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(VENICE COMMISSION)

REPUBLIC OF MOLDOVA

JOINT OPINION
OF THE VENICE COMMISSION AND THE DIRECTORATE GENERAL
OF HUMAN RIGHTS AND RULE OF LAW (DGI) OF THE COUNCIL
OF EUROPE

ON

THE DRAFT LAW ON THE PROSECUTION OFFICE FOR
ANTICORRUPTION AND COMBATTING ORGANISED CRIME

Adopted by the Venice Commission
at its 145th Plenary Session
(Venice, 12-13 December 2025)

on the basis of comments by

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I. Introduction

1. By letter of 27 June 2025, Mr Igor Grosu, President of the Parliament of the Republic of Moldova, requested an opinion from the Venice Commission of the Council of Europe on the draft law on the Prosecution Office for Anticorruption and Combatting Organised Crime (hereinafter “the draft law”, [CDL-REF\(2025\)046](#)).

2. This Opinion was prepared jointly with the Directorate General Human Rights and Rule of Law (hereinafter, “DGI”). Ms Hanna Suchocka, Mr Philip Dimitrov and Ms Renata Deskoska acted as rapporteurs on behalf of the Venice Commission. Mr Filipe Marques was appointed as an expert for the DGI and provided comments on its behalf.

3. On 10–11 November 2025, a delegation composed of Mr Philip Dimitrov, Ms Renata Deskoska and Mr Filipe Marques, accompanied by Mr Taras Pashuk and Mr Salvador Luz from the Secretariat of the Venice Commission, travelled to Chişinău, and held meetings with members of Parliament, the Minister of Justice, the Acting President of the Supreme Court of Justice, the Acting Prosecutor General, the Chief Prosecutors of the Anti-Corruption Prosecutor’s Office and the Prosecutor’s Office for Combating Organised Crime and Special Cases, the Director of the National Anti-Corruption Centre, and members of the Superior Council of Prosecutors and the Superior Council of Magistracy. The delegation also met with representatives of the President’s Administration and of the Ministry of Internal Affairs, civil society organisations, judicial associations, and the EU Delegation to the Republic of Moldova. The Venice Commission and the DGI are grateful to the authorities of the Republic of Moldova and to the Council of Europe in Chişinău for the excellent organisation of the visit.

4. This opinion was prepared in reliance on the English translation of the draft law. The translation may not accurately reflect the original text in all respects.

5. This opinion was drafted on the basis of comments by the rapporteurs and the results of the above-mentioned meetings held in Chişinău on 10-11 November 2025. This opinion was adopted by the Venice Commission at its 145th Plenary Session (Venice, 12-13 December 2025).

II. Background

6. In recent years, Moldova has been undergoing significant legal reforms, aiming to bring its judiciary and rule of law institutions in line with European standards following the opening of European Union accession negotiations in December 2023.¹ The government, led by the Party of Action and Solidarity (hereinafter, “the PAS”), is currently prioritising the reforms of the judiciary and vetting of judges and prosecutors. Anti-corruption reform remains a central part of these efforts. According to international election observers, the 20 October and 3 November 2024 presidential election and constitutional referendum were marred by interference from abroad, including the offering of illicit monetary incentives to influence voters and active disinformation efforts.² On 28 September 2025, the PAS won the parliamentary elections. Reportedly, these elections were marred by cases of foreign interference, illegal funding, cyberattacks and widespread disinformation.³

¹ [European Council conclusions, 14 and 15 December 2023](#), para. 15.

² [PACE Election observation report \(Doc. 16074\), Observation of the presidential election \(20 October and 3 November 2024\) and constitutional referendum \(20 October 2024\) in the Republic of Moldova](#), paras 47-49; [ODIHR Election Observation Mission Final Report - Presidential Election and Constitutional Referendum 20 October and 3 November 2024](#).

³ [PACE Election observation report \(Doc. 16296\), Observation of the parliamentary elections in Republic of Moldova \(28 September 2025\)](#), paras. 8, 28; [OSCE Office for Democratic Institutions and Human Rights \(Press Release of 29 September 2025\)](#).

7. In the Moldovan legal system, the prosecution service operates as a unified structure comprising the Prosecutor General's Office, specialised prosecution offices, and territorial prosecution offices.⁴ Currently, under [Law No. 3/2016](#) on the Prosecution Office and [Law No. 159/2016](#) on specialised prosecution offices, only two specialised prosecution offices exist: the Prosecution Office for Combatting Organised Crime and Special Cases⁵ (hereinafter, "the PCCOCS") and the Anticorruption Prosecution Office⁶ (hereinafter, "the PA").

8. In addition to the PA, the Republic of Moldova has also established the National Anti-Corruption Centre⁷ (hereinafter, "the NAC"), an autonomous public authority created in 2002, vested with competences in the field of detecting and investigating corruption-related criminal offences. Whereas the PA exercises jurisdiction over high-level corruption cases, determined both by the official status of the alleged perpetrators (including senior public officials) and by the applicable financial thresholds concerning the value of the bribe or the extent of the pecuniary damage caused,⁸ the NAC is competent to investigate all other corruption offences falling outside the remit of the PA.⁹

9. The President of the Parliament, in his letter of 27 June 2025, indicated that the draft law is aimed at establishing a single specialised prosecution office ("PACCO") to investigate both corruption and organised crime. This new entity would both replace and serve as the legal successor to the PCCOCS and the PA. According to the letter, in view of the "major challenges facing the Republic of Moldova, including the forms of hybrid crime manifested against the normal conduct of the electoral process", and further considering "the seriousness of the shortcomings in the activity of the institutions with powers to prevent and combat political and electoral corruption (...), it was decided, as a priority recommendation, to strengthen the institutional architecture of the entities responsible for combatting corruption."

10. The explanatory report accompanying the draft law also emphasised the importance of effectively addressing corruption and electoral fraud, particularly in the light of recent foreign

⁴ Article 7(1) of [Law No. 3/2016 on the Prosecution Office](#).

⁵ The PCCOCS was created in 2016. Under Article 9(5) of [Law No. 3/2016](#), it specialises in combatting organised crime, terrorism and torture. Further institutional information is accessible at the [PCCOCS Official Website](#).

