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

# REPUBLIC OF MOLDOVA

# OPINION

# ON

# LAW No. 100/2025
# CONTAINING A SET OF LEGISLATIVE AMENDMENTS AIMING TO COMBAT ELECTORAL CORRUPTION

**Adopted by the Venice Commission**
**at its 146th Plenary Session**
**(Venice, 6-7 March 2026)**

**On the basis of comments by**

**Ms Veronika BÍLKOVÁ (Member, Czechia)**
**Mr Srdjan DARMANOVIĆ (Member, Montenegro)**
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## I. Introduction

1. By letter of 19 June 2025, Mr Igor Grosu, President of the Parliament of the Republic of Moldova, requested an Opinion of the Venice Commission of the Council of Europe on Law No. 100/2025 for the amendment of certain normative acts (efficient combatting of the phenomenon of electoral corruption and related aspects)[1] (CDL-REF(2025)032), which had been adopted by the Parliament following the Constitutional Court's findings on electoral corruption in the context of the 2024 presidential elections.

2. Ms Veronika Bílková, Mr Srdjan Darmanović, Ms Inga Milašiūtė and Ms Janine Otálora Malassis acted as rapporteurs for this Opinion.

3. On 4-5 February 2026, a delegation of the Commission composed of Ms Veronika Bílková and Mr Srdjan Darmanović, accompanied by Mr Michael Janssen and Mr Adrià Rodríguez-Pérez from the Secretariat of the Venice Commission, travelled to Chisinau and had meetings with the President of the Parliament, representatives of both majority and opposition parties in the Parliamentary Legal Committee on Appointments and Immunities, the Superior Council of the Magistracy, the Constitutional Court, the President's councillor of justice, representatives of the Security and Intelligence Service, the Ministry of Justice, of the Central Electoral Commission, of the prosecution service and the courts, of the National Anticorruption Centre, of the Ministry of Internal Affairs, as well as with some civil society organisations and international organisations represented in Moldova. The Commission is grateful to the Moldovan authorities and the Council of Europe Office in Chisinau for the excellent organisation of this visit.

4. This Opinion was prepared in reliance on the English translation of Law No. 100/2025. The translation may not accurately reflect the original version on all points.

5. This Opinion was drafted on the basis of comments by the rapporteurs and the results of the meetings on 4-5 February 2026. The draft opinion was examined at the joint meeting of the Sub-Commissions on Democratic Institutions and on Fundamental Rights on 5 March 2026. It was approved by the Council for Democratic Elections at its 86th meeting on 5 March 2026, and, following an exchange of views with Ms Veronica Mihailov-Moraru, Adviser to the President of the Republic of Moldova on Justice and Mr Stanislav Secrieru, Adviser to the President of the Republic of Moldova on Defence and National Security, Secretary of the National Security Council, it was adopted by the Venice Commission at its 146th Plenary Session (Venice, 6-7 March 2026).

## II. Background and scope of the Opinion

6. During the meetings in Chisinau, the authorities of the Republic of Moldova emphasised the high significance of Law No. 100/2025 for democratic security in the country. They stressed the exceptional situation and the threats to Moldovan democracy through various interferences in electoral processes in recent years, predominantly by the Russian Federation. They stated that such interferences had occurred for many years, but after the Russian Federation's launch of a full-scale war of aggression against Ukraine in February 2022 they had taken a highly aggressive, complex, and intensified character. The 2024 elections showed that the Moldovan legal framework was insufficient to protect democratic processes against such multiple attacks, and the whole legislative package must be considered in this context. The main aim of the law was to ensure the integrity of future elections, with a focus on preventive measures.

7. Law No. 100/2025 was drafted by the Parliament of the Republic of Moldova, following the presidential elections and the constitutional referendum held on 20 October and 3 November

[1] Hereafter referred to as "Law No. 100/2025". Unless otherwise stated, the articles cited in this Opinion refer to Law No. 100/2025.

2024, and following the Constitutional Court Decision No. 25 of 28 November 2024[2] on the confirmation of the election results and the validation of the mandate of the President of the Republic of Moldova. In this decision, the Court expressly addressed the issue of electoral corruption. It noted the unprecedented scale of voter corruption reported by investigative authorities[3] during the 2024 electoral process, including the number of registered cases and the amounts of financial means seized. The Court emphasised that voter corruption and vote buying are incompatible with the concept of free and democratic elections and undermine the secrecy and free expression of the vote. While concluding that the established cases did not justify invalidating the election results, the Court observed that the existing legal framework ensured only a minimal fulfilment of the State's positive obligation to combat electoral corruption and indicated that the legal mechanisms in this area needed to be improved. The Court furthermore referred to reports by several national and international organisations[4] about external interference, including the illegal offering of financial incentives to influence voters; about hate speech and discriminatory statements during the electoral period and in electoral materials; and about the involvement of religious denominations in elections which violated the rules of a democratic electoral competition, and which required legislative action.

8. In response to the Court's decision, the Parliament of the Republic of Moldova organised extensive consultations involving parliamentary committees, the plenary, competent State authorities, and civil society. These consultations identified serious shortcomings affecting the integrity of the electoral process, including large-scale voter corruption; illegal campaign financing; violation of the electoral legislation and financial reporting norms, including by creating new political entities and supporting formally independent candidates, but controlled by members of a party previously declared unconstitutional; massive disinformation campaigns and hybrid information warfare, financed from foreign sources; involvement of religious denominations; misuse of personal data; and incitement to hatred and national division. On this basis, the Parliament adopted Decision No. 285 of 12 December 2024,[5] in which it noted that the gravity of these phenomena required the urgent modification of the regulatory framework and called for enhanced inter-institutional cooperation, strengthened oversight of political financing, and urgent legislative amendments to improve the effectiveness of measures to combat electoral and political corruption, including changes to electoral, criminal, and related legislation.

9. In December 2024, Draft Law No. 381/2024, entitled *"On Amendments to Certain Normative Acts on the Effective Combat against the Phenomenon of Electoral Corruption and Related Aspects"*, was prepared by Parliament, with the participation of the Ministry of Justice and on the basis of proposals from competent national authorities.[6] In the subsequent months, the draft was substantially revised through several rounds of public consultations, inter-institutional working meetings, and exchanges with civil society and international experts. In this context, the Parliament requested the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to prepare an urgent opinion on the draft law. In its urgent opinion,[7] ODIHR recognised the legitimacy of strengthening the legal framework to combat electoral corruption in light of the

[2] Curtea Constituțională, Hotărârea nr. 25 din 28 noiembrie 2024 cu privire la confirmarea rezultatelor alegerilor și la validarea mandatului de Președinte al Republicii Moldova. See https://www.constcourt.md/public/files/file/raport_anual/h1_2025_raport_anual_en.pdf?utm_source=chatgpt.com, pages 60ff.

[3] In particular, the National Anticorruption Centre and the General Inspectorate of the Police.

[4] See e.g. PACE, Observation of the presidential election (20 October and 3 November 2024) and constitutional referendum (20 October 2024) in the Republic of Moldova, paras 45ff.and 88ff.; ODIHR, Moldova: Presidential Election and Constitutional Referendum 20 October and 3 November 2024 - Final Report, pages 1f., 16ff.

[5] Hotărâre cu privire la rezultatul audierilor parlamentare privind fraudele electorale semnalate în cadrul scrutinelor electorale din anul 2024 (nr. 285, 12 decembrie 2024).

[6] Proiectul de lege pentru modificarea unor acte normative (combaterea eficientă a fenomenului corupției electorale și aspectele conexe acestuia) (nr. 381, 17 decembrie 2024).

[7] ODIHR, *Urgent Opinion on Draft Law No. 381 of 17 December 2024 on Amendments to Certain Normative Acts on the Effective Combat against the Phenomenon of Electoral Corruption and Related Aspects*, ODIHR-URG-MDA-381/2024, Warsaw, 2025.

serious irregularities observed during the 2024 elections and the findings of the Constitutional Court. At the same time, ODIHR emphasised the need for clearer and more precise definitions, narrowly tailored measures based on demonstrated necessity, strengthened procedural safeguards, and effective judicial oversight, in order to ensure that measures aimed at combating electoral corruption remain compatible with international human rights standards and the OSCE commitments of the Republic of Moldova.[8]

10. Following parliamentary examination in three readings and subsequent re-examination at the request of the President of the Republic, the significantly amended draft law was adopted as Law No. 100/2025 and promulgated on 13 June 2025, and it was published in the Official Gazette of the Republic of Moldova on 14 June 2025, thereby entering into force.[9]

11. Law No. 100/2025 amends a broad set of legal acts with the stated aim of strengthening the legal framework for combating electoral corruption and related phenomena. More specifically, the amendments concern the Law on Special Investigative Activity (Law No. 59/2012), the Criminal Code (Law No. 985/2002), the Code of Criminal Procedure (Law No. 122/2003), the Contravention Code (Law No. 218/2008), the Electoral Code (Law No. 325/2022), the Law on Political Parties (Law No. 294/2007), the Law on Counteracting Extremist Activity (Law No. 54/2003), the Law on Identity Documents in the National Passport System (Law No. 273/1994), the Law on Philanthropy and Sponsorship (Law No. 1420/2002), the Law on Assemblies (Law No. 26/2008), the Law on the Protection of Personal Data (Law No. 133/2011), the Law on the Security and Intelligence Service (Law No. 136/2023), and the Law on Counterintelligence and External Intelligence Activity (Law No. 179/2023).

12. The amendments expand the material scope of offences linked to electoral corruption, illegal political financing and extremist activities, and introduce new obligations and restrictions applicable to political parties, candidates, organisations, media outlets, and individuals associated with them. The law increases criminal penalties for voter corruption and related offences, introduces aggravated forms of liability linked to organised crime, foreign funding and unconstitutional entities, and shortens procedural deadlines for the investigation and adjudication of electoral corruption cases.

13. The law also significantly strengthens regulatory and judicial mechanisms for restricting, suspending, or dissolving political parties deemed to continue or revive the activity of parties previously declared unconstitutional, including through successor arrangements. In parallel, the amendments broaden the definition of extremist activity, expand State powers to block or remove extremist content (including online), modify the provisions on registers of extremist organisations and associated persons, and impose new restrictions on political advertising, sponsorship, charitable activity, and party membership transparency, thereby reshaping both the criminal-law and administrative-law responses to electoral corruption and perceived threats to democratic order.

[8] In the Statement of Preliminary Findings and Conclusions concerning the parliamentary elections of 28 September 2025 (p. 6), the International Election Observation Mission noted that the recent amendments – in their final form, which included significant changes compared to the first draft, following the consultation process – "addressed a few of the most recent ODIHR recommendations, including enhancing institutional capacity and coordination to combat vote-buying and illicit campaign financing, further defining independent candidates, and introducing explicit grounds for candidate registration refusal with an opportunity to correct certain deficiencies. However, despite some alignment with ODIHR Urgent Opinion recommendations, some key issues remain unresolved. These include certain terms in the criteria for banning successor parties and their definition, along with the party register requirement that might allow for subjective interpretation."

[9] Lege Nr. 100 din 13-06-2025 pentru modificarea unor acte normative (combaterea eficientă a fenomenului corupției electorale și a aspectelor conexe acestuia). The final version, Law 100/2025, was adopted in a third reading with 55 votes in favour (from the governing party PAS – Action and Solidarity Party) and 21 votes against (from the Bloc of Communist and Socialists); Parliament has 101 seats.

14. In parallel, the Republic of Moldova adopted other legal acts relevant to the field. Law No. 34/2025[10] strengthened the regime for declaring assets and personal interests, affecting indirectly the electoral framework by tightening integrity requirements, introducing checks by the National Integrity Authority (ANI) into candidate verification, and reinforcing eligibility conditions for public and elected offices as well as their enforcement. Law No. 112/2025[11] aligned electoral rules with reforms in identity documentation and population registration by linking voter registers to the State Population Register, updating valid voting documents, and revising procedures for compiling and verifying electoral lists. Law No. 130/2025[12] amended the Electoral Code and the Law on Political Parties to enhance transparency and oversight through new rules on electoral blocs, candidate registration, financial controls, audits, media coverage and electoral administration.

15. The three aforementioned laws are not explicitly mentioned in the request and are therefore not analysed in the present Opinion which focuses exclusively on Law No. 100/2025. This Opinion does not constitute a full and comprehensive review of the amended laws nor of the entire electoral legal framework. The absence of comments on certain provisions of the Law should not be interpreted as an endorsement of these provisions. The Opinion focuses on key issues and indicates main areas of concern.

## III. International and national legal framework

### A. International legal framework

16. At the international level, the primary reference point is the European Convention on Human Rights (ECHR), in particular Article 10 (freedom of expression), Article 11 (freedom of assembly and association), Article 3 of Protocol No. 1 (right to free elections), Article 6 (right to a fair trial), and Article 13 (right to an effective remedy). Any restrictions to these rights must be lawful, pursue a legitimate aim, and be necessary and proportionate in a democratic society, as interpreted in the case-law of the European Court of Human Rights (ECtHR). The International Covenant on Civil and Political Rights (ICCPR) is equally relevant, notably Articles 2, 14, 19, 22 and 25, which protect political participation, freedom of expression and association, due process guarantees, and equality before the law. The Human Rights Committee's General Comments, in particular Nos. 25 and 34, provide guidance on permissible limitations in the electoral context.

17. As a participating State of the Organization for Security and Co-operation in Europe (OSCE), the Republic of Moldova is bound by OSCE commitments, including the 1990 Copenhagen Document, which sets standards on democratic elections, pluralism, political parties, and equal campaigning conditions. ODIHR guidelines and opinions, while not legally binding, constitute authoritative interpretative tools for assessing compliance with these commitments. Relevant soft-law standards include the Venice Commission's Code of Good Practice in Electoral Matters,[13] the Joint Guidelines on Political Party Regulation,[14] and the Updated Rule of Law Checklist,[15] which provide benchmarks on legal certainty, proportionality of sanctions, party regulation, rules of elections and the separation of powers.

[10] Lege Nr. 34 din 13-03-2025 pentru modificarea unor acte normative (declararea averii și a intereselor personale).
[11] Lege Nr. 112 din 22-05-2025 pentru modificarea unor acte normative (activități conexe punerii în circulație a cărții de identitate eliberate cetățenilor Republicii Moldova și a cărții de rezidență eliberate cetățenilor străini, apatrizilor, refugiaților și beneficiarilor de protecție umanitară).
[12] Lege Nr. 130 din 29-05-2025 pentru modificarea unor acte normative.
[13] Venice Commission, CDL-AD(2002)023rev2-cor, Code of good practice in electoral matters. See also the related interpretative declarations of the Venice Commission, *inter alia*, CDL-AD(2024)027, Revised interpretative declaration on the Stability of electoral law.
[14] Venice Commission and OSCE/ODIHR, CDL-AD(2020)032, Joint Guidelines on Political Party Regulation, Second Edition.
[15] Venice Commission, CDL-AD(2025)002, The Updated Rule of Law Checklist.

