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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
OF THE COUNCIL OF EUROPE
(VENICE COMMISSION)

REPUBLIC OF MOLDOVA

AMENDMENTS

AND

THE EXPLANATORY NOTE

**TO THE LAWS 65/2023 “ON THE EXTERNAL EVALUATION OF
JUDGES AND CANDIDATES TO THE POSITION OF JUDGES OF THE
SUPREME COURT OF JUSTICE” AND TO THE LAW 252/2023 “ON
THE EXTERNAL EVALUATION OF JUDGES AND PROSECUTORS
AND THE AMENDMENT OF CERTAIN NORMATIVE ACTS”**

Parliament of the Republic of Moldova
Member of Parliament of the Republic of
Moldova

I.CH no. 05/03-11
4 March 2026

Legal Committee on appointments and immunities

AMENDMENT

**to the draft law for the modification of certain normative acts
(fortifying the security of judges)
no. 28 of 18 February 2026**

In accordance with the provisions of art. 59 of the Rules of Procedure of the Parliament, adopted by Law no. 797/1996, I hereby put forth the following amendment:

1. After art. II, two new articles, III and IV, reading as follows beneath, are added and the other articles are renumbered:

"Art. III. - Article 6 of Law no. 65/2023 on the external evaluation of judges and candidates to the position of judge of the Supreme Court of Justice (Official Journal of the Republic of Moldova, 2023, no. 117-118, art. 192), with subsequent amendments is completed with paragraph (5¹) reading as follows:

"(5¹) In case the draft decision of the Parliament on the appointment of the members indicated in paragraph (1) letter b) has not gathered the necessary number of votes provided for in paragraph (1), in the same session, the Legal Committee on Appointments and Immunities shall examine repeatedly the proposed candidates and shall select the candidates with the highest number of votes. If the same candidates are elected repeatedly, the Legal Committee on Appointments and Immunities shall draw up the draft decision of the Parliament, together with a report, which shall be debated in the plenum of the Parliament and shall be adopted with the vote of the majority of the elected MPs."

"Art. IV. - Article 6 of Law no. 252/2023 on the external evaluation of judges and prosecutors and the amendment of certain normative acts (Official Journal of the Republic of Moldova, 2023, no. 325-327, art. 581), with subsequent amendments, is completed with paragraph (5¹) reading as follows:

"(5¹) In case the draft decision of the Parliament on the appointment of the members indicated in paragraph (1) letter b) has not gathered the necessary number of votes provided for in paragraph (1), in the same session, the Legal Committee on Appointments and Immunities shall examine repeatedly the proposed candidates and shall select the candidates with the highest number of votes. If the same candidates are elected repeatedly, the Legal Committee on Appointments and Immunities shall draw up a draft decision of the Parliament, together with a report, which shall be debated in the plenum of the Parliament and shall be adopted with the vote of the majority of the elected MPs."

2. Art. III is completed with paragraph (2) reading as follows:

"(2) Art. III and IV shall be applied to the processes of appointment that are ongoing at the date of the entering into force."

Explanatory Note
to the draft law for the modification of certain normative acts
(fortifying the security of judges)
no. 28 of 18 February 2026

This amendment proposes the establishment of a measure which is subsidiary to the appointment of the members of the evaluation commissions. According to the legal framework, the members of the evaluation commissions are appointed with the vote of 3/5 of the elected MPs. However, the Law does not provide for the case when the necessary number of votes is not gathered. Such a legislative gap can affect seriously the process of external evaluation, especially in the context of time constraints, taking into account that the deadline is 31 December 2026.

At the same time, according to Law no. 333/2025, the circle of evaluated subjects was expanded to include judges from the Specialised Anti-Corruption College of the Chisinau Court and candidates for the position of judge within this college, as well as judges from the Chisinau Court who, starting with 1 January 2017, were and/or are members of the panels specialised in corruption and corruption-related cases. This implies an increased workload and, consequently, makes it all the more necessary to appoint members of the Vetting Commissions within the shortest time. Otherwise, extending the deadline would generate an increased degree of insecurity for the subjects concerned, affecting the predictability of the procedure and their legitimate trust.

Such an unblocking measure is found in Art. 122 para. (4) of the Constitution of the Republic of Moldova. The Venice Commission, in its 2022 Opinion, also noted that the main function of the unblocking mechanism is to make the initial procedure work, prompting the majority and the minority to reach a compromise. Qualified majorities strengthen the position of the parliamentary minority, while unblocking mechanisms restore the balance. Naturally, these mechanisms should not discourage reaching an agreement in advance. The fact that the unblocking mechanism is unattractive for both the majority and the minority may encourage an agreement. The reduced majority in subsequent nomination attempts undermine the purpose of the qualified majority rule, which is to motivate political parties across the political spectrum to find a compromise on candidates, CDL-AD(2022)019, para. 27.

In its practice, the Venice Commission repeatedly emphasised the importance of providing certain anti-blocking mechanisms to ensure the functionality of state institutions or independent bodies. Qualified majorities have the purpose to ensure reaching a broad agreement in the Parliament, because they require the majority to seek a compromise with the minority. For this reason, the qualified majorities are usually necessary in the most sensitive areas. Nevertheless, there is a risk that the requirement to reach a qualified majority will lead to a deadlock, which, if inappropriately tackled, can bring about the paralysis of relevant institutions, while an anti-blocking mechanism aims at avoiding such a deadlock.

The qualified majority has the role of ensuring a broad consensus, of conferring increased legitimacy and protecting political balance. But when a consensus cannot be obtained, the work of the commissions may be affected. The regulation of a mechanism that in the first phase prescribes a qualified majority, and in the second (subsidiary) phase an absolute majority, is justified by proportionality, work continuity, and prevention of minority abuse. Such a mechanism preserves the priority of the broad consensus, but, at the same time, prevents permanent blockage. Otherwise, the minority has the possibility to block the appointment process indefinitely, thus potentially compromising the work of vetting commissions.

In conclusion, the introduction of an anti-blocking mechanism does not suppress the existence of a qualified majority, but supplements it through a subsidiary and proportional mechanism, necessary for ensuring an efficient functioning of the commissions.

Signatures:

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