⁶ The PA acquired its current institutional legal form in 2016. Under Article 9(4) of [Law No. 3/2016](#), it specialises in combatting corruption offences and acts related to corruption. The PA was initially created by the Parliament in 2003 as a subdivision within the General Prosecutor's Office. At the time, the PA was designated to investigate the actions of investigation and criminal prosecution officers from the Centre for Combating Economic Crimes and Corruption (CCCEC), the predecessor of the National Anti-Corruption Centre (NAC), as well as those from the Ministry of Internal Affairs and the Customs Service. Following the reform operated by [Law No. 245/2023, on amendments to certain legislative acts](#), the functions and competences of the NAC and the PA were delimited. Further information is accessible at the [PA Official Website](#) and in [Report No. 2, "Disrupting Dysfunctionality: Resetting Republic of Moldova's Anti-Corruption Institutions"](#), November 2022, prepared by the Independent Anti-Corruption Advisory Committee.

⁷ The creation of the NAC stemmed from the need to institute an efficient state structure to fight economic crimes and corruption. Since its creation, the NAC has undergone several reforms and structural reorganisation processes, and has been subordinated to either the Parliament, the Government, or the Presidency, with respect to the appointment of its leadership. Currently, the director of the NAC is appointed by the Parliament. Under Article 4 of [Law No. 1104/2002 on the National Anti-Corruption Centre](#), the NAC is entrusted with the mission to prevent and combat corruption by applying the regulatory and institutional framework for preventing and combating corruption, strengthening the national integrity system and increasing citizens' trust in the rule of law. Further information may be found in [Report No. 2, "Disrupting Dysfunctionality: Resetting Republic of Moldova's Anti-Corruption Institutions"](#), November 2022, prepared by the Independent Anti-Corruption Advisory Committee and at the [NAC Official Website](#).

⁸ In accordance with paragraphs (1) and (2) of Article 271¹ of the [Code of Criminal Procedure](#).

⁹ OECD (2025), *Moldova Fifth Round of Anti-Corruption Monitoring Follow-Up Report: The Istanbul Anti-Corruption Action Plan*, OECD Publishing, Paris, <https://doi.org/10.1787/007fdb43-en>, p. 128.

interference activities and the decision of the Supreme Security Council of 20 January 2025, which called for the “[strengthening of] the institutional framework of the entities responsible for combating corruption”, in the light of the large-scale electoral fraud observed during the 2024 presidential election and constitutional referendum on European integration. According to the report, the creation of the single specialised prosecution office “will eliminate the cases of negative conflict of jurisdiction when criminal groups, including those from abroad, are involved in cases of corruption, electoral corruption, and illegal financing of political parties for the purpose of electoral corruption”.¹⁰ The Croatian Office for the Suppression of Corruption and Organised Crime was also referenced as a comparative example of a successful institutional model, given both the breadth of its jurisdiction¹¹ - which encompasses corruption and organised crime - and the comparable population size of Croatia.¹²

11. The explanatory report further underscored that “[t]he complexity and interconnections between political corruption, electoral corruption, organised crime, treason and terrorism require an integrated approach. Such a specialised prosecution office would allow for more efficient coordination of investigations, reduction of reaction times and adoption of a pro-active strategy to combat these phenomena.”¹³ Consequently, the envisaged “reform will address current shortcomings, streamline resource allocation and increase citizen’s trust in state institutions.”¹⁴

12. On 29 January 2025, following the abovementioned decision of the Supreme Security Council of 20 January 2025, the Ministry of Justice conducted a legal analysis and identified three possible options for institutional reform of the prosecution service.¹⁵ The first option envisaged concentrating the investigation of complex cases of political corruption and organised crime within a specialised section of the Prosecutor General’s Office. The second option proposed strengthening the Section for Combating Corruption and Money Laundering within the Prosecutor General’s Office by reallocating additional human resources from the specialised prosecution offices. The third option was based on a comparative analysis¹⁶ and entailed the creation of a single entity specialising in both anti-corruption and organised crime. In its legal assessment, the Ministry of Justice ultimately recommended merging the PCCOCS and the PA into a single specialised institution and transferring all prosecutors and support staff to the new structure, thereby ensuring full continuity of ongoing investigations.

13. The draft law, adopted at first reading on 20 February 2025, appears to be based on the third option but introduces significant modifications. While it envisages the merger of the competences of the PCCOCS and the PA into a single institution – the PACCO – it does not provide for the automatic continuity of prosecutorial staff. Instead, the PCCOCS and the PA are to be liquidated, and the prosecutors currently serving in these bodies are to be proposed for transfer to territorial prosecution offices. A new competitive selection procedure will then be launched to recruit prosecutors for the PACCO, which will be open to former PCCOCS and PA prosecutors, provided they meet the applicable eligibility criteria.¹⁷

¹⁰ Explanatory Report to the draft Law on the Prosecution Office for Anticorruption and Combatting Organised Crime, point 2.2., VII).

¹¹ Please see: [Jurisdiction of the USKOK](#).

¹² Explanatory Report, point 2.2., V.

¹³ *Ibid*, point 2.2., VII).

¹⁴ *Ibid*, point 2.2., VIII).

¹⁵ [Proposals of the Ministry of Justice for strengthening the institutional architecture of the bodies responsible for combating corruption \(29 January 2025\)](#).

¹⁶ In its analysis, the Ministry of Justice alluded to the Croatian [Office for the Suppression of Corruption and Organised Crime](#), the Albanian [Specialised Structure for Combatting Corruption and Organised Crime](#), and the Italian [National Anti-Mafia and Counterterrorism Directorate](#).

¹⁷ A detailed analysis of these mechanisms can be found in *Section B – Specific provisions of the draft law* below.