### B. Domestic legal framework

18. At the domestic level, the Constitution of the Republic of Moldova contains several relevant provisions, which together protect political pluralism, democratic participation and fundamental rights. These are in particular Article 1(3) (rule of law and democratic State), Article 4 (primacy of international human rights treaties), Article 16 (equality before the law), Article 32 (freedom of opinion and expression), Article 40 (freedom of assembly), Article 41 (freedom of association and political parties) and Article 38 (right to vote and to be elected). Procedural guarantees under Articles 20 and 26 (access to justice and right of defence) and Article 23 (legal certainty) are also relevant for assessing amendments introducing new offences, sanctions, accelerated procedures, or expanded powers for authorities.

19. Limitations on rights must comply with Article 54 of the Constitution, which requires that any restriction on the exercise of fundamental rights be prescribed by law, pursue a legitimate aim recognised by international law, and be proportionate to the situation giving rise to it, without affecting the essence of the right, while expressly excluding restrictions on certain core rights; this provision constitutes a key constitutional benchmark for assessing the necessity and proportionality of the measures introduced by the amendments. Article 8 requires the State to observe international law and the treaties of which it is a party. It also provides that the entry into force of an international treaty containing provisions contrary to the Constitution must be preceded by a constitutional revision, thereby reinforcing the obligation to interpret and apply domestic legislation in conformity with Moldova's international commitments. In addition, the case-law of the Constitutional Court of the Republic of Moldova, including Decision No. 25 of 28 November 2024, forms an integral part of the constitutional framework.

## IV. Analysis

### A. Procedural aspects and Stability of electoral law

20. The Venice Commission has consistently expressed the view that any successful changes to electoral legislation should be built on at least the following three essential elements: 1) clear and comprehensive legislation that meets international obligations and standards and addresses prior recommendations; 2) the adoption of legislation by broad consensus after extensive public consultations with all relevant stakeholders; and 3) the political commitment to fully implement such legislation in good faith, with adequate procedural and judicial safeguards and means by which to timely evaluate any alleged failure to do so. An open and transparent process of consultation and preparation of such amendments increases confidence and trust in the adopted legislation and in the State institutions in general.

21. Concerning the legislative process leading to the adoption of Law No. 100/2025, the Venice Commission welcomes the fact that extensive consultations involving parliamentary committees, competent State authorities, civil society and international experts were carried out, as described above in the Chapter "Background and scope of the Opinion". In the Statement of Preliminary Findings and Conclusions concerning the parliamentary elections of 28 September 2025,[16] the International Election Observation Mission noted that the Law was considered in an expedited manner, but that efforts were made to have an extensive public debate and seek input into the legislation, and that several amendments proposed were taken into consideration. On the other hand, it also stated that some interlocutors expressed concern about the meaningfulness of the consultations and that the Law was passed without the political support of the opposition parties. The Venice Commission regrets that no broad political consensus could be reached on such an ambitious and broad reform with direct relevance for the electoral process – all the more as some of the amendments, e.g. those aimed at combating foreign interference in elections, were introduced at a very late stage of the legislative procedure, leaving little time for consultations and consensus-building.

[16] Statement of Preliminary Findings and Conclusions concerning the parliamentary elections of 28 September 2025, page 5.

22. The Statement of Preliminary Findings and Conclusions – as well as the election observation report of the Parliamentary Assembly of the Council of Europe – furthermore noted that frequent legislative changes, including shortly prior to the parliamentary elections of 28 September 2025, affected legal certainty and the stability of electoral legislation.[17] As ODIHR stressed in its interim report relating to these elections, the legal framework has undergone frequent revisions by the Parliament, with the Electoral Code amended 10 times since its adoption, as well as further changes following Constitutional Court decisions declaring certain provisions unconstitutional.[18] Moreover, as already mentioned, in addition to Law No. 100/2025 three more laws affecting directly or indirectly the electoral framework were adopted in 2025, prior to the parliamentary elections.

23. The Venice Commission's Code of Good Practice in Electoral Matters makes it clear that "[s]tability of the law is crucial to credibility of the electoral process, which is itself vital to consolidating democracy. Rules which change frequently – and especially rules which are complicated – may confuse voters. Above all, voters may conclude, rightly or wrongly, that electoral law is simply a tool in the hands of the powerful, and that their own votes have little weight in deciding the results of elections."[19] The Venice Commission therefore reiterates the concerns it has expressed in previous Opinions about the practice in Moldova of frequently amending the electoral legislation.[20] Such a practice risks confusing voters, parties and candidates, and makes it difficult for the competent electoral authorities to apply the law, which may lead to mistakes in the electoral process and, as a consequence, distrust in the elected bodies. At the same time, the Venice Commission is well aware of the increasing and new threats to the electoral processes in Moldova, such as illicit financing and vote buying, disinformation campaigns, foreign interference and organised crime, which prompted the Constitutional Court of Moldova to explicitly call for legal amendments. In such a situation, a balance has to be struck between the need for reform and the principle of stability.[21]

24. The Code of Good Practice in Electoral Matters further recommends that the fundamental elements of electoral law should not be open to amendment less than one year before an election, or should be written in the Constitution or at a level higher than ordinary law.[22] The Revised interpretative declaration on the Stability of electoral law makes it clear that rules that determine the right to vote and stand for election, rules relating to the membership of electoral commissions and rules guaranteeing the effectiveness of election dispute resolution are among those to be considered fundamental.[23] Yet, such rules were amended by Law No. 100, less than four months before the 2025 parliamentary elections,[24] and after the elections had been called (on 17 April 2025). The Revised interpretative declaration emphasises that such a situation should in principle be avoided,[25] and that any reform of electoral legislation to be applied during an election should occur early enough to allow candidates and voters to understand the changes and the electoral management bodies to understand and apply them. The very short timeframe before the parliamentary elections for implementing the significant and numerous amendments

[17] Statement of Preliminary Findings and Conclusions concerning the parliamentary elections of 28 September 2025, page 5; PACE, Observation of the parliamentary elections in Republic of Moldova (28 September 2025), paras 33, 37, 139.
[18] ODIHR interim report concerning the parliamentary elections of 28 September 2025, page 4.
[19] See Venice Commission, CDL-AD(2002)023rev2-cor, Code of Good Practice in Electoral Matters, para. 63 of the Explanatory Report; see also paras 58 and 64-67.
[20] See, most recently, Venice Commission, CDL-AD(2024)022, Republic of Moldova - Opinion on the Law on the partial implementation of the postal vote, paras 11ff.
[21] See the Conclusions of the 20th European Conference of Electoral Management Bodies (EMBs) on "Stability of electoral law - Practical aspects" (Vilnius, Lithuania, 15-16 April 2025).
[22] See Venice Commission, CDL-AD(2002)023rev2-cor, Code of Good Practice in Electoral Matters, Guideline I.2.b.
[23] Venice Commission, CDL-AD(2024)027, Revised interpretative declaration on the Stability of electoral law, Section II.B.5.
[24] It must be noted, however, that the amendments relating to the membership of electoral commissions entered into force later than the other provisions of Law No. 100/2025, namely on 1 January 2026, see Article XIV (1).
[25] CDL-AD(2024)027, Revised interpretative declaration on the Stability of electoral law, Section II.B.6a).

introduced by Law No. 100/2025 was clearly not ideal. Such late changes also risk jeopardising citizens' trust in electoral processes: as the Venice Commission has pointed out, changes just before elections may seem to be dictated by immediate party political interests, even when no manipulation is intended.[26] At the same time, the Venice Commission acknowledges and understands that the urgent need to react to the interferences in the 2024 presidential election and to act upon the Constitutional Court's call for legal amendments made it particularly difficult for the legislator to adopt the reform in good time before the 2025 parliamentary elections. With a view to any future reforms, the Venice Commission recommends making every effort to ensure that amendments to electoral legislation are adopted by broad consensus after extensive public consultations with all relevant stakeholders, well in advance of elections, thus ensuring confidence in the electoral process.

## B. Substantive aspects

25. Law No. 100/2025 constitutes a comprehensive legislative response to electoral corruption and related threats to democratic processes in the Republic of Moldova, amending 13 legal acts across criminal, electoral, administrative, data-protection, and security fields in order to strengthen electoral integrity throughout the electoral cycle. Given the breadth and complexity of the reforms introduced, the provisions of this law may be analytically grouped into five main sections reflecting their core objectives: (A) protection of electoral integrity and prevention of electoral corruption; (B) regulation of political actors and the party system; (C) countering extremism and hostile influence in the electoral context; (D) data protection and safeguards against voter profiling; and (E) investigative powers and procedural mechanisms, together with the safeguards applicable to their use.

### 1. Protection of Electoral Integrity and Prevention of Electoral Corruption (Articles II, VIII, XI)

26. The amendments to the Criminal Code, the Contravention Code and the Electoral Code address deficiencies in the regulation and enforcement of electoral conduct, particularly in relation to vote buying, misuse of identity documents, illicit campaign financing, manipulation of public assemblies, procedural delays, and the limited effectiveness of existing sanctions. Together, they combine substantive criminal-law reforms, expanded administrative liability, and targeted changes to electoral procedures.

27. **Article II** amends the Criminal Code by expanding and tightening criminal liability for electoral corruption (Article 181[1]). The offence is reformulated to include not only the offering or giving of undue benefits but also the promise of such benefits.[27] The amendments increase penalties, including longer terms of imprisonment, higher fines, and extended bans on holding public office or exercising certain activities. They also introduce a graduated system of aggravating

[26] See Venice Commission, CDL-AD(2002)023rev2-cor, Code of Good Practice in Electoral Matters, para. 65 of the Explanatory Report. The risks of such a perception appear particularly relevant when such legal amendments are applied shortly before the elections; see e.g. the case reported in the Statement of Preliminary Findings and Conclusions concerning the parliamentary elections of 28 September 2025 (pages 2, 11): The Central Electoral Commission and the Chişinău Court of Appeal decided in the last days before the elections to revoke two parties' eligibility, citing serious campaign and campaign finance violations, partly based on recently amended legislation. See also PACE, Observation of the parliamentary elections in Republic of Moldova (28 September 2025), paras 54 and 96.

[27] Under Article 181[1] of the Criminal Code, electoral corruption is defined as *"the promise,* offering or giving of money, goods, services or other benefits for the purpose of inducing a voter or supporter to exercise or not to exercise their electoral rights in elections, including regional elections". While the wording „for the purpose of inducing a voter or supporter to exercise or not to exercise their electoral rights" is not new, the Venice Commission wishes to comment that it finds this formulation too broad; the prohibition should focus on exercising electoral rights in a specific manner, for the benefit of a specific contestant.
Article 181[1] of the Criminal Code only captures active electoral corruption. Passive electoral corruption is punishable by lower fines under Article 47[1] of the Contravention Code, if the act does not constitute a criminal offence; Article VIII of Law No. 100/2025 amends this provision by adding the "acceptance of a promise or an offer" of an undue advantage, thus mirroring the amendment to the active bribery offence.

circumstances, covering acts committed by multiple persons, against multiple voters, through the use of public funds, or in the interests of organised criminal groups or criminal organisations. Particular emphasis is placed on conduct involving financing or influence originating from foreign States, foreign organisations, or anti-constitutional entities,[28] reflecting concerns about external interference in electoral processes. In parallel, criminal liability is extended to legal entities, with sanctions ranging from significant fines to the loss of the right to carry out certain activities or liquidation.

28. Related offences are brought into line with this strengthened approach. Article 181³ of the Criminal Code, concerning the illegal financing of political parties, initiative groups, electoral competitors or referendum participants, is amended to mirror the heightened severity and expanded liability regime, including increased sanctions and aggravated circumstances linked to organised criminal groups or foreign and anti-constitutional sources of funding. Article 182, which criminalises the falsification of voting results, is also aligned with the revised framework by increasing penalties and introducing aggravated circumstances where such conduct is carried out in the interest of organised criminal structures.

29. The Venice Commission notes that international standards recognise electoral corruption as a serious threat to democratic governance and accept the use of criminal law to protect the free formation of voters' will, provided that offences are clearly defined, and sanctions are proportionate.

30. The UN Convention against Corruption expressly requires the criminalisation of bribery and abuse of functions and encourage transparency and accountability in political financing, without limiting criminal liability to cases in which an undue advantage is actually transferred (Articles 15 and 19). Likewise, the bribery offences under the Council of Europe's Criminal Law Convention on Corruption cover the mere promise – or acceptance of a promise – of an undue advantage (Articles 2ff.). The Code of Good Practice in Electoral Matters notes that electoral legislation must ensure equity, transparency, and the rule of law, with adequate remedies and sanctions for conduct that interferes with voting rights or the fairness of the electoral process.[29]

31. The Council of Europe's Group of States against Corruption (GRECO) has also stressed the need for effective, proportionate and dissuasive sanctions for serious violations of political and electoral finance rules, as well as the importance of criminal or strong administrative liability where infringements are systemic, involve organised structures, or undermine the integrity of democratic processes.[30] In its Guidelines for Reviewing a Legal Framework for Elections, the ODIHR notes that "not only must there be mechanisms for effective remedies to protect electoral rights, but there should also be sufficient criminal or administrative penalties to deter violations of the law and prevent injury to suffrage rights. However, care must be taken not to create a system where politically motivated and unsubstantiated charges are prosecuted against opponents. Further, all sanctions and penalties should be proportionate punishment for the conduct that resulted in the harm".[31]

32. The ECtHR has recognised that States enjoy a margin of appreciation in regulating electoral processes in order to secure their free expression of the opinion of the people under Article 3 of Protocol No. 1.[32] At the same time, the Court has consistently held that political expression and

[28] Such entities are defined in Article 134[23] of the Criminal Code as "an alleged authority created on the territory of a State, outside the constitutional regulations of that State and which is not recognised in accordance with the provisions of international treaties."
[29] Venice Commission, CDL-AD(2002)023rev2-cor, Code of good practice in electoral matters, Guideline II.3.1.c.
[30] GRECO, Third Evaluation Round: Transparency of Party Funding (2007–2015), conducted on the basis of the Council of Europe's Committee of Ministers Recommendation Rec(2003)4 on common rules against corruption in the funding of political parties and electoral campaigns (see in particular Article 16 on sanctions).
[31] ODIHR, Guidelines for Reviewing a Legal Framework for Elections, Second Edition, Warsaw, 2013, para. 16.10
[32] ECtHR, *Davydov and Others v. Russia*, Application no. 75947/11, Judgment, 30 May 2017, paras 272 and 276.

assemblies during election periods enjoy a high level of protection, as they lie at the core of democratic society.[33] Measures that impose sanctions, especially criminal sanctions, may amount to an interference with these rights and must therefore satisfy the requirements of legality, legitimate aim, and proportionality.

