

B. The delegation is aware of the special situation that results in this country where, after nearly half a century in which no free press was permitted, the state inherited a monopoly of the national broadcast media. However, the state continues to maintain a monopoly of the national broadcast media, and this continues at a time when it is not clear what policies govern media access.

Article 45 of the draft law on local elections states that political views may be expressed through the media during the campaign but provides no information regarding how, when, and by whom radio and television time would be allocated. The local elections law (or other legislation) should specify this process in detail and the information should be made publicly available prior to the onset of the campaign. We received no indication that these issues are being given adequate consideration at this time.

The delegation urges the government to make a concerted effort to educate the electorate about the voting process, and other areas of civic education prior to the elections. The delegation pointed out the role of Romanian civic organization in this respect, and specifically recommended that public education announcements about the voting process be televised regularly throughout the campaign period.

We hope that expressions of interest by parliamentary leaders on these issues are followed up by specific governmental or legislative actions.

C. The delegation noted a widespread confusion among political leaders, and other sectors of the population, regarding the scheduling of elections. The delegation believes there is a real need to ensure that the scheduling of upcoming election is publicly announced in sufficient time

for all political parties to prepare for the campaign period.

The unfortunate events of late September are of serious concern to the delegation. The situation that occurred, when miners and others attacked governmental institutions, leading to a change of government, can only be regarded as a threat to the establishment of the democratic process in Romania.

Specific to the election campaign, the delegation expressed concern at the lack of legal provisions covering governmental contributions to campaign financing of political parties. The draft law does not mention what, if any, provisions exist for public funding of the electoral campaign. If, as was the case in 1990, electoral campaign financing is addressed in other legislation, the regulations should be clearly stated and made publicly available prior to the onset of the campaign.

D. In addition to the issues raised above, the delegation advises future survey missions to concentrate upon election administration, including the following issues: the number of polling places; election registries; verification of voters' identities; preparation of ballots; voter assistance in voting booths; suspension of voting, counting of ballots. transportation of counted and voided ballots; resolution of complaints.