14. On 17 February 2025, the Prosecutor General's Office issued a legal opinion on the draft law in which it concluded that the envisaged reform "will have a significant impact on the terms of criminal prosecution and on ongoing proceedings (...) which may lead to interruptions in the work of the Prosecutor's Office." Besides proposing a series of amendments to the draft law,¹⁸ the Prosecutor General's Office importantly highlighted that the number of vacancies in territorial prosecution offices was not duly taken into account, as this figure was significantly lower than the approximate number of specialised prosecutors working for the PCCOCS and the PA.¹⁹ In addition, it noted that the draft law had not been substantiated in terms of financial impact, estimated costs, and cost-benefit justification.²⁰

15. On 18 February 2025, the PA issued a legal opinion highlighting the urgent need for the allocation of sufficient resources to the PA and warning of a series of risks the draft law posed. These risks included the temporary paralysis of current investigations until PACCO becomes fully operational, the downgrading and demotion of PA prosecutors, and the creation of an over-sized institution with excessively broad powers. The opinion also stressed that there was no causal link between the alleged problems and the envisaged reforms.²¹

16. On 13 March 2025, the Government produced its legal opinion on the draft law, proposing an alternative approach whereby the PA and the PCCOCS would be merged through a seamless transition to the new office. Under this approach, the establishment of the PACCO would not affect the status of prosecutors currently in specialised offices and the uninterrupted continuation of the work being carried out would be ensured.²² It is noted that no changes were made to the draft law following the Government's March legal opinion.

17. During the country visit, members of the parliamentary opposition, representatives of the prosecution service, members of the judiciary, judicial associations, and several NGOs criticised the draft law as rushed and insufficiently grounded in analysis. According to several accounts, the draft law was primarily motivated by institutional and personal tensions between the former head of the PA and other public authorities, rather than by a genuine need for structural reform. Other concerns focused on issues of institutional stability, continuity, and effective functioning. Many interlocutors also warned of potential delays in the handling of sensitive and complex cases and pointed to significant legal and logistical uncertainties regarding the transfer of prosecutors to local offices, the appointment of new prosecutors and the transfer of pending cases. Further concerns included the danger of creating an oversized institution with excessively broad competences. A number of interlocutors expressed a view that strengthening the financial and human resources of existing institutions would be preferable to repeated organisational restructuring.

¹⁸ In the Legal Opinion of the Office of the Prosecutor General no. 4-Id/25, of 17 February 2025, the Office of the Prosecutor General proposed, among other things: (i) to provide for the direct financing of the PACCO through the State Budget, (ii) to alter its scope of jurisdiction so as to exclude the crime of torture and investigations carried out by the investigation bodies with general territorial jurisdiction, (iii) the elimination of the mechanism for the *ad hoc* evaluation of the Chief Prosecutor of the PACCO, (iv) the harmonisation of the periods of secondments for prosecutors, investigation officers and intelligence and security officers, (v) the inclusion of derogations from the provisions of Law No. 252/2023 for prosecutors who refuse to be transferred, and (vi) the extension of the 30-day period set out in Article 11 (11) for the transfer of assets and case materials to the PACCO and the exclusion of the intermediary step of having all assets and case materials transferred firstly to the Prosecutor General's Office.

¹⁹ During the country visit, the delegation was informed that there are currently only four vacancies in the territorial prosecution offices, while the PCCOCS and the PA currently employ around 90 prosecutors.

²⁰ Legal Opinion of the Office of the Prosecutor General no. 4-Id/25, of 17 February 2025.

²¹ Legal Opinion of the Anti-Corruption Prosecutor's Office no. 1383-1391, of 18 February 2025.

²² [Legal Opinion of the Government no. 8.26/2025](#), of 13 March 2025, on the draft law on Anti-Corruption and Organised Crime Prosecutor's Office.

III. Analysis

A. General remarks on the necessity of the proposed reform

18. The Venice Commission has previously observed that there is no common standard on the organisation of the prosecution service. However, sufficient autonomy must be ensured to shield prosecutorial authorities from undue political influence.²³ The Commission has further consistently supported institutional specialisation in the fight against corruption,²⁴ and recognised the “advantages of the recourse to specialised prosecutors, associated with appropriate judicial control, for investigating very particular areas or offences including corruption, money laundering, trading of influence etc.”²⁵

19. The current model of two specialised prosecution bodies, as well as the proposed reform, largely falls within the State’s margin of discretion in determining how best to organise the institutional framework for the effective prosecution of certain crimes. Nonetheless, the reform should address the root causes of the inefficiencies identified in the existing model.

20. According to its proponents, this draft law is principally aimed at pursuing the following objectives: (1) addressing structural deficiencies in the criminal investigation of new forms of hybrid crime, such as electoral corruption, (2) preventing conflicts of jurisdiction between the PCCOCS and the PA, and (3) increasing efficiency in the allocation of resources.²⁶

21. However, these objectives, formulated at the beginning of 2025 in response to the estimated threats of electoral corruption ahead of the September legislative elections, need to be assessed in the current context and in the light of the following considerations.

22. As to the efficiency of these institutions in criminal investigations (objective 1), it is relevant to mention that the performance of specialised anti-corruption institutions has not raised any serious concerns among international partners. In 2025, it was positively evaluated by the OECD as “Outstanding”.²⁷ In its 2025 EU Enlargement Report concerning the Republic of Moldova, the European Commission observed progress in the number of cases related to corruption, illegal political financing and organised crime²⁸ and noted that “[f]urther work is needed to tackle complex organised crime cases (...). Moldova should continue to demonstrate detection, prevention and prosecution of serious and organised crime, leading to a solid track record of final convictions (...).”²⁹ During the country visit, the delegation of the Venice Commission and DGI was informed that, in 2025, both specialised prosecution offices were adequately dealing with the tasks imposed on them, including challenges related to combating the electoral corruption.

23. With regard to the jurisdiction-related issues (objective 2), several interlocutors pointed out that the PCCOCS is an institution with excessively broad competences, covering both organised crime and economic and financial offences such as money laundering³⁰ and high-

²³ Venice Commission, [CDL-AD\(2016\)007](#), Rule of Law Checklist, § 91.

²⁴ See for example: Venice Commission, [CDL-AD\(2014\)041](#), Montenegro - Interim Opinion on the Draft Law on Special State Prosecutor’s Office, §§ 17-18 and 23; [CDL-AD\(2016\)009](#), Albania – Final Opinion on the Revised Draft Constitutional Amendments on the Judiciary, §§ 46-47.

²⁵ Venice Commission, [CDL-AD\(2018\)017](#), Romania – Opinion on Amendments to Law No.303/2004 on the State of Judges and Prosecutors, Law No. 304/2004 on Judicial Organisation, and Law No. 317/2004 on the Superior Council for Magistracy, § 89.