33. The Venice Commission recognises that the amendments introduced by Article II seek to ensure the protection of electoral integrity and the prevention of corruption and undue influence on voters, objectives that are compatible with the ECHR and fall within the State's margin of appreciation in the electoral field. The reliance on criminal sanctions to deter conduct capable of influencing voters through illicit means generally reflects the understanding that electoral integrity requires effective and credible enforcement mechanisms. That said, it is crucial that the provisions be formulated with sufficient clarity and precision to allow individuals to foresee the consequences of their actions. In this respect, the Venice Commission recommends defining precisely the concept of "foreign organisations" which has been included in both Articles 181[1] and 181[3] of the Criminal Code.[34] As regards proportionality, careful attention is required to ensure that sanctions are reserved for conduct involving a sufficient degree of intent, scale, or impact, and that the severity of penalties is calibrated to the gravity of the offence. The application of the provisions must ensure a clear distinction between unlawful inducements that interfere with voters' freedom of choice and lawful political persuasion inherent in electoral competition.

34. Regarding more particularly the introduction of references to foreign involvement in electoral corruption (in Article 181[1], paragraph 1[3]c) of the Criminal Code) and in illegal financing of political parties and electoral competitors[35] (in Article 181[3], paragraph 2c) of the Criminal Code), allowing for higher sanctions,[36] the Venice Commission notes the following: Firstly, the aforementioned international standards on corruption offences and on party and campaign financing – such as the UN Convention against Corruption, the Council of Europe's Criminal Law Convention on

[33] ECtHR, *Ždanoka v. Latvia*, Application no. 58278/00, Judgment (GC), 16 March 2006, paras 115-116.

[34] Already before the amendments, this concept was used in other provisions of the Criminal Code; however, these concepts are not defined in the Code.

[35] Party financing from foreign sources was already prohibited before the current amendments, see Article 26(6) of the Law on Political Parties:
"(6) It is prohibited to finance, provide services free of charge or provide material support in any form, directly and/or indirectly, to political parties by: […] c) foreign citizens, stateless persons, anonymous persons or persons donating on behalf of third parties; […] f) legal entities with foreign or mixed capital, legal entities from abroad; g) other states and international organisations, including international political organisations; […]"

[36] Under Article 181[1] of the Criminal Code, basic electoral corruption shall be punished by imprisonment for a term of 2 to 6 years, a fine of 750 to 1150 conventional units and deprivation of the right to hold certain positions or engage in certain activities for a term of up to 5 years, and the legal entity shall be punished with a fine of 6,000 to 8,000 conventional units and deprivation of the right to engage in a certain activity or liquidation of the legal entity. Increased sanctions are provided for different qualifying circumstances, one of which is that the offence was committed by a person who knew or should have known that the money, goods, services or other benefits promised, offered or given came from a foreign State, a foreign organisation, an anti-constitutional entity or their representatives; such an offence shall be punished by imprisonment for a term of 7 to 15 years, a fine of 1,850 to 2,350 conventional units and deprivation of the right to hold certain positions or engage in certain activities for a term of 5 to 10 years, and the legal entity shall be punished with a fine of 16,000 to 20,000 conventional units and deprivation of the right to engage in a certain activity or liquidation of the legal entity.
Under Article 181[3] of the Criminal Code, basic illegal financing of parties/competitors shall be punished by imprisonment for a term of 3 to 6 years, a fine of 850 to 1350 conventional units and deprivation of the right to hold certain positions or engage in certain activities for a term of 2 to 7 years, and the legal entity shall be punished with a fine of 9,000 to 13,000 conventional units and deprivation of the right to engage in a certain activity or liquidation of the legal entity. Increased sanctions are provided for different qualifying circumstances, one of which is that the offence was committed by a person who knew or should have known that the money, goods, services or other benefits promised, offered or given came from a foreign State, a foreign organisation, an anti-constitutional entity or their representatives; such an offence shall be punished by imprisonment for a term of 7 to 15 years, a fine of 1,850 to 2,350 conventional units and deprivation of the right to hold certain positions or engage in certain activities for a term of 5 to 10 years, and the legal entity shall be punished with a fine of 16,000 to 20,000 conventional units and deprivation of the right to engage in a certain activity or liquidation of the legal entity.
The terms „deprivation of the right to occupy certain positions or to exercise a certain activity" are defined in Article 65(1) of the Criminal Code as "the prohibition to occupy a position or to exercise an activity of the nature that the convicted person used to commit the crime."

Corruption and the Council of Europe's Recommendation Rec(2003)4 on common rules against corruption in the funding of political parties and electoral campaigns – do not explicitly limit the corruption offences to bribes from domestic actors, nor do they exclude sanctions for political financing from foreign sources. On the contrary, Article 7 of Rec(2003)4 calls upon States to specifically limit, prohibit or otherwise regulate donations from foreign donors.[37] The Venice Commission has previously commented that this provision aims to avoid undue influence by foreign interests, including foreign governments, in domestic political affairs, and strengthens the independence of political parties.[38] The ECtHR made it clear "that this matter falls within the residual margin of appreciation afforded to the Contracting States, which remain free to determine which sources of foreign funding may be received by political parties"; that said, it needs to be determined in practical terms whether the measure is proportionate to the aim pursued.[39] The Joint Guidelines on Political Party Regulation explicitly refer to foreign funding as one of the areas where criminal sanctions – which must be reserved for serious violations that undermine public integrity or may threaten national security – may be justified.[40] At the same time, the Joint Guidelines state that foreign funding of political parties is an area that should be regulated carefully;[41] such regulation should 1) in principle allow for donations from citizens residing abroad if they are allowed to participate in elections at home, which is the case in Moldova; and 2) avoid the infringement of free association in the case of political parties active at an international level, an issue which is already addressed by the Moldovan legislation.[42]

35. Secondly, the question of whether bribes from foreign States or organisations and political financing from abroad may lead to increased sanctions is not explicitly addressed by the aforementioned international standards. The Committee of Experts on Foreign Information Manipulation and Interference (PC-FIMI) under the European Committee on Crime Problems of the Council of Europe (CDPC) is currently examining the feasibility and potential scope of criminalisation of certain conducts relating to FIMI, including financing aspects.[43] The Venice Commission recognises that foreign interference in democratic processes – whether through illicit financing, vote buying, covert or opaque support for political actors, or by use of digital technologies – is a serious and increasing threat to democracy. Foreign interference aims to undermine sovereignty, distort electoral competition, weaken public trust in democratic institutions, and influence political outcomes to the benefit of external powers or interests. The Parliamentary Assembly and the Congress of Local and Regional Authorities of the Council of

[37] Under Article 8 of Rec(2003)4, this also applies to the funding of electoral campaigns of candidates for elections. See also the PACE Resolution 2390 (2021) and Recommendation 2208 (2021) on "Transparency and regulation of donations to political parties and electoral campaigns from foreign donors", which condemn all attempts to interfere improperly or illicitly in democratic decision-making processes in other States through financial contributions to political parties and electoral campaigns and call on member States to review their regulations governing financial contributions to political parties and electoral campaigns from foreign sources to mitigate the risk of inappropriate or illicit foreign financial interference.

[38] See Venice Commission and OSCE/ODIHR, CDL-AD(2020)032, Joint Guidelines on Political Party Regulation, Second Edition, para. 229; Venice Commission, CDL-AD(2019)002, Report on Funding of Associations, para. 77, with further references.

[39] See ECtHR, *Parti Nationaliste Basque – Organisation Régionale d'Iparralde v. France*, Application no. 71251/01, Judgment, 7 June 2007.

[40] Venice Commission and OSCE/ODIHR, CDL-AD(2020)032, Joint Guidelines on Political Party Regulation, Second Edition, para. 281.

[41] Venice Commission and OSCE/ODIHR, CDL-AD(2020)032, Joint Guidelines on Political Party Regulation, Second Edition, paras 230f.

[42] See Article 26(9) of the Law on Political Parties:
"The provisions of paragraph (6) shall not be interpreted and applied in such a way as to limit international political affiliation or cooperation agreements involving indirect or technical support shall be reported openly and transparently and may not lead to the contestation and defamation of the state and the political parties. International political affiliation or cooperation agreements involving indirect or technical support shall be reported openly and transparently and may not lead to the contestation and defamation of the state and the people, incitement to war of aggression, national, racial or religious hatred, incitement to discrimination, territorial separatism, public violence, or other manifestations that undermine the constitutional order."

[43] The Committee of Ministers of the Council of Europe will discuss the feasibility study at the Ministerial level meeting in Chisinau on 14 and 15 May 2026, with a view to deciding on possible follow-up.

Europe have emphasised the rise of such interference as a persistent threat, including covert funding of campaigns and other manipulative actions by State, non-State, or proxy actors acting outside the territorial jurisdiction of the target State.[44] The Venice Commission has previously stated that the interference with the electoral process by third parties acting from outside – including by foreign State and non-State actors – is not less detrimental and can have the same (or even more severe) consequences as a breach of election rules by candidates, political parties and State officials.[45] In the view of the Commission, the Moldovan approach is therefore a legitimate response to the reported rise of foreign interference in recent elections,[46] and it is not inconsistent with international standards, as long as the aforementioned proportionality requirements are ensured when applying sanctions.

36. **Article VIII** amends the Contravention Code by expanding the range of administrative offences related to electoral conduct and public assemblies. These provisions target practices that are corrosive to electoral fairness but do not meet the threshold of criminal liability, such as corruption related to organised gatherings, unauthorised collection of signatures, unlawful transportation of participants to political events, violations of campaign timing rules, and repeated failure to comply with decisions of electoral bodies. By increasing fines, introducing additional sanctions, and strengthening enforcement mechanisms, the amendments seek to enhance deterrence through swift and visible administrative responses during the electoral period.

37. The standards applicable in this context closely mirror those governing the use of criminal sanctions and are subject to the same requirements. Again, most of the amended provisions are compatible with these requirements. They are defined with sufficient precision, pursue a legitimate aim, and cannot be regarded as manifestly disproportionate, provided that they are applied in a reasonable and nuanced manner. That said, attention is drawn to some specific amendments which would benefit from further clarification.

38. Firstly, Article VIII does not only amend the offence of passive electoral corruption under Article $47^1$ of the Contravention Code,[47] as already mentioned, but it also introduces a new Article $47^2$ on active and passive corruption relating to organised meetings into the Contravention Code. This article provides for fines and the deprivation of the right to occupy certain positions or to exercise a certain activity in case of promising, offering or giving/requesting, accepting or receiving of undue financial means for the purpose of participating in organised meetings, with the aim of a) violating public order or endangering the activity of public institutions; b) violating public morality, the fundamental rights or freedoms of other persons; c) political advertising. The question arises whether these provisions can be considered legitimate restrictions to the right to freedom of peaceful assembly as enshrined in international legal instruments, in particular in Article 11 of the ECHR.

39. The wording of the new provisions – especially items a) and b) – suggests that they pursue some of the aims which are legitimate under Article 11 (2) of the ECHR, such as the prevention

[44] PACE Resolution 2593 (2025) and Recommendation 2292 (2025) on "Foreign interference: a threat to democratic security in Europe"; Congress of Local and Regional Authorities, Report on "Foreign interference in electoral processes at local and regional levels", CG(2025)48-10 (26 March 2025), which mentions the local elections in the Republic of Moldova several times.

[45] See Venice Commission, CDL-AD(2025)003, Urgent Report on the cancellation of election results by Constitutional Courts, para. 49.

[46] Such interference is reported, for example, in Congress of Local and Regional Authorities, Recommendation 509 (2024)1, Local elections in the Republic of Moldova (5 November 2023), para. 5*a*; PACE, Observation of the presidential election (20 October and 3 November 2024) and constitutional referendum (20 October 2024) in the Republic of Moldova, paras 47, 64 and 87; ODIHR, Moldova: Presidential Election and Constitutional Referendum 20 October and 3 November 2024 - Final Report, pages 2, 3, 6, 16ff.; see also PACE, Observation of the parliamentary elections in Republic of Moldova (28 September 2025), para. 81.

[47] By including the acceptance of an offer or a promise as corrupt behaviour.

of disorder or crime, the protection of morals[48] and the protection of the reputation or rights of others. As far as item c) on political advertising is concerned, attention is drawn to a recent *amicus curiae brief* for the Constitutional Court of Armenia, in which the Venice Commission examined a provision which criminalised "materially incentivising participation in or refraining from participation in an assembly".[49] The Commission noted that according to its Joint Guidelines on Freedom of Peaceful Assembly, the practice of encouraged participation in assemblies should not be subject to legal regulation unless the provision of such incentives would contravene laws imposing proportionate limits on campaign financing.[50] The Commission went on and noted that States may have the power to regulate paid participation in assemblies primarily in the context of electoral campaign financing: „In the context of electoral campaigns, regulating coercion and incentivisation ensures fair political competition. Otherwise, well-funded groups, political parties or foreign states could outspend grassroots movements, thereby silencing all other political actors."[51] Moreover, the Venice Commission referred to the legitimate aim of preventing undue foreign and domestic influence, including from individuals known as oligarchs,[52] and to its opinions relating to "deoligarchisation", including with respect to the Republic of Moldova.[53] Bearing in mind recent reports on Moldovan elections highlighting foreign interference and disinformation, illegal financing of electoral campaigns, illicit monetary offers to voters and disinformation campaigns, aimed at influencing the electoral behaviour of citizens,[54] the Commission concludes that the amendment pursued legitimate aims in principle. That said, the ban on paid participation in assemblies for the purpose of "political advertising" appears too broad and should be limited to activities clearly aimed at influencing election campaigns.[55]

40. Furthermore, under Article 11 of the ECHR, the measure in question must address a "pressing social need" and be proportionate to the "legitimate aim". Compared to the criminal law provision examined in the aforementioned *amicus curiae brief* concerning Armenia, where the Commission saw a risk of disproportionate sanctions being imposed,[56] Article $47^2$ of the Contravention Code of Moldova foresees lighter, administrative sanctions;[57] in the view of the

[48] At the same time, attention is drawn to para. 142 of the Joint Guidelines on Freedom of Peaceful Assembly (Venice Commission and OSCE/ODIHR, CDL-AD(2019)017): Due to the inherent vagueness of the term "public morality", it underlines that although being mentioned as a legitimate aim, "the protection of morals should rarely, if ever, be regarded as an appropriate basis for imposing restrictions on freedom of peaceful assembly".
[49] Venice Commission, CDL-AD(2025)037, Armenia - Amicus curiae brief on the compatibility of Article 236 of the Criminal Code with the European standards on legal certainty.
[50] Venice Commission and OSCE/ODIHR, CDL-AD(2019)017, Joint Guidelines on Freedom of Peaceful Assembly, paragraph 52.
[51] Venice Commission, CDL-AD(2025)037, Armenia - Amicus curiae brief on the compatibility of Article 236 of the Criminal Code with the European standards on legal certainty, para. 29.
[52] Venice Commission, CDL-AD(2025)037, Armenia - Amicus curiae brief on the compatibility of Article 236 of the Criminal Code with the European standards on legal certainty, para. 31.
[53] Venice Commission, CDL-AD(2023)019, Republic of Moldova - Final Opinion on limiting excessive economic and political influence in public life (de-oligarchisation); Venice Commission, CDL-AD(2023)018, Ukraine - Opinion on the Law on the prevention of threats to national security, associated with excessive influence of persons having significant economic or political weight in public life (oligarchs); Venice Commission, CDL-AD(2023)017, Georgia - Final Opinion on the draft law on de-oligarchisation.
[54] See e.g. Congress of Local and Regional Authorities, Recommendation 509 (2024)1, Local elections in the Republic of Moldova (5 November 2023), para. 5*a*; PACE, Observation of the presidential election (20 October and 3 November 2024) and constitutional referendum (20 October 2024) in the Republic of Moldova, para. 47.
[55] Attention is also drawn to the fact that the new offence potentially overlaps with Article 67 of the Contravention Code, which already prohibits assemblies violating public order or public morality, rights and freedoms of other persons (see Article 8 of the Law on Assemblies), which may lead to legal uncertainty as it may be difficult for an individual to clearly distinguish between conduct that may be subject to Article $47^2$ (subject to much higher fines) and the ones envisaged under Article 67 of the Contravention Code.
[56] Venice Commission, CDL-AD(2025)037, Armenia - Amicus curiae brief on the compatibility of Article 236 of the Criminal Code with the European standards on legal certainty, para. 29.
[57] The active corruption offence under Article $47^2$ of the Contravention Code is punishable by a fine of 500 to 1000 conventional units applied to the natural person, with a fine of 1,000 to 1,500 conventional units applied to the person in a position of responsibility with the deprivation of the right to hold a certain position or the right to carry out a certain activity for a period of 3 to 6 months; the passive corruption offence is punishable by a fine of 100 to 150 conventional units applied to the natural person, with a fine of 300 to 500 conventional units applied to the person in a position of responsibility with the deprivation of the right to hold a certain position or the right to carry

Venice Commission, they cannot be regarded as manifestly disproportionate, provided that they are applied in a reasonable and nuanced manner.