²⁶ Explanatory Report.

²⁷ OECD (2025), *Moldova Fifth Round of Anti-Corruption Monitoring Follow-Up Report: The Istanbul Anti-Corruption Action Plan*, OECD Publishing, Paris, <https://doi.org/10.1787/007fdb43-en>, p. 127.

²⁸ [2025 Communication on EU enlargement policy - Republic of Moldova 2025 Report](#), p. 32.

²⁹ *Ibid.*, p. 46.

³⁰ Article 270²(3) of the [Code of Criminal Procedure](#) and Article 243 of the [Criminal Code](#).

value customs and smuggling offences.³¹ In addition, it was observed that most crimes related with electoral corruption³² fall within the jurisdiction of the NAC, while only high-level cases fall within the mandate of the PA.³³ In this regard, several reports pointed to the problem of inadequate institutional cooperation and an unclear division of competences between the PA and the NAC,³⁴ rather than between the two specialised prosecution offices.

24. As to the need for adequate institutional resources (objective 3), this issue was highlighted by GRECO in 2023 when it recommended that the PA “be provided with adequate human, financial and technical resources, as well as the necessary autonomy in order to carry out effective investigation and prosecution of offences involving persons with top executive functions and regularly inform the public of the progress of its work”.³⁵ In the 2025 EU Enlargement Report mentioned above, the European Commission recommended that “[t]he [PA]’s operational capacities need to be significantly reinforced, in particular to proactively detect latent high-level corruption cases. While a decision was adopted in 2024 to increase the number of staff by 54, only a few of these positions have been filled due to logistical constraints. Furthermore, an appropriate solution should be found to allocate an adequate headquarters to the [PA].”³⁶ The concern regarding the limited institutional resources available to both specialised prosecution offices was articulated by many stakeholders during the country visit of the Venice Commission and DGI. Based on the information available to the Venice Commission, it remains uncertain whether the future PACCO will be provided with sufficient human and financial resources to ensure the effective fulfilment of its duties. This need for adequate resources will apparently persist irrespective of the institutional model ultimately chosen.

25. Considering the elements above, it appears that the deficiencies identified in the fight against corruption and organised crime stem primarily from insufficient human and financial resources, as well as from an ineffective distribution of competences or collaboration between the PA and the NAC, rather than from the current organisational structure or division of competences between the PCCOCS and the PA.

26. Furthermore, in the light of the information gathered, the Venice Commission and DGI find no clear connection between two of the stated objectives of the draft law – addressing structural deficiencies in combatting new forms of hybrid crime (objective 1) and increasing efficiency in the allocation of resources (objective 3) – and the proposed reform. In particular:

(a) There are no elements demonstrating that liquidating the PA would necessarily strengthen the fight against new forms of hybrid crime, including electoral corruption. Although currently

³¹ Article 270²(4) of the [Code of Criminal Procedure](#) and Articles 244, 248–248², and 249 of [Criminal Code](#).

³² According with Article 269(1) of the [Code of Criminal Procedure](#) and Article 181¹ of the [Criminal Code](#), the crime of vote-buying falls under the competence of the NAC. Under Article 269(2) of the [Code of Criminal Procedure](#), cases falling within the jurisdiction of the NAC shall be conducted by the prosecutor's office within the territorial jurisdiction of the National Anti-Corruption Centre's territorial subdivision.

³³ According to Article 270¹(1) of the [Code of Criminal Procedure](#), the PA has competence to conduct criminal investigations regarding corruption offences committed by, among others, a) persons whose appointment or election is regulated by the Constitution of the Republic of Moldova, b) mayors, deputy mayors, local councillors, c) persons who are appointed or elected by the Parliament, and d) senior civil servants. According to Article 270¹(2) of the [Code of Criminal Procedure](#), the PA has competence to conduct criminal investigations regarding corruptions offences if the value concerned exceeds 10,000 conventional units, regardless of the person's status.

³⁴ GRECO's [Fifth Evaluation Report](#) on the Republic of Moldova, para. 96.; see also OECD (2025), *Moldova Fifth Round of Anti-Corruption Monitoring Follow-Up Report: The Istanbul Anti-Corruption Action Plan*, OECD Publishing, Paris, <https://doi.org/10.1787/007fdb43-en>, p. 127.

³⁵ GRECO's [Fifth Evaluation Report](#) on the Republic of Moldova, para. 96.

³⁶ [2025 Communication on EU enlargement policy - Republic of Moldova 2025 Report](#), p. 34.

under-staffed and under-resourced, the PA's performance indicators are positive according to international assessments. Moreover, it is doubtful that creating a new specialised entity without the automatic transfer of all prosecutors specialised in anti-corruption would enhance the new entity's ability to tackle this type of complex and highly technical crime. The opposite outcome appears more likely.

(b) Since neither the draft law nor the accompanying explanatory report provides concrete financial estimates for the establishment of the PACCO, identifies potential savings arising from the liquidation of the PA and the PCCOCS, or presents a cost-benefit analysis that would permit verification of increased efficiency in resource allocation, this stated objective cannot be substantiated.

27. Lastly, the goal of preventing conflicts of jurisdiction between the PCCOCS and the PA (objective 2) appears, at first glance, to be achieved through the creation of the PACCO. However, firstly, it has been noted above that the jurisdiction-related issues arose rather between the PA and the NAC, and not between the PA and the PCCOCS. Secondly, according to information conveyed to the delegation by Government officials, the PACCO would consist of two subdivisions, one for organised crime and one for anti-corruption, a circumstance which could also generate internal conflicts of competence.

28. Accordingly, the Venice Commission and DGI consider that, in its current form, the draft law may not fully ensure the attainment of the stated objectives of the proposed reform of the prosecution service. In addition, as will be shown in detail in Section B below, the proposed reform may give rise to further concerns regarding (a) the continuity of ongoing investigations, (b) the security of tenure of prosecutorial staff, and (c) the overall coherence with other reforms being implemented in parallel, including the ongoing vetting of prosecutors.

29. The Venice Commission and DGI recommend that further assessments be carried out before proposing the liquidation of the PA and the PCCOCS and the establishment of the PACCO. These assessments should determine, at the domestic level and among other things: the current performance levels of the PA and the PCCOCS; the financial investments required to bolster their efficiency; whether a review or a reallocation of their existing competences is necessary; the potential savings and cost-benefit implications connected with the establishment of the PACCO; the legal and logistical risks associated with establishing the PACCO; and whether the proposed restructuring is justified in the light of these findings.

30. The Venice Commission and DGI further underline the importance of conducting an in-depth examination of the three options set out in the Minister of Justice's Proposals of 29 January 2025. The option to maintain the existing structure – namely the two current specialised prosecution offices – should also be duly considered. In case this latter option is retained, human and financial institutional-strengthening measures would be essential to ensure the effective functioning of these bodies.

B. Specific provisions of the draft law

1. The term of office of the Chief Prosecutor of the PACCO

31. The draft law does not specify the term of office of the Chief Prosecutor of the PACCO. However, Article 9(3) of Law No. 3/2016 provides that the chief prosecutors of specialised prosecutor's offices are equivalent in status to the Deputy Prosecutor General. In addition, Article 25(4) of the same law establishes a five-year term of office for the chief and deputy chief prosecutors of both prosecutor's offices and subdivisions of the Prosecutor General's Office and stipulates that no individual may hold the same position for more than two consecutive mandates. While this provision does not explicitly regulate the term of office of the chief prosecutors of

specialised prosecutor's offices, whose appointment is set out under Article 25¹ of the same law, the delegation was informed during the country visit that a five-year term applies to this position.

32. It should be recalled that the Venice Commission has previously recommended that a Prosecutor General should be appointed for a relatively long period without the possibility of renewal at the end of that period, to safeguard the independence of the office.³⁷ The same consideration applies to the Chief Prosecutor of the PACC, given the high rank of this position within the hierarchical structure of the prosecution service. In conclusion, given that there appears to be no controversy or ambiguity at the national level regarding the rule establishing a five-year term for the Chief Prosecutor, this approach could be accepted. Likewise, the overall duration of five years falls within the range of acceptable solutions, having regard to comparable situations previously analysed by the Venice Commission.³⁸ However, it would be appropriate to specify that this term is not renewable.

2. The performance evaluation of the Chief Prosecutor of the PACC

33. Under Article 6 of the draft law, with a view to appraising the activity and conformity with the office held, the Chief Prosecutor of the PACC may be subjected to an *ad hoc* performance evaluation every two years. Pursuant to Article 6(2), such an evaluation may be initiated only at the request of the Prosecutor General or at least one third of the members of the Superior Council of Prosecutors (hereinafter, "the SCP"). Once initiated, the SCP must establish an *ad hoc* evaluation committee within 10 days. Based on a set of performance criteria laid out in Article 6(5), the *ad hoc* committee must prepare a reasoned, advisory report, on the basis of which the SCP attributes the final grade. If the grade "unsatisfactory" is attributed, the SCP may propose to the Prosecutor General the dismissal of the Chief Prosecutor. Article 6 therefore creates a dedicated performance-evaluation mechanism for the Chief Prosecutor of the PACC, one that closely mirrors the procedure applicable to the Prosecutor General under Article 31¹ of Law No. 3/2016 on the Prosecutor's Office.

34. The Venice Commission has previously stated that special prosecution offices such as anti-corruption offices should enjoy an adequate level of structural and operational autonomy, involving legal and institutional arrangements to prevent political or other influence.³⁹ In the same vein, it also considers that the chiefs of specialised prosecution offices must enjoy sufficient independence in the performance of their duties, including from the Prosecutor General.

35. The Venice Commission has observed that a similar evaluation mechanism for the Prosecutor General was rather uncommon in Europe and provided critical comments on it.⁴⁰ Comparable concerns may be expressed in relation to the present *ad hoc* mechanism which may be triggered every two years resulting in early dismissal of the PACC Chief Prosecutor. Primarily, it may be questioned whether this amounts to an excessive interference with the external independence of the Chief Prosecutor of the PACC. In addition, the proposed *ad hoc*

³⁷ Venice Commission, [CDL-AD\(2025\)036](#), North Macedonia - Joint Opinion of the Venice Commission and the DGI on the draft laws on the Public Prosecutor's Office and on the Council of Public Prosecutors, § 37; Venice Commission, [CDL-AD\(2024\)034](#), Poland - Opinion on the draft amendments to the Law on the Public Prosecutor's Office, § 47; Venice Commission, [CDL-AD\(2010\)040](#), Report on European Standards as regards the Independence of the Judicial System: Part II - the Prosecution Service, § 37.

³⁸ See, *mutatis mutandis*, Venice Commission, [CDL-AD\(2024\)034](#), Poland - Opinion on the draft amendments to the Law on the Public Prosecutor's Office, § 48; See also, [OECD \(2020\)](#), The Independence of Prosecutors in Eastern Europe, Central Asia and Asia Pacific, p. 14.

³⁹ Venice Commission, [CDL-AD\(2014\)041](#), Montenegro - Interim Opinion on the Draft Law on Special State Prosecutor's Office, §§ 17-18.

⁴⁰ Venice Commission, [CDL-AD\(2021\)047](#), Opinion on the Amendments of 24 August 2021 to the Law on the Prosecution Service, §§ 63 – 84.

evaluation procedure may raise concerns about the risk of undue leverage being exercised by the Prosecutor General over the Chief Prosecutor of the PACCO.

36. The Venice Commission has previously stated that, as a matter of principle, the security of the fixed term of the mandates of members of constitutional bodies serves the purpose of ensuring their independence from external pressure. Therefore, measures which would jeopardise the continuity in membership and interfere with the security of tenure of those members would raise a suspicion that the intention behind those measures was to influence their decisions.⁴¹ The same consideration applies to the Chief Prosecutor of the PACCO, given the importance of ensuring his or her independence from external pressure.

37. In view of the above, the Venice Commission and DGI recommend removing the draft provisions on the *ad hoc* evaluation mechanism. The quality of the Chief Prosecutor's performance should be ensured, first of all, through a rigorous merit-based selection process. It is equally relevant in this context that the fixed term of office be clearly regulated, while the grounds for early removal remain precise and narrowly defined, thereby ensuring accountability in cases of serious failings.