41. Secondly, the scope of Article 52 of the Contravention Code on prohibited election campaigning is broadened by banning a) campaigning during the electoral period, until the start of the official campaign period;[58] and b) campaigning during the election period by non-commercial organisations, trade unions, employers' associations, entities not registered as electoral competitors, representatives of religious denominations or their constituent parts, including in places of worship. There are no international standards which would precisely define what kind of campaign activities may be prohibited prior to the official campaign period or carried out by third parties such as non-commercial organisations or trade unions. That said, the Code of Good Practice in Electoral Matters stresses that under the ECHR any restrictions to freedom of expression and to freedom of assembly and association for political purposes must comply with the requirement that they have a basis in law, are in the general interest and respect the principle of proportionality, and that respect for these freedoms is vital particularly during election campaigns.[59] The Joint Guidelines on Political Party Regulation[60] state that legislation should provide clear rules and guidelines regarding which activities are not allowed during the pre-election campaign, and what income and expenditures for such activities during this time should be regarded as campaign resources subject to proper review and sanction; they advocate for strong systems for financial reporting by political parties outside of elections in order to limit possible abuse by political parties attempting to circumvent campaign finance regulations by conducting activities during a "pre-electoral" period.

42. During the meetings in Chisinau, the authorities reported on frequent circumvention of the election campaign regulations by way of early campaigning or indirect campaigning through powerful third parties. Against this background, the Venice Commission welcomes the fact that the amendments have the potential to ensure the principles of equal campaign opportunities and transparency. That said, the Commission finds the complete prohibitions of any campaign activities prior to the official campaign period or carried out by third parties very far-reaching, bearing in mind that electoral campaigning as defined in Article 1 of the Electoral Code includes "calls, declarations as well as information dissemination activities" that have the aim to determine voters' choices. This regulation might have the effect, for example, that the announcement by a political party of its decision to nominate a particular candidate[61] coupled with an explanation why the party considers this candidate most suitable, or any information on a candidate by a trade union would be considered prohibited election campaigning. Such strict prohibitions carry the risk of disproportionately restricting freedom of expression and freedom of assembly and association. In the view of the Venice Commission, the law should define prohibited activities more precisely and provide exceptions to allow for legitimate political discourse and civic engagement.

43. Thirdly, the scope of Article 67 of the Contravention Code on violation of the legislation on meetings is also expanded. Previously, this article only provided for fines in case of organising public meetings without prior declaration as required by law. The newly introduced paragraphs also foresee fines in case of, *inter alia*, holding meetings and other public events "contrary to the

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out a certain activity for a period of 3 to 6 months. The perpetrator is exempt from administrative liability if he or she self-reported and/or actively contributed to the discovery or prevention of the act.

[58] According to Article 1 of the Electoral Code, the electoral period is the period between the day on which the act on setting the date of voting has entered into force and the day on which the results of the elections are confirmed by the competent bodies, but not more than 120 days. The start date of the electoral period is established by the decision of Central Electoral Commission.

[59] Cf. Venice Commission, Code of Good Practice in Electoral Matters, CDL-AD(2002)023rev2-cor, para. 60 of the Explanatory Report.

[60] Venice Commission and OSCE/ODIHR, CDL-AD(2020)032, Joint Guidelines on Political Party Regulation, Second Edition, para. 262.

[61] The announcement itself would fall under permitted pre-election campaigning, which according to the definition in Article 1 of the Electoral Code covers ecalls, statements, actions to nominate candidates in elections, preparation for the collecting signatures in support of candidates …".

provisions of the prior declaration". The Venice Commission finds these terms too vague and broad. It should be clarified which aspects of the event are targeted (e.g., the purpose, time, place or estimated number of participants) and there should be some room for developments which are independent of the will of the organisers (e.g. the number of participants), thus ensuring that the freedom of assembly is not disproportionately restricted.[62]The Joint Guidelines on Freedom of Peaceful Assembly[63] emphasise the principle of presumption in favour of (peaceful) assemblies which includes an obligation of tolerance and restraint towards peaceful assemblies in situations where legal or administrative procedures and formalities may not have been followed. They state that public authorities have the duty to facilitate assemblies that deviate from the terms of notification. Where organisers do not fully comply with the requirement of notification, or with conditions imposed on assemblies during the notification process, this should only be punished if there is evidence to prove that they have done so intentionally and where the non-compliance is substantial; the burden of proof in such cases should rest with the public authorities. The Venice Commission recommends bringing the wording of Article 67 of the Contravention Code in line with these standards.[64]

44. **Article XI** amends several provisions of the Electoral Code.[65] The amendments extend restrictions on eligibility for public office. They reinforce the campaign finance framework by broadening the definition of donations to encompass goods, services, and other advantages provided free of charge or under preferential conditions, ensuring that indirect forms of financial support are subject to contribution ceilings and transparency requirements. Furthermore, the revised rules on the composition of constituency electoral councils introduce a fallback appointment mechanism designed to prevent institutional deadlock where political actors fail to nominate members, thereby safeguarding the continuity and functionality of electoral bodies.

45. The amendments pursue aims that are widely recognised as legitimate under international electoral standards, notably the prevention of electoral corruption, the protection of the integrity of electoral administration, and the preservation of equal conditions for political competition. The expanded definition of donations reflects established best practice in campaign finance regulation and strengthens transparency of contribution limits. The introduction of a fallback appointment mechanism addresses the need to ensure the continuity and effective functioning of electoral bodies.

46. That said, attention is drawn to the amendment to Article 16, paragraph 2(d) of the Electoral Code which extends the restriction of passive electoral rights: in addition to persons deprived of the right to hold public office, persons deprived of the right to hold "positions of public dignity" – a category of positions that are subject to political appointment[66] – are equally ineligible, and such ineligibility may not only be based on a final court decision but also "by a final finding". The latter terms refer to integrity bans in the form of administrative acts which may be taken under the Law on Persons Holding Positions of Public Dignity. While the goal of ensuring the integrity of candidates is legitimate, basing ineligibility on such administrative acts is problematic in light of

[62] In their comments on the draft opinion, the authorities stated that the terms "contrary to the provisions of the prior declaration" must be understood as referring to situations in which the organisers deviate significantly from the essential conditions declared to the competent authorities, such as the place, time, purpose or nature of the assembly, and these deviations generate real risks for public order, security of participants or the rights of other persons. The purpose of the rule was to prevent the use of the formal notification procedure to mask the organisation of different actions, with a significant legal or social impact distinct from the one that was initially declared. The authorities expressed their openness to examining possible legislative or interpretative clarifications.
[63] See Venice Commission and OSCE/ODIHR, Joint Guidelines on Freedom of Peaceful Assembly, CDL-AD(2019)017, paras 21, 171, 225.
[64] A less restrictive measure that could be contemplated would be to require that in the context of electoral campaigns, the costs related to the organising of transportation be considered as in-kind contributions that should be duly accounted for as part of the campaign financing reporting/campaign financing limits and subject to proportionate sanctions in case of omission to declare such costs.
[65] See Articles 16, 35, 42, 53 ff. and 102 of the Electoral Code.
[66] Politically appointed persons (public dignitary functions) are excluded from application of the Law on Public Function, their employment is regulated by Law No. 199/2010 of 16 July 2010 on Persons Holding Positions of Public Dignity.

international standards. Based on the case-law of the ECtHR,[67] the Code of Good Practice in Electoral Matters makes it clear that clauses suspending political rights must comply with the usual conditions under which fundamental rights may be restricted; they must be provided for by law, observe the principle of proportionality and be based on mental incapacity or a criminal conviction for a serious offence; furthermore, the withdrawal of political rights may only be imposed by express decision of a court of law.[68] The Venice Commission therefore recommends adapting the ineligibility clause in Article 16, paragraph 2(d) of the Electoral Code to these requirements.[69]

### 2. Regulation of Political Actors and the Party System (Articles III, VI)

47. The amendments to the laws on philanthropy and sponsorship and on political parties regulate the conduct of political actors beyond the formal electoral campaign, target indirect and disguised forms of political promotion, and reinforce the legal framework governing the registration, organisation, financing, and accountability of political parties. In doing so, they modify the conditions under which political actors may participate in electoral competition.

48. **Article III** imposes restrictions on the public communication of philanthropic and sponsorship activities where such activities are linked to senior officials of political parties or to electoral contenders.[70] The prohibition applies both to the sponsors and to the beneficiaries, while replacing public promotion with an obligation to disclose these activities through periodic reporting on political party websites. The measure is intended to reduce the risk that charitable activities are used as a substitute for political advertising outside the regulated campaign framework and to strengthen transparency in the financial involvement of political actors.

49. The amendments pursue the legitimate aim of protecting electoral integrity and ensuring a level playing field, but they nevertheless give rise to concerns regarding freedom of expression. According to the case-law of the ECtHR, restrictions affecting speech on matters of public interest must be narrowly tailored and convincingly justified.[71] In this light, the broad prohibition on public communication of philanthropic activities by certain political actors carries a risk of overreach and may produce a chilling effect on lawful philanthropy, especially where no clear and demonstrable link to electoral campaigning is established. Compatibility with international standards thus depends on a restrictive interpretation of the provisions, clear guidance on its scope, and a proportionate application grounded in evidence of an electoral nexus. In the opinion of the Venice Commission, it would however be preferable to limit the scope of the ban in the law itself by linking it more explicitly to election campaign activities.

50. **Article VI** introduces an extensive set of amendments to the legal framework governing political parties, aimed at reinforcing transparency, accountability, and resilience against systemic abuse. The amendments tighten conditions for party registration and operation, enhance the traceability of party membership, and expand mechanisms for monitoring compliance with legal requirements. A central element is the introduction of a legal test enabling courts to assess whether a newly created or existing political party effectively continues the activity of a party previously declared unconstitutional, based on a substantive assessment of factors such as leadership continuity, programmatic alignment, organisational links, sources of financing, and

[67] See e.g. ECtHR, *Labita v. Italy*, Application no. 26772/95, Judgment, 6 April 2002, paras 201 ff.
[68] Venice Commission, CDL-AD(2002)023rev2-cor, Code of good practice in electoral matters, Guideline I.1.d and para. 6.d of the Explanatory Report.
[69] In their comments on the draft opinion, the authorities stressed that the "final" nature of the administrative act in question does not exclude judicial review and befalls only after the remedies provided for by law are exhausted or the act fails to be challenged within the legal term. The Venice Commission wishes to stress, however, that ineligibility infringes upon a human right (right to political participation, right to vote), and should only be pronounced by a competent judge.
[70] See Article 24 of the Law on Philanthropy and Sponsorship.
[71] See, for instance, ECtHR, *Steel and Morris v. United Kingdom,* Application no. 68416/01, Judgment, 15 May 2005, para. 88.

coordinated conduct. In parallel, political parties are required to maintain detailed and regularly updated membership records, to be submitted to competent authorities, with non-compliance carrying legal consequences, including exclusion from electoral participation. The amendments further strengthen the range of judicially supervised sanctions available in cases involving serious threats to electoral integrity or democratic order, including temporary suspension of party activity and, in cases of persistent or grave violations, dissolution.[72]

51. From the standpoint of international electoral and human-rights standards, the objectives pursued by Article VI – the protection of democratic institutions, the integrity of elections, and the prevention of systemic corruption – are legitimate. Yet, the cumulative effect of the measures significantly increases the regulatory and coercive reach of the State over political parties, an area that lies at the core of political pluralism.[73] Their compatibility with the right to freedom of association therefore hinges on strict adherence to principles of necessity and proportionality, the existence of clear and foreseeable legal criteria, and the availability of robust judicial guarantees. In particular, determinations concerning the existence of "successor" parties and the imposition of sanctions must rely on compelling evidence and individualised assessments, subject to effective judicial review. Absent such safeguards, there is a risk that measures designed to protect the democratic order could be perceived as constraining legitimate political competition or opposition activity. The following paragraphs provide a more detailed commentary on some important areas affected by the changes to the Law on Political Parties.

52. Regarding the prohibition of and measures against successor parties, the Commission wishes to draw attention to the *amicus curiae* brief[74] which it has prepared in parallel to the present Opinion and which contains a detailed analysis of the relevant provisions of the Law on Political Parties, in response to three questions put by the Constitutional Court of Moldova.[75] In this *amicus curiae* brief, the Commission expresses the view that the criteria set out in Article 3(1)–(1[3]) of the amended Law on Political Parties to determine the status of a successor political

[72] In its urgent opinion on the draft law, ODIHR made several recommendations concerning the amendments to the Law on Political Parties, see ODIHR, *Urgent Opinion on Draft Law No. 381 of 17 December 2024 on Amendments to Certain Normative Acts on the Effective Combat against the Phenomenon of Electoral Corruption and Related Aspects*, ODIHR-URG-MDA-381/2024, paras 52ff. That said, in the (subsequent) Statement of Preliminary Findings and Conclusions concerning the parliamentary elections of 28 September 2025 (p. 6-7), the International Election Observation Mission noted that the adopted amendments addressed some of the ODIHR recommendations: for example, they removed Intelligence and Security Service (SIS) and Constitutional Court involvement in party registration, reformulated certain rules and explicitly determined that decisions on successor parties will be taken by the Central Court of Appeal, explicitly stated that minor irregularities cannot limit party activity and that parties must be notified and present at the court hearing; and they addressed the evidentiary requirement for imposing restrictions on successor parties.