3. The transfer of prosecutors to local prosecution offices

(a) The discontinuity of prosecutorial staff

38. Under Article 11(5) of the draft law, the prosecutors, Chief Prosecutors and Deputies of the PCCOCS and the PA "shall be proposed the transfer, with their consent and without contest, in other territorial prosecution offices, to vacant prosecutor positions, except for the positions of chief prosecutor". At the same time, a competitive selection procedure for the vacant prosecutor positions in PACCO is to be held, to which the prosecutors formerly working for the PCCOCS and the PA may apply, provided they fulfil the respective eligibility requirements.⁴² In this manner, those prosecutors previously working for the PA and the PCCOCS are not automatically transferred to the newly created PACCO.

39. The Venice Commission has previously pointed out that in countries where an effective specialised structure with a proven track record already exists, it seems difficult to justify the exclusion of judges and magistrates from the remit of such structures, especially in a manner that may dissipate resources and entail the allocation of non-specialised prosecutors to investigate corruption offences.⁴³ In addition, several stakeholders highlighted during the country visit that the discontinuity of specialised prosecutors is likely to significantly disrupt ongoing criminal investigations and judicial proceedings, given the volume and technical complexity of the cases handled by both the PCCOCS and the PA.

40. Moreover, during the country visit, no information was presented to suggest that the generalised immediate reallocation of specialised prosecutors was necessary or justified by any legitimate consideration, including integrity-related concerns. This is particularly so given that prosecutors of the PA and the PCCOCS are already subject to an ongoing vetting process under Law No. 252/2023, on the external evaluation of judges and prosecutors.⁴⁴ Should delays arise

⁴¹ Venice Commission, [CDL-AD\(2020\)033](#), Moldova - Urgent Joint *Amicus Curiae* Brief on three legal questions concerning the mandate of members of Constitutional Bodies, § 19.

⁴² These requirements are laid out Article 20(4) of Law No. 3/2016. They are the following: (a) having at least 4 years of experience as a prosecutor and (b) the attribution of a "very good rating" in the performance evaluation.

⁴³ Venice Commission, [CDL-AD\(2022\)003](#), Romania – Opinion on the draft law on the dismantling of the section for investigating criminal offences within the judiciary, 18 § .

⁴⁴ [Law No. 252/2023](#) on the external evaluation of judges and prosecutors and on amendments to certain normative acts.

in the implementation of this process, they should be addressed through appropriate procedural means. However, such delays cannot serve as a justification for the *ex lege* transfer or removal of all specialised prosecutors currently employed in the PA and the PCCOCS.

(b) The need for safeguards in transfer decisions

41. Furthermore, the Venice Commission has previously recommended that the transfer of prosecutors covered by the security of tenure must be accompanied with sufficient safeguards against abuse.⁴⁵ Such safeguards may include the specification of factors to be taken into account in any transfer decision - such as qualifications and experience, scope and nature of the performed tasks, periods of secondment to higher positions, and the personal situation of the prosecutor in question, - the obligation to provide reasons and the possibility of submitting the transfer decisions to judicial review. In the instant case, none of these safeguards are provided by the draft law.

42. Furthermore, the delegation learned during the country visit that the number of vacant prosecutor positions has not been taken into account in the preparation of the draft law. While 90 specialised prosecutors are currently employed in the PA and the PCCOCS, only four vacancies exist within the territorial prosecution offices. As a result, there are not enough vacant posts to accommodate the transfers envisaged by the draft law.

(c) The lack of consent and possible dismissal from office

43. The insertion of the expression “with their consent and without contest” in Article 11(5) of the draft law also raises questions as to what happens in cases where there is no consent on the part of a prosecutor who is proposed for transfer to a local prosecution office. In this regard, it must be borne in mind that, in case a prosecutor refuses to be transferred, he or she is, *ope legis*, dismissed from office, in accordance with the general regime contained in Article 58(1)(b) of Law No. 3/2016.⁴⁶

(d) The continuity of the ongoing vetting process

44. The possibility that a lack of consent will lead to dismissal from office raises additional concerns, particularly in the light of the ongoing vetting process for prosecutors initiated under Law No. 252/2023. Article 3(4) of that law determines that a resignation request submitted after the initiation of the vetting process is deemed equivalent to failing that same vetting process. Therefore, it appears that those PA and PCCOCS prosecutors who refuse to be transferred to a local prosecution office - and thus are dismissed under Article 58(1)(b) of Law No. 3/2016 – will be considered to have failed the vetting process.

(e) The existence of a demotion in the absence of a disciplinary procedure

45. The legal nature or qualification of such a transfer also raises questions, given that under Article 39(5) of Law No. 3/2016, the transfer of a prosecutor from a specialised prosecution office to a territorial prosecution office is considered a demotion and may only take place based on a prior disciplinary decision. In light of this, and in the absence of prior disciplinary proceedings, Article 11(5) of the draft law effectively provides for the demotion of all PCCOCS and PA prosecutors. Lastly, in the case of prosecutors who consent to being transferred to local

⁴⁵ Venice Commission, Opinion [CDL-AD\(2024\)034](#), Poland – Opinion on the Draft Amendments to the Law on the Public Prosecutor’s Office, § 90; Venice Commission, [CDL-AD\(2013\)025](#) – Joint Opinion on the Draft Law on the Public Prosecutor’s Office of Ukraine, § 149.

⁴⁶ According to Article 58(1)(b) of Law No. 3/2016, prosecutors are dismissed from office if they refuse “to be transferred to another prosecution office or subdivision of the prosecution office, if the prosecution office or subdivision of the prosecution office in which he/she worked is liquidated or reorganised”.

prosecution offices, this apparent demotion will also entail a reduction in salary, as they will receive the remuneration corresponding to their new position, in accordance with Article 11(25) of the draft law.⁴⁷

46. Taking into account all the above-mentioned legal issues, the Venice Commission and DGI recommend that the draft law be revised in order to address these considerations.

4. The competitive selection procedure for the new PACCO prosecutors

47. Under Article 11(18)(c) of the draft law, the SCP shall initiate a selection procedure for the position of Chief Prosecutor and for the vacant prosecutor positions in the PACCO. There is currently no indication on the possible duration of such selection procedures.

48. While the newly established PACCO may initially face a shortage of prosecutors until the completion of the selection procedure, this gap could, in principle, be mitigated through the derogations set out in paragraphs (27) and (28) of Article 11 of the draft law, which permit the temporary assignment of prosecutors from other prosecution offices to the PACCO. However, since these temporarily assigned prosecutors might lack specialisation in anti-corruption and organised crime and given that the review of new and complex case files typically requires several months of preparation, it is almost certain that the PACCO will operate for a significant period with prosecutors who are neither specialised nor familiar with the cases entrusted to them. This scenario is therefore likely to lead to disruptions and significant bottlenecks in the investigation and prosecution of criminal cases.

49. In addition, it should be noted that Article 11(21) of the draft law allows candidates who succeed in the selection procedure to be appointed and begin working at the PACCO without prior vetting. This constitutes a derogation from Article 3(1)(g) of Law No. 252/2023, which requires that candidates successful in competitions for the positions of prosecutor and specialised prosecutor undergo such vetting in advance. In the opinion of the Venice Commission, all prosecutors should ideally have undergone vetting before being appointed to the PACCO. Ensuring that PACCO prosecutors are vetted at the outset would represent best practice. However, given the delay in the ongoing vetting procedure and the need to ensure the swift commencement of the activities of the PACCO, this derogation may be exceptionally justified. Furthermore, although Article 11(22) stipulates that the vetting process must be conducted after the appointment of prosecutors to the PACCO, it does not set any specific deadline in this respect. In the Venice Commission's opinion, it would be preferable to introduce at least a clear and binding deadline for completing the vetting of the newly appointed prosecutors.

5. The competences of the PACCO

50. Article 3 of the draft law sets out the competences of the PACCO, which include the investigation and prosecution of corruption-related offences, organised crime, terrorism, and torture.⁴⁸ Article 3(2)(b) further provides that the PACCO shall lead criminal prosecutions in cases handled by the criminal prosecution bodies of the central specialised bodies. According to Article 270⁽²⁾(2) of the Code of Criminal Procedure, these central specialised authorities correspond to the Ministry of Internal Affairs, the Customs Service and the State Tax Service.⁴⁹

⁴⁷ Under Article 11(25) of the draft law, the prosecutors, chief prosecutors, and their deputies, previously working for the PA and the PCCCS will start receiving the salaries corresponding to their new positions one month after all the prosecutors selected for PACCO have passed the vetting process.

⁴⁸ The proposed text for Article 270¹ of the [Code of Criminal Procedure](#) and of Article 9(4) of [Law No. 3/2016](#), on the Prosecutor's Office - which may be found at the end of the draft law - further concretise the scope of the future competences of the PACCO.

⁴⁹ [Code of Criminal Procedure](#).

However, this provision does not specify the modalities of such cooperation. This provision should therefore establish a clear procedure outlining how the PACCO is expected to lead and coordinate investigations initiated by these central bodies. In addition, broadening the PACCO's mandate in this way could require it to engage with matters unrelated to corruption or organised crime – such as customs or tax fraud - potentially overburdening the new institution. The Venice Commission and DGI therefore recommend clarifying the scope of this provision, namely by (i) establishing a clear procedure for the PACCO's coordination of such investigations and (ii) limiting its remit to offences linked specifically to organised crime and corruption.

6. The suspension of the statute of limitations

51. Article 12(7) of the draft law stipulates that the statute of limitations for criminal prosecution shall not begin to run - and, if already running, shall be suspended - from the moment the draft law enters into force until thirty days after the PACCO initiates its activities.

52. At the outset, it is observed that Article 2(4) of the Code of Criminal Procedure⁵⁰ provides that “[p]rocedural legal norms from other national laws may be applied only if they are included in this code.” This provision thus determines that any rules governing the conduct of criminal proceedings must be expressly set out in the Code of Criminal Procedure and cannot be derived from other national legislation. Therefore, to ensure consistency between the derogations contained in the draft law and the requirement stemming from Article 2(4) of the Code of Criminal Procedure, it would be appropriate to amend the Code of Criminal Procedure directly.

53. The rationale underlying this draft provision seems to be to ensure that no offences become time-barred due to logistical and organisational disruptions linked to the liquidation of the PA and the PCCOCS and the establishment of the PACCO. In this regard, it is relevant to recall that, in its Judgment No. 27a/2024 of 27 May 2014⁵¹, the Constitutional Court held that a statutory provision removing the statute of limitations for certain offences was unconstitutional. Among other points, the Constitutional Court found that the provision worsened the legal position of accused persons in breach of the principle of non-retroactivity of criminal law, created an unjustified discrimination between individuals who committed the same offences at different times, and failed to meet the requirements of clarity and predictability expected of criminal legislation. The Court further noted that Parliament could not resort to *ad hoc* derogations from the Criminal Code to remedy investigative shortcomings, as doing so undermined legal certainty and the rule of law.

54. The findings of the Constitutional Court appear to be relevant for the assessment of Article 12(7) of the draft law which may similarly be viewed as potentially worsening the legal position of accused persons and creating discrimination between individuals who committed the same offences at different times. Moreover, this provision could also be viewed as an *ad hoc* derogation from the Criminal Code aimed at remedying potential investigative shortcomings arising from the envisaged institutional reconfiguration. For these reasons, the Venice Commission and DGI recommend reconsidering the proposed rule and exploring alternative ways of ensuring timely prosecutions that would preserve legal certainty and adequately safeguard the rights of defence.

⁵⁰ [Code of Criminal Procedure](#).

⁵¹ Judgement of the Constitutional Court of Moldova [No. 27a/2024](#), of 27 May 2014, concerning the constitutionality of Article II of Law No. 56 of 4 April 2014 on the amendment of Article 60 of the Criminal Code of the Republic of Moldova. In this judgment, it is referred that the Parliament stressed that the April 2019 events called for an “intervention and a decisive response from the state”, while the President of the Republic noted that “the complexity of the cases related to the events of 9 April 2009, as well as the need to for a thorough investigation, have so far prevented the investigating authorities and courts from identifying and bringing to justice those responsible for these acts”.