[73] See ECtHR, *United Communist Party of Turkey and Others v. Turkey*, Application no. 19392/92, Judgment, 30 January 1998, paras 44–46; *Refah Partisi (the Welfare Party) and Others v. Turkey,* Applications nos. 41340/98 et al., Judgment (GC) 13 February 2003, paras 98-100 and 132-134; *Herri Batasuna and Batasuna v. Spain*, Applications nos. 25803/04 and 25817/04, Judgment, 30 June 2009, paras 78–82. See also Venice Commission and OSCE/ODIHR, CDL-AD(2020)032, Joint Guidelines on Political Party Regulation, Second Edition, paras 17, 18, 83, 84; Venice Commission, CDL-AD(2009)021, Code of Good Practice in the Field of Political Parties, paras 31–34.

[74] Venice Commission, CDL-AD(2025)059rev, Republic of Moldova - Amicus curiae brief of the Venice Commission on the status of, and the measures concerning, successor parties of political parties declared unconstitutional. The request was made by letter of 12 September 2025 by the Constitutional Court, in the context of examining an exception of unconstitutionality raised by the Political Party *Alternative Force and Salvation of Moldova*; the court decision is pending.

[75] The following paragraphs of the present Opinion replicate the main conclusions of the *amicus curiae* brief (see paras 30, 38, 45, 54, 59, 63ff.).

party[76] are objective criteria from the perspective of the right to be elected[77] and the freedom of persons to associate in political parties. However, it considers that, when using such criteria to determine whether a political party continues the activities of a party declared unconstitutional, the assessment should be holistic and contextual and strictly related to the specific situation; other elements, even if not listed in the law, can also be taken into account, provided that the decision is supported by adequate, reasoned justification. Moreover, the *amicus curiae* brief emphasises that mere "continuity" with a previously unconstitutional party is not sufficient unless the unconstitutional nature of the previous party concerned core anti-democratic conduct and the new party is demonstrably continuing that anti-democratic programme or methods.

53. The Commission furthermore concludes in the *amicus curiae* brief that the provisions on the limitation of the activity of the political party, as a precautionary measure, and the dissolution of the party for the fact that it represents a successor party of a political party declared unconstitutional[78] can in principle be justified under European and international standards, in particular under Article 11(2) of the ECHR and Article 22 of the ICCPR:[79] they are defined by law, pursue a legitimate aim,[80] and may be necessary in a democratic society. That said, finding that a political party is the successor of a political party declared unconstitutional should not necessarily result in the dissolution of such party – a measure which should be taken only in the most serious circumstances and as last resort: the law should foresee other means of achieving the same aims that interfere less seriously with the right to freedom of association. Likewise, the Commission considers that the activities of a political party may be limited as a precautionary measure, but this possibility should be foreseen only for dissolution proceedings or in proceedings that seek the limitation of a political party's activity provided they are confined to narrowly defined and truly exceptional circumstances. Furthermore, less drastic measures should be envisaged that would precede the limitation as a precautionary measure. In any event, any decision imposing precautionary limitations must be supported by adequate, reasoned justification demonstrating their strict necessity.

54. Finally, the Commission concludes in the *amicus curiae* brief that the procedural guarantees in Article 21 of the amended Law on Political Parties appear capable of preventing arbitrariness and that the deadlines prescribed are also in principle consistent with European and international standards. However, the Commission recommends clarifying potential concerns related to the applicant's right to a hearing involving both parties, to how the burden of proof is allocated, and to whether appeals have suspensive effect – which should be the general rule, except for duly justified cases.

55. In the present Opinion, the Venice Commission wishes to emphasise that while the above recommendations relating to the provisions on the limitation of the activity of the political party, as a precautionary measure, and the dissolution of the party, as well as to the procedural

[76] The list enumerates seven circumstances that include continuity of persons, other facts and circumstances (such as ideology, statutes, structures, activities, financial means, material, logistical or media resources) and ends with an open clause allowing to take into account "any other relevant circumstances … that allow the court to establish the continuity or succession of the political party declared unconstitutional" and requiring that these aspects are compared to the elements that were at the basis of the declaration of unconstitutionality of the previous party (Article 3($1^2$)(7)).

[77] The right to be elected is at stake, as the prescribed measures against successor parties make it impossible for them to participate in elections and referendums; this applies not only to the dissolution of a party but also to the limitation of its activities/suspension, see Article 21(5) of the Law on Political Parties.

[78] See Articles 21 and 22 of the amended Law on Political Parties.

[79] The Venice Commission and the ODIHR elaborated extensively on restrictions to Article 11 ECHR, and more specifically on the international standards on declaring a party unconstitutional and the actions which could lead to the declaration of a political party unconstitutional. See in particular Venice Commission, CDL-AD(2022)051, *Amicus curiae* brief on declaring a political party unconstitutional.

[80] Namely by preventing the re-emergence of parties that were declared unconstitutional, which may threaten democratic processes, possibly be vehicles for illicit financing, foreign interference, or vote buying, thereby contributing to the legitimate aim of protecting national security and the rights and freedoms of others.

guarantees, concern specifically the case of successor parties, they also apply to all the other grounds for imposing such measures on political parties which are foreseen in these provisions.[81]

56. One of the other grounds for such measures, added by Law No. 100/2025, is failure by a party to submit the data from the party membership register within the deadlines set by the Public Service Agency or the Central Electoral Commission. This is one of several amendments strengthening the rules on the membership register: the amended rules also require that the register be updated by the party on an ongoing basis, that it include specified personal data,[82] that it be submitted to both the Public Service Agency and the Central Electoral Commission, and that during the party registration process be accompanied by a sworn statement from the person who drew up the list, certifying the accuracy of the information and signatures.[83] The obligation for parties to maintain and submit a party membership register to the Central Electoral Commission and the Public Service Agency was upheld by a recent Constitutional Court ruling.[84]

57. However, the Venice Commission and ODIHR have repeatedly raised concerns[85] about extensive State monitoring of the internal functioning of a political party, including the requirement for the party to provide the State with lists of its members, which limits the freedom of association of these members individually and of the party collectively;[86] they also noted that information on the membership of a political party is protected by the right to privacy, as such information provides direct insights into the political opinions of individuals.[87] Moreover, the recent amendment whereby failure to provide the personal data from the membership register can now result in the limitation of party activity gives rise to concerns, bearing in mind that according to international standards any restrictions on political parties must be proportionate and the least intrusive means to achieve the relevant objective.[88] The Venice Commission therefore recommends reconsidering the requirement for political parties to submit personal data from their membership register to State bodies;[89] in case this requirement is nevertheless maintained, the scope of information to be submitted should be carefully assessed to ensure compliance with personal data protection and privacy obligations, and less intrusive sanctions than limitation of party activity should be introduced. Moreover, it would be preferable to require only regular updates, instead of permanent updates with strict deadlines, bearing in mind the limited

[81] See Articles 21 and 22 of the amended Law on Political Parties.
[82] I.e. surname and first name, date of birth, State identification number (IDNP), declared address of residence, date of entry in the register, and date of suspension or termination of membership of the political party, see Article Article $7^1$ (2) of the Law on Political Parties. Already before the amendments, such data had to be submitted by a political party to the Public Services Agency in view of its registration, under Article 8 of the Law on Political Parties.
[83] See Articles 6(5) and (6), Article $7^1$ and Article 8(1) of the Law on Political Parties.
[84] The Statement of Preliminary Findings and Conclusions concerning the parliamentary elections of 28 September 2025 (p. 6) noted that in a decision of 12 September 2025, the Constitutional Court concluded that the obligation to maintain a register of party members and to periodically submit it to the competent authorities is in the interest of transparency and democracy and cannot, in itself, be considered a measure contrary the Constitution.
[85] See e.g. Venice Commission and OSCE/ODIHR, CDL-AD(2020)032, Joint Guidelines on Political Party Regulation, Second Edition, para. 154; Venice Commission and OSCE/ODIHR, CDL-AD(2021)003, Ukraine - Joint Opinion on the draft law on political parties, paras 75ff.
[86] Generally, the only party members that State authorities would need to know by name are the minimum 1,000 members required for party registration, and party members running for public office.
[87] See, in this context, ECtHR, *Catt v. the United Kingdom*, Application no. 43514/15, 24 January 2019, para. 112, stressing that personal data revealing political opinion falls among the special categories of sensitive data attracting a heightened level of protection.
[88] See e.g. Venice Commission and OSCE/ODIHR, CDL-AD(2020)032, Joint Guidelines on Political Party Regulation, Second Edition, paras 50ff., which refer to Article 11 of the ECHR and Article 22 of the ICCPR. See also ODIHR, Urgent Opinion on Draft Law No. 381 of 17 December 2024 on Amendments to Certain Normative Acts on the Effective Combat against the Phenomenon of Electoral Corruption and Related Aspects, ODIHR-URG-MDA-381/2024, para. 76.
[89] In the case of Moldova, a certain control of party membership may be understood in light of Article 7(2) of the Law on Political Parties which prohibits simultaneous membership in two or several parties. Such control could however be achieved by less extensive measures, e.g. by requiring political parties to provide the authorities with the voter registration card numbers of their members, thus protecting their privacy.

capacities of smaller parties.[90] In their comments on the draft opinion, the authorities expressed their openness to examine possible legislative and regulatory adjustments, in particular concerning periodicity of transmission of registers and minimisation of processed data, limiting them to those strictly necessary to identify members and verify compliance with legal requirements. While this is welcome, the Venice Commission wishes to stress the need for enhanced safeguards when processing personal data, given the sensitivity of such data that reveal the political opinions of individuals.

58. Finally, the Venice Commission notes that several amendments concern political party registration. It is important to note that the registration of political parties designated as successor parties is prohibited under Article 3($1^1$) of the Law on Political Parties. The above recommendations concerning the determination of successor parties therefore not only apply to measures against already registered parties, but also to those seeking registration: the law should allow for refusing registration only as a measure of last resort – where there exists a real and imminent danger of irremediable consequences for democratic values and the rule of law – based on a holistic and contextual assessment which is strictly related to the specific situation, and provide for adequate procedural guarantees.

59. Moreover, as far as the registration procedure is concerned, Article 8($3^1$) of the Law on Political Parties states that the Public Services Agency competent for party registration shall, if it "attests the existence of a situation provided for in Article 3($1^1$) and ($1^2$)", suspend the administrative procedure and refer the matter to the Central Court of Appeal to rule on the possible status of successor party; in this process, the Agency may request information from several State bodies.[91] The Joint Guidelines on Political Party Regulation underline that the ECtHR has consistently ruled that requirements for registration do not, in themselves, represent a violation of the right to free association; that said, substantive registration requirements and procedural steps for registration should be reasonable, and deadlines for deciding registration applications should be reasonably short, to ensure the effective realisation of the right of individuals to associate.[92] Against this background, it is worrying that, according to the amended Article 8 of the Law on Political Parties, the registration timeline in the case of a presumptive successor party is open-ended: the general 15-day period for the Public Services Agency to decide on party registration only begins after the Agency has referred the matter to the court and the latter has taken a final decision on the status of the party as successor party. The Venice Commission recommends amending the law to avoid undue delays, in particular during the election period,[93] for instance by introducing a maximum overall timeframe for the registration process.[94] In their comments on the draft opinion, the authorities expressed their willingness to examine the opportunity to complete the regulatory framework by establishing legal deadlines for this process.

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[90] During the meetings in Chisinau, the Venice Commission was informed that in practice the Central Electoral Commission requires such updates twice a year.

[91] I.e. the Ministry of Justice, the Ministry of Internal Affairs, the General Prosecutor's Office and the Central Electoral Commission.

[92] Venice Commission and OSCE/ODIHR, CDL-AD(2020)032, Joint Guidelines on Political Party Regulation, Second Edition, paras 85ff.

[93] See the case reported in the Statement of Preliminary Findings and Conclusions concerning the parliamentary elections of 28 September 2025 (page 10): The registration of an electoral bloc was rejected by the Central Electoral Commission and the activities of the four parties forming it were temporarily limited, following a motion filed by the Ministry of Justice to dissolve the parties as alleged successor parties. The Supreme Court of Justice rejected the parties' appeal against this temporary restriction, which remained in place until a final decision by the CCA. Consequently, these parties were never registered. See also PACE, Observation of the parliamentary elections in Republic of Moldova (28 September 2025), para. 53.

[94] See also ODIHR, *Urgent Opinion on Draft Law No. 381 of 17 December 2024 on Amendments to Certain Normative Acts on the Effective Combat against the Phenomenon of Electoral Corruption and Related Aspects*, ODIHR-URG-MDA-381/2024, para. 70 (of note, the draft provisions commented on by ODIHR were later amended to some extent).

### 3. Countering Extremism and Hostile Influence in the Electoral Context (Articles II, IV, XII)

60. The amendments to the Criminal Code, the Law on Counteracting Extremist Activity, and the Law on the Security and Intelligence Service of the Republic of Moldova reinforce the legal and institutional framework for preventing and addressing extremist and hostile interference in the electoral process. They expand and refine the definitions of extremist activity, introduce or strengthen criminal liability for involvement in extremist organisations and the dissemination of extremist materials, enable the suspension or liquidation of organisations engaged in extremist conduct through expedited judicial procedures, and align substantive criminal law with procedural and intelligence-gathering tools. They also clarify the mandate of the Security and Intelligence Service (SIS) in relation to the identification and prevention of threats to democratic processes.

61. **Article II** amends the Criminal Code by introducing changes related to extremist activity. It defines the notions of "extremist organisation" and "extremist materials" by reference to the Law on Counteracting Extremist Activity (Article 134). It further introduces two new offences targeting extremist conduct. One offence criminalises the leading or organising of the activity of an organisation declared extremist by a final court decision, as well as participation in or financing of such activity (Article 346¹), with sanctions differentiated according to the nature and seriousness of the conduct. The other new offence establishes criminal liability for the dissemination, production, or possession for dissemination of extremist materials, including through mass media and online platforms (Article 346²), while excluding acts carried out for artistic, scientific, research, or educational purposes.

62. One of the central objectives of these amendments is to ensure coherence between the Criminal Code and the Law on Counteracting Extremist Activity. From a systemic perspective, the alignment of the two pieces of law contributes to internal consistency within the legal framework. However, the legitimacy of this alignment necessarily depends on the quality, precision, and safeguards of the extremism legislation itself. In 2019, ODIHR issued an Opinion on the previous version of the Law on Countering Extremist Activity of the Republic of Moldova, which included a number of recommendations for revision of the law.[95] In 2022, the Venice Commission assessed some amendments to this law in broadly positive terms.[96] Yet, the Law on Counteracting Extremist Activity has been revised by Law No. 100/2025, introducing significant changes that will be assessed later on in this Opinion.

63. Under Article 346¹ of the Criminal Code, the offence relating to leading, organising, participating in, or financing an extremist organisation is conditioned on the existence of a final court decision declaring the organisation extremist. This requirement narrows the scope of criminal liability and addresses potential concerns about discretionary or preventive criminalisation. In practice, however, the notions of "participation" and "financing" may still capture a wide range of conduct. To remain compatible with the principle of proportionality, these terms should be understood as requiring a material and intentional contribution to the organisation's extremist activities, rather than incidental contact, indirect support, or conduct lacking a demonstrable link to the organisation's unlawful objectives.[97] The Venice Commission recommends clarifying this in the law.

64. The offence concerning the dissemination of extremist materials under Article 346² of the Criminal Code, poses some risks for freedom of expression. Although it is limited to acts involving dissemination, production, or possession for dissemination, and expressly excludes artistic,

[95] ODIHR, Opinion on the Law on Countering Extremist Activity of the Republic of Moldova, Opinion No. FOE-MDA/344/2018, Warsaw, 30 December 2019.
[96] Venice Commission, CDL-AD(2022)027, Republic of Moldova - Amicus curiae brief on the clarity of provisions on combating extremist activities.
[97] In their comments on the draft opinion, the authorities stated that only intentional actions were covered by this provision; they referred to the provisions on participation in a crime (Articles 41 and 42 of the Criminal Code).

scientific, research, or educational purposes, its application will depend heavily on contextual assessment. Criminal liability should be confined to cases where the dissemination is deliberate, promotes or legitimises extremist ideology, and creates a concrete risk of harm. Reporting, critical commentary, academic analysis, or the reproduction of extremist content for the purpose of exposing or condemning it should fall outside the scope of the offence. The Venice Commission recommends clarifying this in the law. Without such a narrow, intent-based application[98] and rigorous judicial scrutiny, the provision risks deterring lawful expression and debate on matters of public interest.[99]

65. **Article IV** substantially revises the Law on Counteracting Extremist Activity by broadening both the substantive scope of the law and the range of preventive and enforcement measures available to the authorities. The definition of "extremist activity" is expanded to cover actions by domestic, foreign, and unregistered organisations, as well as by individuals, and expressly includes conduct such as the desecration of State symbols, the propagation of fascist, racist, xenophobic or similar ideologies, and separatist actions affecting the unity and territorial integrity of the State. The notion of "extremist organisations" is also amended and linked to their inclusion in a centralised register, based on a final court decision.

66. In institutional terms, the amendments designate the SIS as the lead authority responsible for preventing, detecting, and suppressing extremist activity, while clarifying the roles of prosecutorial, law-enforcement, and other public bodies. The SIS is empowered to require organisations to cease extremist conduct and, in cases of non-compliance or urgency, to seek judicial suspension or liquidation of organisations, including foreign and unregistered entities, through expedited procedures. The amendments further introduce precautionary measures pending judicial review, restrict the activities of suspended organisations, and establish mechanisms for blocking or removing extremist materials disseminated through traditional media and online platforms. In addition, they introduce a specific legal regime for persons associated with extremist organisations, including their listing, employment restrictions in sensitive sectors, and enhanced financial monitoring.

67. Concerning the modification of the definition of "extremist activity" provided by Article 1 of the Law on Counteracting Extremist Activity,[100] it should first be recalled that several international

[98] In their comments on the draft opinion, the authorities stated also with respect to this provision that only intentional actions were covered.

[99] In this respect, see ECtHR, *Zana v. Turkey*, Application no. 18954/91, Judgment, 25 November 1997, paras 51-60; *Sürek v. Turkey (No. 1),* Application no. 26682/95, Judgment (GC), 8 July 1999, paras 58–63; *Perinçek v. Switzerland*, Application no. 27510/08, Judgment (GC), 15 October 2015, paras 196–208.

[100] See the legal definition in Article 1 (amendments in bold):

" *extremist activity:*

a) **activity of a non-commercial organisation, religious cult or part thereof, mass media outlet, legal entity or unregistered organisation, including foreign ones (hereinafter referred to as organisations) or natural persons with a view to planning, organising, preparing or carrying out actions aimed at:**

- changing, through violence, the foundations of the constitutional regime and violating the integrity of the Republic of Moldova;
- undermining the security of the Republic of Moldova;
- usurping state power or official positions;
- creating illegal armed groups;
- carrying out terrorist activities;
- incitement to racial, national or religious hatred, as well as social hatred, linked to violence or calls for violence;
- humiliation of national dignity;
- inciting mass disorder, committing acts of hooliganism or vandalism on grounds of ideological, political, racial, national or religious hatred or enmity, as well as on grounds of hatred or enmity towards any social group;
- propagating exclusivity, superiority or inferiority of citizens based on their attitude towards religion or on the basis of race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, wealth or social origin;

**- desecration of state symbols (flag, coat of arms, anthem) of the Republic of Moldova or of another state, displayed, used or sung in public for extremist purposes;**

**– propagating fascist (including legionary), national socialist (Nazi), racist, chauvinistic and/or xenophobic ideologies;**

bodies have previously raised concerns pertaining to "*extremism*"/"*extremist*" as a legal concept and the vagueness of such a term, particularly in the context of criminal legislation.[101] According to the case law of the ECtHR, freedom of expression protects all forms of ideas, information or opinions, including those that "offend, shock or disturb" the State or any part of the population.[102] While the right to freedom of expression may in very limited cases be restricted, any such restrictions must strictly conform with the requirements of international human rights standards. On previous occasions, the Venice Commission has noted that activities defined by law as extremist and enabling the authorities to issue preventive and corrective measures should contain an element of violence and be defined with sufficient precision to allow an individual to regulate his or her conduct or the activities of an organisation so as to avoid the application of such measures.[103] In the case of Moldova, the current amendments entail a significant expansion of its scope and potential reach. This expansion operates along two dimensions: first, by extending the range of actors who may be considered capable of engaging in extremist activity, and second, by enlarging the catalogue of acts that may constitute such activity.

68. The former development, which aims at covering different types of actors, including individuals and various organisational forms,[104] is not in itself problematic. In principle, this also applies to the involvement of unregistered and foreign organisations, which were included in the definition as a consequence of the 2024 presidential elections and reports about significant interference of such unregistered and foreign organisations in the election campaign.[105] As mentioned above in Chapter IV.B.1., foreign interference in democratic processes – whether through illicit financing, vote buying, covert or opaque support for political actors, or extremist activity conducted by external entities – represents a serious and increasing threat to democracy.

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**– carrying out separatist actions and other actions that may affect the unitary and indivisible character of the Republic of Moldova**;

b) displaying, manufacturing, distributing, **selling**, and possessing for public dissemination:
– fascist attributes or symbols;
– National Socialist (Nazi) attributes or symbols;
– attributes or symbols of an extremist organisation;
– generally known attributes or symbols used in the context of military aggression, war crimes or crimes against humanity, as well as propaganda or glorification of such actions;
– attributes or symbols created by stylising fascist, National Socialist (Nazi) attributes or symbols, **those** of an extremist organisation, **or other attributes or symbols that have racist, chauvinistic and/or xenophobic** attributes or symbols, or attributes or symbols that are widely known to be used in the context of acts of military aggression, war crimes or crimes against humanity, as well as propaganda or glorification of such acts, and which may be confused with them.

It is not considered to display, make, spread or hold for public dissemination the attributes or symbols of fascism, National Socialist (Nazi), an extremist organization, and the attributes or symbols generally known that are used in the context of military aggression, war crimes or crimes against humanity, as well as the propaganda or glorification of these actions, their representation in textbooks / books or other scientific / educational media, nor their exposure in scientific / educational exhibitions, nor the making, holding or using them in theatre / film performances or in historical reconstruction activities in which participants carry out a program according to a predetermined plan to recreate various aspects of an event or a historical period.
[…]"

[101] See e.g. ODIHR, Opinion on the Law on Countering Extremist Activity of the Republic of Moldova, Opinion No. FOE-MDA/344/2018, para. 15, which includes further references.
[102] See e.g. ECtHR, *Handyside v. United Kingdom*, Application no. 5493/72, judgment, 7 December 1976; ECtHR, *Bodrožić v. Serbia*, Application no. 32550/05, judgment, 23 June 2009, paras 46 and 56.
[103] See Venice Commission, CDL-AD(2012)016, Opinion on the Federal Law on Combating Extremist Activity of the Russian Federation, para. 75.
[104] The amended Article 1a) of the Law on Counteracting Extremist Activity refers to the activity of "a non-commercial organisation, religious cult or part thereof, mass media outlet, legal entity or unregistered organisation, including foreign ones or natural persons". Before the amendment, this provision referred to the activity of "a public or religious association, mass media or other organisation or natural person."
[105] See e.g. PACE, Observation of the presidential election (20 October and 3 November 2024) and constitutional referendum (20 October 2024) in the Republic of Moldova, paras 47, 48, 64 and 87; ODIHR, Moldova: Presidential Election and Constitutional Referendum 20 October and 3 November 2024 - Final Report, pages 2, 3, 6, 16ff.

The Parliamentary Assembly of the Council of Europe has emphasised[106] that democracies must defend themselves against the threat posed by foreign interference as part of an adaptation to this increasingly hostile international environment where the principles of sovereignty, self-determination and democracy are under attack. At the same time, addressing foreign interference requires a delicate balance and must align with human rights standards, particularly those safeguarding freedom of expression, association, assembly and freedom of thought, conscience and religion; overly restrictive laws designed without adequate attention to this balance risk stifling legitimate democratic activity and freedom of expression, chilling civil society engagement or being misused for political purposes.

69. In the view of the Venice Commission, the inclusion of foreign organisations in the scope of application of the Law on Counteracting Extremist Activity – in addition to domestic organisations and natural persons – is acceptable as long as 1) the legal framework governing "extremist activity" is clear and precise (on this question, see the following paragraphs); and 2) the measures that can be taken against foreign organisations do not exceed the powers of the Moldovan authorities. The latter aspect is addressed by the amended Article 6 of the Law on Counteracting Extremist Activity, according to which the SIS may only request organisations located on the territory of the Republic of Moldova to cease extremist activities, or to request the court to suspend the activity of such organisations (in case of non-compliance by the organisation or, in certain cases including acts likely to undermine democratic electoral processes, directly without a prior request to the organisation). Furthermore, under the new Articles 6[1]ff., in case a foreign (or unregistered) organisation has been declared an extremist organisation by court decision, the court may only order, as a precautionary measure, the suspension of the activities of the organisation on the territory of the Republic of Moldova or the prohibition of the participation of citizens of the Republic of Moldova in its activities. As for the possible liquidation of an organisation which commits extremist activities during the suspension or during the following year, the authorities explained to the Venice Commission that this only applies to domestic organisations; as concerns foreign organisations deemed extremist, only their activities on the territory of Moldova can be banned. In their comments on the draft opinion, the authorities confirmed that by its legal nature, liquidation presupposed the existence of an entity registered in the national jurisdiction and cannot be applied to foreign organisations that do not have a legal form registered in the Republic of Moldova.

70. The second development with respect to the definition of "extremist activity" – i.e. enlarging the catalogue of acts that may constitute such activity – raises more substantive concerns, as it introduces broad and indeterminate categories of conduct. In particular, the inclusion of acts such as the desecration of State symbols "for extremist purposes", the propagation of fascist, Nazi, racist, chauvinist or xenophobic ideologies, and vaguely defined "separatist and other actions" affecting the unitary character of the State, as well as the expanded references to prohibited symbols and stylised imagery, considerably extends the definition into areas closely connected with political expression, historical interpretation, protest, and symbolic speech.[107] These elements heighten the risk of disproportionate interference with freedom of expression and association and increase the margin of discretion afforded to enforcement authorities, in the absence of clearly articulated intent requirements and a high threshold linked to incitement to violence or comparable forms of concrete harm. The Venice Commission recommends including

[106] PACE Resolution 2593 (2025) on "Foreign interference: a threat to democratic security in Europe".
[107] In 2022, the Venice Commission assessed some amendments to the definition of "extremist activity" in broadly positive terms, but it recommended further legal clarifications. See Venice Commission, CDL-AD(2022)027, Republic of Moldova - Amicus curiae brief on the clarity of provisions on combating extremist activities, paras 76f.; Venice Commission, CDL-AD(2022)026, Republic of Moldova - Opinion on amendments to the Audiovisual Media Services Code and to some Normative Acts including the ban on symbols associated with and used in military aggression actions, paras 105ff.

such requirements in the definition of "extremist activity", thus limiting and precisely defining its scope.[108]

71. The Venice Commission also wishes to comment on other terms employed in the amended Law on Counteracting Extremist Activity, e.g. in Article 6 (liability of the organisation for carrying out extremist activities), Article 7 (liability of the mass media for disseminating extremist materials and carrying out extremist activities) and Article 12[1] (persons associated with an extremist organisation): terms such as "participation in any form in the activities of an extremist organisation", "providing any form of support to an extremist organisation", "dissemination of extremist material" and "facts denoting extremism" are of a general and open nature and raise concerns about legal certainty and clarity in such a sensitive area interfering with freedom of expression and freedom of association. As the use of such broad terms may render the application of the law unpredictable and expose it to arbitrary interpretation, the Venice Commission recommends defining these terms more precisely.

72. Clear definitions are all the more important when one considers the serious consequences that arise from the uncovering of facts that point to extremist activities. As already mentioned, Article II of Law No. 100 introduces new offences criminalising the leading or organising of the activity of an extremist organisation or participating in its activities, as well as disseminating extremist materials.[109] Moreover, under the amended Article 6 of the Law on Counteracting Extremist Activity, the SIS is now authorised to request, without prior warning, the suspension or dissolution of an organisation's activities directly from the courts, "if acts denoting extremist activity are detected", which may be expressed in different ways, such as" threatening the security of the State", "disinformation campaigns" or "acts likely to undermine the democratic electoral process". Furthermore, the SIS may request the court to order, as a precautionary measure, the suspension of the organisation's activity for the duration of the examination of the case, depending on the seriousness of the violations committed by the organisation and the existence of a real and imminent danger of irreparable consequences if the activity continues. Such measures may have particularly severe consequences during election periods, if political contestants are concerned. If the legal conditions for suspending their activities are not clearly defined, the principle of equal opportunities[110] is at risk of being violated, which is particularly worrying in the context of the election campaign, as there is only a limited time for effective legal remedy before the elections, and bearing in mind that the SIS is not an independent body but a political one. Finally, in case of continued extremist activity by an organisation, the latter may be liquidated by court decision. It is crucial that the law is precise and that it ensures, in line with international standards, that sanctions amounting to the effective suspension of activities, or to the prohibition or dissolution of the organisation, are of an exceptional nature and a measure of last resort.[111]

73. Attention is furthermore drawn to Article 7 of the Law on Counteracting Extremist Activity which foresees similar mechanisms and measures against mass media in case of dissemination

[108] In their comments on the draft opinion, the authorities stated that current legislation defined the concept of „extremist activity" by listing categories of actions that, by their nature, involved the promotion, support or justification of ideologies and actions incompatible with constitutional principles and democratic values; in addition, this concept needed to be interpreted systematically, in conjunction with the provisions of the Criminal Code and with the constitutional principles of freedom of expression and freedom of association, which limited its application to situations in which there was a real threat to democratic values and the rule of law. The Venice Commission wishes to stress, however, that freedom of expression and of association are particularly important in the context of political debate and electoral campaign, and any provisions interfering with these rights must be formulated with a high degree of precision.