7. The transfer of cases

55. Under paragraphs (3) and (4) of Article 11 of the draft law, the PACCO is established upon the draft law's entry into force, while the PCCOCS and the PA are to be liquidated within thirty days from that date. The PACCO is to become operational following the appointment of an *ad interim* Chief Prosecutor, designated by the Prosecutor General and approved by the SCP.⁵²

56. Paragraphs 8–11 of Article 11 of the draft law establish a transitional mechanism under which the assets, case files, and other materials of the PCCOCS and the PA are first transferred temporarily to the Prosecutor General's Office. Within thirty days of the PACCO becoming operational, these materials must then be transferred to the PACCO. While the 30-day period for transferring thousands of criminal cases and related materials from the Prosecutor General's Office to the newly established PACCO appears unduly short, it is also questionable whether the intermediary step of placing all materials temporarily under the Prosecutor General's Office is necessary at all. A direct transfer from the PCCOCS and the PA to PACCO appears to be preferable, avoiding an additional logistical layer that could prolong and complicate the transfer process.

IV. Conclusion

57. At the request of the President of the Parliament of Moldova, the Venice Commission and the Directorate General Human Rights and Rule of Law (DGI) have assessed the draft law on the Prosecution Office for Anticorruption and Combatting Organised Crime.

58. The Venice Commission and DGI agree with the Moldovan authorities that it is important to strengthen the effectiveness of the fight against corruption and organised crime, particularly electoral corruption, to increase efficiency in the allocation of resources and to prevent conflicts of jurisdiction. The Venice Commission and DGI further recognise the legitimate efforts undertaken by the Moldovan authorities to tackle electoral interference, a serious problem which presents significant challenges.

59. The draft law is aimed at establishing a single specialised prosecution office to investigate both corruption and organised crime – the PACCO – which would replace the PCCOCS and the PA. In order to achieve this objective, the draft law envisages the liquidation of these two specialised offices and the establishment, *ex novo*, of the PACCO. The draft law sets out a procedure for the transfer of files from the two specialised offices to the new entity and provides for a series of transitional measures. The prosecutors currently serving in the PCCOCS and the PA are to be proposed for transfer to territorial prosecution offices. A new competitive selection procedure will then be launched to recruit prosecutors for the PACCO, which will be open to former PCCOCS and PA prosecutors, provided they meet the applicable eligibility criteria.

60. In the light of the information gathered, the Venice Commission and DGI have found that the draft law's stated objectives - addressing hybrid crimes in electoral corruption, jurisdiction-related issues, and improving resource efficiency - do not appear to be linked to the proposed liquidation of the PA and PCCOCS or the creation of the PACCO. The available information does not show that dissolving the PA would strengthen efforts against hybrid or corruption-related crime; on the contrary, removing specialised prosecutors may weaken this capacity. Moreover, the draft law is

⁵² In accordance with Article 11(3) of the draft law, PACCO becomes operational after the SCP approves the *ad interim* Chief Prosecutor of PACCO. Under Article 11(18)(b) of the draft law, the SCP shall approve the *ad interim* Chief Prosecutor of PACCO in accordance with Article 27¹ of Law No. 3/2016, following the respective designation by the Prosecutor General, which must occur within 10 working days from the entry into force of the draft law. It remains unclear under which concrete timeframe the PACCO will become operational, since this will depend on how long it takes for the SCP to approve the Chief Prosecutor designated by the Prosecutor General.

not accompanied by financial estimates, cost-benefit analysis, or evidence of efficiency gains. Apart from that, the creation of the PACCO should be carefully coordinated with the ongoing vetting process. Ensuring that PACCO prosecutors are vetted at the outset would represent best practice. As a result, the Venice Commission and DGI consider that there is no indication that the reform's objectives will be met by the current version of the draft law.

61. Furthermore, the proposed reform appears to pose risks to ongoing investigations, the security of tenure of specialised prosecutors and other reform efforts such as the vetting of prosecutors currently in progress. It is also important to duly consider all possible risks it might create with respect to the independence of prosecutors.

62. Therefore, the Venice Commission and DGI recommend that further assessments be carried out before proposing the liquidation of the PA and the PCCOCS and the establishment of the PACCO. These assessments should determine, at the domestic level and among other things: the current performance levels of the PA and the PCCOCS; the financial investments required to bolster their efficiency; whether a review or a reallocation of their existing competences is necessary; the potential savings and cost-benefit implications connected with the establishment of the PACCO; the legal and logistical risks associated with the procedure for establishing the PACCO; and whether the proposed restructuring is justified in the light of these findings.

63. The Venice Commission and DGI also underline the importance of conducting an in-depth examination of the three options set out in the Minister of Justice's Proposals of 29 January 2025. It is recalled that one of these options involved the merger of the PA and the PCCOCS into a single institution, with full continuity of prosecutors and staff. Such an approach is likely to minimise disruption to pending criminal investigations and judicial proceedings and avert the creation of bottlenecks, while also ensuring the continuation of the ongoing vetting process for specialised prosecutors, under the framework of Law No. 252/2023.

64. The Venice Commission and DGI further recommend that the option to maintain the existing structure – namely the two existing specialised prosecution offices – also be duly considered. Should this option be retained, human and financial institutional-strengthening measures would be essential to ensure the effective functioning of these offices.

65. In case the authorities, on the basis of the above assessments and analysis, decide to move forward with the envisaged reform, the Venice Commission and DGI encourage the authorities to take into account the recommendations on the specific provisions of the draft law as set out in this Opinion. In particular, the following key recommendations are made:

- (1) To establish a non-renewable fixed term of office for the PACCO Chief Prosecutor.
- (2) To remove the *ad hoc* performance evaluation of the PACCO Chief Prosecutor envisaged in Article 6 of the draft law.
- (3) The draft law should ensure the security of tenure of the specialised prosecutors assigned to the PCCOCS and the PA, and they should not be automatically transferred to lower-ranking positions.
- (4) To clarify the scope of the competence provided under Article 3(2)(b) of the draft law, namely by limiting it to offences specifically linked to organised crime and corruption.
- (5) To reconsider the transitional provision establishing a temporary suspension of the statute of limitations for criminal prosecution in order to preserve legal certainty and adequately safeguard the rights of defence of accused persons.

66. Other recommendations may be found in the text of the present Opinion.

67. The Venice Commission and DGI remain at the disposal of the authorities for further assistance in this matter.