[109] Articles 346¹ and 346² of the Criminal Code.

[110] Venice Commission, CDL-AD(2002)023rev2-cor, Code of good practice in electoral matters, Guideline I.2.3 and paras 18ff. of the Explanatory Report.

[111] See e.g. ECtHR, *Refah Partisi (the Welfare Party) and others v. Turkey,* [GC] Application nos. 41340/98, 41342/98, 41343/98 and 41344/98, Judgement, 13 February 2003; ECtHR, *Vona v. Hungary,* Application no. 35943/10, Judgment, 9 July 2013; Venice Commission and OSCE/ODIHR, CDL-AD(2014)046, Joint Guidelines on Freedom of Association, paras 35, 114, 234, 239.

of extremist material, interfering with freedom of expression. As ODIHR pointed out in its urgent opinion on the draft law,[112] "the risk of being suspended on the basis of vague and broad provisions may create a chilling effect on freedom of expression, leading media to refrain from engaging in independent and critical reporting and also undermining the role of the media as public watchdogs."[113] The Venice Commission has also noted on previous occasions that the mere threat of heavy sanctions may have a chilling effect on journalists and media outlets, especially where the sanctions are imposed for violations of vague requirements.[114]

74. The remarks about imprecise terminology are also relevant for the new Article 12[1] of the Law on Counteracting Extremist Activity, under which the SIS establishes and updates a list of persons associated with extremist associations. The inclusion of a person on this list is made public and excludes the person from a number of specific public offices. It may be challenged in accordance with the administrative litigation procedure only after the preliminary procedure has been completed. The Venice Commission is concerned that this regulation may have detrimental effects to a person's reputation and career, even before a court has confirmed the SIS decision. It recommends clarifying that an appeal has suspensive effect. In addition, it would be advisable to provide for additional safeguards that the conditions for inclusion on the list are completely transparent and that the rights of all persons concerned are ensured. This could include involving the person concerned, and preferably also a judge, during the preliminary stage before the publication of the SIS decision.

75. Concerning the institutional and preventive dimension, the amendments recalibrate the balance between administrative prevention and judicial control. By consolidating the role of the SIS[115] as the central coordinator of preventive action,[116] they place significant power to the pre-judicial stage, mainly in the identification of risks, the initiation of proceedings, and the triggering of restrictive measures. Although judicial involvement is retained for suspension, liquidation, or definitive determinations, the overall architecture increases the practical weight of administrative assessments in shaping outcomes, especially where expedited or precautionary measures are envisaged. In the view of the Venice Commission, this architecture should be reconsidered; the fact that according to the amendments these broad administrative competences are assigned to the SIS as the lead authority, which is not an independent body but a political one, gives rise to concerns.

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[112] ODIHR, *Urgent Opinion on Draft Law No. 381 of 17 December 2024 on Amendments to Certain Normative Acts on the Effective Combat against the Phenomenon of Electoral Corruption and Related Aspects*, ODIHR-URG-MDA-381/2024, para. 41. ODIHR called on Parliament to reconsider Article 7 of the Law "to avoid a risk of prohibitions being misused to illegitimately obstruct the work of independent media and journalists". Following this, a clause was introduced stating that Article 7 "shall not impede the lawful activity of the media and journalists". According to the International Election Observation Mission's Statement of Preliminary Findings and Conclusions concerning the parliamentary elections of 28 September 2025 (page 17), this generic safeguard clause failed to address the concern of legal vagueness and provided no meaningful protection against arbitrary application.

[113] See ECtHR, *Giniewski v. France*, Application no. 64016/00, 31 January 2006, para. 55.

[114] See e.g. Venice Commission, CDL-AD(2015)015, Opinion on Media Legislation (ACT CLXXXV on Media Services and on the Mass Media, Act CIV on the Freedom of the Press, and the Legislation on Taxation of Advertisement Revenues of Mass Media) of Hungary, para. 38.

[115] The SIS is an autonomous administrative authority, which has the competence to ensure the security of the Republic of Moldova. Its work is coordinated by the President of the Republic and is subject to parliamentary oversight. The SIS is headed by a Director, appointed by the Parliament, with the votes of the majority of the elected MPs, at the proposal of the President of the Republic of Moldova. The Venice Commission has previously assessed the legislation governing the SIS, see CDL-AD(2023)008, Republic of Moldova - Opinion on the draft law on the Intelligence and Security Service, as well as on the draft law on counterintelligence and external intelligence activity; and CDL-AD(2023)041, Republic of Moldova - Follow-up opinion to the opinion on the draft law on the intelligence and security service as well as on the draft law on counterintelligence and intelligence activity. In the Follow-up opinion (paras 48ff.), the Commission noted that significant improvements had been made, but a few recommendations had not been followed in full. In particular, the Venice Commission would have welcomed the establishment of an independent expert oversight/complaints body.

[116] See Article 4(1) of the Law on Counteracting Extremist Activity.

76. The preventive logic underpinning the new system is characterised by early intervention and forward-looking risk management rather than reaction to completed unlawful acts. This approach may enhance the State's capacity to respond swiftly to perceived threats. Yet, it compresses procedural timelines and lowers the margin for deliberation at moments when consequences for organisations, media actors, or individuals may be particularly far-reaching. In such a setting, the availability of judicial review and its quality becomes decisive: where judicial scrutiny is deferential or formal, preventive measures risk having a quasi-punitive effect without the guarantees traditionally associated with sanctions.

77. To conclude, the Venice Commission understands that the reinforcement of the legislation on extremist activity was considered necessary by the Moldovan legislator in light of recent developments and interferences in electoral processes, in particular from abroad. During the meetings in Chisinau, representatives of several State institutions emphasised that democratic processes in Moldova needed to be protected against such interferences by more effective mechanisms. The Venice Commission also notes that the amendments clarified procedures and competencies of State institutions in this area, and to some extent refined legal definitions. That said, the Venice Commission is of the opinion that several key terms used in the Law on Counteracting Extremist Activity need to be defined more precisely in order to avoid abuse or arbitrary application of the law. This is all the more important as under the amended regulation, listing mechanisms, activity restrictions, employment exclusions in sensitive sectors, and enhanced financial monitoring operate cumulatively and may extend well beyond the immediate sphere of extremist conduct. The coherence of such a system therefore depends less on the formal availability of remedies than on their practical effectiveness, including timely access to review, meaningful opportunities to contest factual and legal assessments, and the reversibility of measures once underlying risks subside. Without these safeguards operating robustly in practice, the preventive framework risks normalising far-reaching interferences on the basis of administrative risk attribution rather than demonstrated and sustained unlawful conduct. The Venice Commission therefore recommends ensuring that preventive and precautionary measures under the Law on Counteracting Extremist Activity, especially those adopted under expedited procedures, are treated as exceptional, strictly time-limited, and subject to effective judicial review, including the possibility to appeal any court decision suspending or dissolving an organisation, with suspensive effect except for duly justified cases.

78. **Article XII** amends the Law on the Security and Intelligence Service of the Republic of Moldova by expressly extending the SIS mandate to include the exercise of powers provided for under the Law on Counteracting Extremist Activity. Through the insertion of a new competence, the amendment formally anchors the SIS preventive, intelligence-gathering, and counter-informative activities within the revised framework, clarifying its institutional role in the prevention and suppression of extremist activity. While the provision does not introduce new investigative powers, it reinforces the legal basis for the SIS involvement in measures aimed at protecting democratic institutions and electoral processes from extremist and hostile interference. The assessment of this provision therefore corresponds to that of the Law on Counteracting Extremist Activity provided above.

### 4. Data Protection and Safeguards against Voter Profiling (Articles I, VII, IX)

79. The amendments to the Laws on identity documents in the national passport system (Article I), on assemblies (Article VII) and on the protection of personal data (Article IX) address the misuse of personal data as a structural enabler of electoral manipulation, particularly practices linked to voter tracking, coercion, and profiling. These provisions establish preventive and corrective mechanisms designed to curb the risk of instrumentalisation of personal data in electoral contexts while embedding judicial safeguards to mitigate risks of disproportionate interference.

80. **Article I** amends the legal regime governing identity documents by prohibiting the frequent or mass collection of copies of identity documents in the absence of an explicit legal basis and by banning the online publication of identity documents or sensitive identification data.[117] During the meetings in Chisinau, the Venice Commission was informed that these measures address practices associated with the compilation and circulation of voter databases by political actors and reinforce the principle that identity data may only be processed under clearly defined legal conditions. However, the absence of statutory definitions for key concepts such as "frequent" or "mass" collection raises issues of foreseeability and legal certainty. Without further clarification, there is a risk that data controllers may be unable to assess ex ante whether their conduct complies with the law, potentially leading either to over-collection or to overly restrictive self-censorship in lawful activities. The effectiveness of the provision thus depends on clear interpretative guidance and consistent enforcement to ensure predictability and compliance. Article 9 of the Law on identity documents in the national passport system should be further amended to provide clear definitions of the aforementioned concepts.

81. **Article VII** introduces safeguards in the context of public assemblies by specifying the categories of personal data that may be collected during signature-gathering activities[118] and by requiring that such data be processed solely for the declared purpose and in compliance with personal data protection legislation. These measures should reduce the risk that data collected in public assemblies may be later repurposed for covert profiling or electoral pressure.

82. In the case of *S. and Marper v. the UK*, the ECtHR stated that "the protection of personal data is of fundamental importance to a person's enjoyment of his or her right to respect for private and family life /…/. The domestic law must afford appropriate safeguards to prevent any such use of personal data as may be inconsistent with the guarantees of this Article /…/ The need for such safeguards is all the greater where the protection of personal data undergoing automatic processing is concerned, not least when such data are used for police purposes. The domestic law should notably ensure that such data are relevant and not excessive in relation to the purposes for which they are stored; and preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which those data are stored... It must also afford adequate guarantees that retained personal data were efficiently protected from misuse and abuse".[119]

83. The provision is compatible with these requirements, in particular as regards data minimisation and purpose limitation. By restricting the categories of personal data that may be collected during signature-gathering activities and by expressly linking their processing to a declared and lawful purpose, the provision responds to the requirement that personal data be relevant and not excessive in relation to the purpose for which they are stored. At the same time, the inclusion of telephone numbers among the permissible data categories raises some concerns, as such data may enable follow-up contact, tracking, or indirect profiling of individuals without a clearly demonstrated necessity for the verification of signatures or the achievement of the stated purpose of the gathering. In the absence of further safeguards governing the use, retention, and deletion of telephone numbers, this element of the provision risks going beyond what is strictly necessary and may weaken the balance sought between the protection of personal data and the exercise of freedom of assembly. The Venice Commission recommends excluding telephone numbers from the range of personal data that may be collected during signature collection.

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[117] Article 9 of the Law on identity documents in the national passport system.

[118] Article 18 of the Law on Assemblies: "[…] (3) If signatures are collected during the meeting from citizens in support of initiatives or for consultation on issues of particular local, regional or national interest, the completed lists must contain at the most the following information about the persons expressing their opinion on the issue addressed: surname, first name, year of birth, place of residence, telephone number and signature."

[119] ECtHR, *S. and Marper v. the United Kingdom,* Applications nos. 30562/04 and 30566/04, Judgment (GC), 4 December 2008, para.103.

84. **Article IX** grants the data protection authority the power to temporarily suspend personal data processing operations during inspections where such processing poses significant risks to the fundamental rights and freedoms of a large number of data subjects, subject to expedited judicial review (5 days to challenge the decision, 5 days for the court to examine the challenge). In Moldova, this authority is the National Centre for Personal Data Protection, which was established in 2008 and later consolidated through Law No. 133/2011 on the protection of personal data. The Centre functions as the independent supervisory body responsible for monitoring compliance with data protection legislation.[120]

85. The introduction of a suspension power represents a shift from the Centre's traditionally reactive, post-factum enforcement role toward a more preventive model, enabling rapid intervention in cases of large-scale or systemic data misuse, including in electoral contexts. At the same time, the legislature has sought to counterbalance the intrusiveness of this power by embedding it within a framework of expedited judicial review. The availability of prompt access to a court is designed to ensure that suspension measures are subject to scrutiny as to their necessity and proportionality, that they remain strictly time-limited, and that they do not result in arbitrary or excessive interference with the rights of data controllers or other affected parties. In this respect, the mechanism reflects the requirements developed under Article 8 of the ECHR.

### 5. Expansion and Safeguarding of Investigative Powers (Articles V, X, XIII)

86. The amendments to the Code of Criminal Procedure of the Republic of Moldova (Article V), the Law on the special investigation activity (Article X) and the Law on the counter-intelligence activity and external intelligence activity (Article XIII) regulate the manner in which the State authorities investigate electoral corruption and related offences. They accelerate procedures, expand the use of special investigative measures to electoral interference, and introduce tighter prosecutorial and internal authorisation safeguards to balance effectiveness with protection against abuse.

87. **Article V** introduces several amendments to the Code of Criminal Procedure aimed at ensuring an effective investigation and adjudication of electoral corruption offences and related offences[121] under Articles 181-182 of the Criminal Code.[122] The amendments bring these offences within the category of corruption-related cases subject to special procedural treatment and establish mandatory time limits for both the investigation and trial phases. Criminal investigations in such cases must, as a rule, be completed within 6 months, with any extension requiring a reasoned decision by the prosecutor and notification of the Prosecutor General. Corresponding deadlines are set for judicial proceedings, requiring examination by the court of

[120] The National Centre for Personal Data Protection has the status of an autonomous public authority, independent of other public authorities, natural persons and legal entities, the purpose of which is to protect the fundamental rights and freedoms of natural persons, especially the right for private life regarding the processing and cross-border transfer of personal data. It is led by a Director, appointed by the Parliament by the majority of votes of the elected deputies on the proposal, depending on the case, of the Chairman of the Parliament, a parliamentary fraction or at least 15 deputies, for a 5 year mandate. See https://datepersonale.md/en/.

[121] See, *inter alia*, Article 20 of the Code of Criminal Procedure (amendments in bold): "(3) The prosecution and trial of criminal cases involving corruption offences and offences related to acts of corruption, **in particular the offences referred to in Articles 181-182 of Criminal Code No. 985/2002,** criminal cases involving persons in custody, as well as minors, shall be conducted as a matter of urgency and priority.
**(4[1] ) In criminal cases referred to in Articles 181–182 of Criminal Code No. 985/2002, criminal proceedings shall be completed within a maximum period of 6 months. The term of criminal investigation may be extended by the prosecutor, with the information of the Prosecutor General in the case of each extension. The respective cases shall be examined by the court of first instance within a maximum of 4 months, and by the court of appeal within a maximum of two months, terms which may be extended by the decision of the respective court."**

[122] I.e. Article 181 (Obstruction of the free exercise of the electoral right or the activity of electoral bodies); Article 181[1] (Electoral corruption/vote buying); Article 181[2] (Violation of the rules on the management of the financial means of political parties and electoral funds); Article 181[3] (Illegal financing of political parties, initiative groups, electoral competitors or referendum participants); Article 182 (Falsification of voting results).

first instance within 4 months and by the appellate court within 2 months, subject to extension by a reasoned court decision.

88. Other amendments are introduced to ensure prioritisation of these cases. The law limits the possibility of postponing hearings due to the absence of one defence lawyer where another is present, shortens permissible postponement periods, and requires that the first court hearing be scheduled within 20 days of case allocation. Courts are also instructed to hear such cases as a matter of priority, including by rescheduling other cases if necessary. In addition, technical amendments align procedural provisions with the introduction of the new offence of extremist activity under Article 346¹ of the Criminal Code. Taken together, these changes seek to ensure that electoral corruption cases are investigated and adjudicated within timeframes that preserve their deterrent effect and relevance to the electoral process, while remaining subject to prosecutorial oversight and judicial control.

89. The Venice Commission notes that while these amendments pursue legitimate objectives of efficiency and timeliness, they must be carefully balanced against the requirements of the right to a fair trial.[123] Accelerated procedures should not impair the ability of defendants to adequately prepare their defence, consult effectively with legal counsel, or present their case in conditions that respect equality of arms. In this respect, the obligation to hold the first hearing within 20 days and the limitations on postponements due to the absence of defence counsel may, in certain cases, constrain the practical exercise of defence rights. The Venice Commission therefore recommends considering an extension of the 20-day period in exceptional cases to ensure that the pursuit of procedural efficiency does not come at the expense of fundamental guarantees of a fair trial. Moreover, the Commission recommends monitoring closely the application of accelerated criminal procedures for electoral corruption-related offences, to ensure that efficiency objectives do not undermine fair-trial guarantees, equality of arms, or the effective exercise of defence rights.

90. **Article X** extends the legal basis for the use of special investigative measures, including surveillance and interception, to cases involving "electoral fraud" and "illegal interference in electoral processes".[124] It thus recognises such conduct as warranting enhanced investigative tools alongside serious offences such as organised crime, corruption, money laundering, and the financing of terrorism. At the same time the law strengthens procedural safeguards by requiring that any request for authorisation of special investigative measures be submitted by a prosecutor formally designated by the chief prosecutor or a deputy, and by obliging that designated prosecutor to participate in the court hearing examining the request. These requirements are intended to ensure greater accountability, consistency, and prosecutorial responsibility in the authorisation of intrusive measures.

91. The Venice Commission notes that Article X appears to be broadly consistent with international standards, raising however issues that depend on its practical application. Recommendation Rec(2005)10 of the Committee of Ministers of the Council of Europe[125] recognises that special investigative techniques (including interception of communications, surveillance, and undercover operations) may be necessary in the investigation of serious crimes,

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[123] See ECtHR, *Simenovi v. Bulgaria,* Application no. 21980/04, Judgment (GC), 12 May 2017, para. 120.

[124] See Article 27 of the Law on special investigation activity (amendments in bold):
„[...] (3) The measures provided for in paragraph (1) point 1) shall be carried out only in the case of:
a) the search for persons who are evading criminal prosecution or trial, or persons who are evading the enforcement of criminal penalties or have escaped from places of detention, convicted of serious, particularly serious or exceptionally serious crimes;
**b) ensuring the protection of witnesses and other participants in criminal proceedings;**
**c) the detection and prevention of electoral fraud or illegal interference in the electoral process;**
**d) detecting and preventing organised crime, acts of corruption and related acts of corruption, money laundering and terrorist financing.**"

[125] Recommendation Rec(2005)10 of the Committee of Ministers to member states on "special investigation techniques" in relation to serious crimes including acts of terrorism.

provided that their use is clearly regulated by law and accompanied by adequate safeguards against abuse. Similarly, Article 23 of the Council of Europe's Criminal Law Convention on Corruption expressly calls on States to adopt legislative measures permitting such techniques in order to facilitate the gathering of evidence in corruption-related cases, a category into which at least some of the offences targeted by the amendment (in particular, electoral corruption) fall. Comparable obligations are reflected in other instruments, such as the Council of Europe's Convention on Laundering of the Proceeds from Crime and Financing of Terrorism (Article 4) or the UN Convention against Transnational Organised Crime (Article 20). All these instruments acknowledge the legitimacy of special investigative techniques for combating complex and covert criminal activity.

92. At the same time, the ECtHR has consistently emphasised that the use of special investigative measures must be accompanied by clear, detailed, and foreseeable rules governing their authorisation, scope, duration, and oversight, so as to prevent arbitrariness and abuse. In this respect, the requirement in Article X that requests for such measures be submitted by a formally designated prosecutor and examined by a court introduces an additional layer of accountability that is compatible with the Court's insistence on effective supervision and clearly defined responsibility. The compatibility of Article X with Article 8 of the Convention however depends not only on the existence of these formal safeguards, but also on whether judicial scrutiny will be sufficiently rigorous in practice to ensure that use of special investigative measures remain strictly necessary and proportionate in each individual case.

93. **Article XIII** amends the legal framework governing the counterintelligence and external intelligence activities of the Intelligence and Security Service (SIS) by clarifying internal authorisation procedures for the use of certain surveillance measures. In particular, it provides that the identification of subscribers or users of electronic communications networks and the conduct of visual tracking may be carried out only with the authorisation of the SIS Director or an empowered Deputy Director, thereby clearly assigning decision-making responsibility at the highest level of the SIS. The amendments moreover remove overlapping or ambiguous references to visual tracking and technical documentation from other provisions of the law, streamlining the legal basis for these measures and reducing the risk of parallel or unclear authorisation routes.

94. The Venice Commission notes that overall, Article XIII contributes to improving the quality of the legal framework governing secret surveillance. It strengthens internal accountability and enhances the foreseeability of decision-making within the SIS. Clear allocation of authorisation responsibility responds to the requirement that surveillance regimes be based on accessible and precise rules capable of limiting the risk of arbitrary interference with private life, as formulated by the ECtHR.[126] By reducing ambiguity in the internal authorisation process, the amendments support compliance with the principle of legality and facilitate more effective oversight. However, as also emphasised in the Court's case law,[127] internal controls alone are not sufficient: compatibility with international human rights standards ultimately depends on the existence of effective external supervision, meaningful judicial review, and safeguards ensuring that surveillance measures are strictly necessary and proportionate in light of the legitimate aims pursued.

[126] See ECtHR, *Klass And Others v. Germany*, Application no. 5029/71, Judgment, 6 September 1978, paras 50-56; *Malone v. United Kingdom,* Application No. 8691/79, Judgment, 2 August 1984, paras 67-68; *Weber and Saravia v. Germany,* Application no. 54934/00, Decision, 29 June 2006, paras 93–95.
[127] See ECtHR, *Roman Zakharov v. Russia,* Application no. 47143/06 Judgment, 4 December 2015, paras 248-250; *Szabó and Vissy v. Hungary,* Application no. 37138/14, Judgment, 12 January 2016, paras 77-81; *Big Brother Watch and Others v. the United Kingdom,* Applications nos. 58170/13, 62322/14 and 24960/15, Judgment, 13 September 2018, paras 332–334.

### 6. Final remark

95. As mentioned repeatedly in the preceding analysis, there is a concern stemming from the interaction between broad legal definitions, preventive administrative powers, and compressed procedural timelines. For this reason, the quality of judicial scrutiny, the precision of evidentiary standards, the proportionality of sentences and the availability of effective remedies become decisive. The long-term legitimacy and effectiveness of the framework will therefore largely depend on how it is interpreted and applied in practice by State authorities, prosecutors, and courts. The Venice Commission recommends considering the establishment of mechanisms for periodic evaluation of the amended framework, involving independent institutions and civil society, in order to assess its impact on electoral integrity, political pluralism, and fundamental rights and to allow for timely adjustments where unintended or disproportionate effects are identified.

## V. Conclusion

96. By letter of 19 June 2025, Mr Igor Grosu, President of the Parliament of the Republic of Moldova, requested an Opinion of the Venice Commission of the Council of Europe on Law No. 100/2025 for the amendment of certain normative acts (efficient combatting of the phenomenon of electoral corruption and related aspects).

97. Law No. 100/2025 was drafted following the presidential election and the constitutional referendum held on 20 October and 3 November 2024 and following a decision by the Constitutional Court of the Republic of Moldova, which, while confirming the election results, identified an unprecedented level of electoral corruption and called on Parliament to improve the legal mechanisms to combat this phenomenon. The amendments introduced by Law No. 100/2025 represent a very ambitious response to electoral corruption and related threats to democratic processes in the Republic of Moldova. They reflect the determination to address structural weaknesses that allowed for large-scale vote buying, illicit political financing, reviving of the activity of parties previously declared unconstitutional, the instrumentalisation of extremist networks, disinformation campaigns, and, as an overarching concern, hostile foreign influence. The law adopts a comprehensive, cross-sectoral approach, combining criminal, administrative, electoral, security and data-protection measures, and seeks to ensure that enforcement mechanisms are capable of operating within the time-sensitive context of electoral processes.

98. The Venice Commission notes that the objectives pursued by the amendments in principle are legitimate and, in many respects, respond to long-standing recommendations aimed at strengthening electoral integrity, transparency, and accountability. The reinforcement of criminal liability for electoral corruption and the closing of loopholes in the campaign finance regulation as well as the introduction of mechanisms to ensure the continuity and functionality of electoral bodies are, in principle, compatible with international electoral standards, provided that they are applied in a manner that is impartial, proportionate, and respectful of fundamental rights. This also applies to the adopted measures to combat foreign interference: such measures are legitimate in an international environment where the principles of sovereignty, self-determination and democracy are under attack; at the same time, the measures must align with human rights standards and guarantee legitimate democratic activity and civil society engagement.

99. The Commission however also notes that the cumulative effect of the changes significantly expands the regulatory and coercive reach of the State in areas that lie at the core of democratic pluralism. This is particularly evident in the regulation of political parties, the preventive framework on extremism, the powers conferred on security and intelligence authorities, and the use of accelerated procedures and precautionary measures. In these areas, the amendments rely heavily on preventive logic, early intervention, and administrative risk assessment, which, while potentially effective in addressing complex and covert threats, also increase the risk of overreach if not counterbalanced by strong substantive thresholds and robust procedural safeguards.

100. While the Venice Commission fully understands the background of the reform and the need to protect electoral processes in Moldova against multiple, complex and unprecedented attacks, there is a concern stemming from the interaction between broad legal definitions, preventive administrative powers, and compressed procedural timelines. In particular, several key terms used in the Law on Counteracting Extremist Activity need to be defined more precisely in order to avoid abuse or arbitrary application of the law. This is all the more important as under the amended regulation, listing mechanisms, activity restrictions, employment exclusions in sensitive sectors, and enhanced financial monitoring operate cumulatively and may extend well beyond the immediate sphere of extremist conduct. Moreover, the tightening of political party regulation, including determinations concerning the existence of "successor" parties and the imposition of sanctions must rely on compelling evidence and individualised assessments, subject to effective judicial review. The compatibility of such measures with the right to freedom of association hinges on strict adherence to principles of necessity and proportionality, the existence of clear and foreseeable legal criteria, and the availability of robust judicial guarantees.

101. The Venice Commission wishes to make the following key recommendations:

A. Defining more precisely, in the Law on Counteracting Extremist Activity and in related provisions of the Criminal Code (Articles $346^1$ and $346^2$), legal concepts that trigger restrictive measures, *inter alia,* the terms "extremist activity" – which should include clearly articulated intent requirements and a high threshold linked to incitement to violence or comparable forms of concrete harm, "participation in any form in the activities of an extremist organisation", "providing any form of support to an extremist organisation", "dissemination of extremist material" and "facts denoting extremism" [paras 63, 64, 70, 71];
B. Clarifying in the law that the suspension and dissolution of organisations under the Law on Counteracting Extremist Activity are only permitted as a measure of last resort, and providing for other, less restrictive measures [para. 72];
C. Ensuring that preventive and precautionary measures under the Law on Counteracting Extremist Activity, especially those adopted under expedited procedures, are treated as exceptional, strictly time-limited, and subject to effective judicial review, including the possibility to appeal any court decision suspending or dissolving an organisation, with suspensive effect except for duly justified cases [paras 74, 77];
D. Ensuring that the determination whether a political party continues the activities of a party declared unconstitutional is based on a holistic and contextual assessment, strictly related to the specific situation and supported by adequate, reasoned justification; clarifying potential concerns related to the applicant's right to a hearing involving both parties, to how the burden of proof is allocated, and ensuring that appeals have suspensive effect, except for duly justified cases [paras 52, 54];
E. Clarifying in the law that the suspension and dissolution of political parties are only permitted as a measure of last resort, conditioned by adequate, reasoned justification demonstrating their strict necessity, and providing for other, less restrictive measures [paras 53, 55];
F. Reconsidering the requirement for political parties to submit personal data from their membership register to State bodies; in case this requirement is nevertheless maintained, the scope of information to be submitted should be carefully assessed to ensure compliance with personal data protection and privacy obligations, less intrusive sanctions than limitation of party activity should be introduced, and only regular updates should be required, instead of permanent updates with strict deadlines [para. 57];
G. Monitoring closely the application of accelerated criminal procedures for electoral corruption-related offences, to ensure that efficiency objectives do not undermine fair-trial guarantees, equality of arms, or the effective exercise of defence rights [para. 89];
H. Considering the establishment of mechanisms for periodic evaluation of the amended framework, involving independent institutions and civil society, in order to assess its

impact on electoral integrity, political pluralism, and fundamental rights and to allow for timely adjustments where unintended or disproportionate effects are identified [para. 95].

102. In addition, several more specific recommendations are made in the preceding analysis.

103. Finally, given the multiple threats to democratic elections observed, in particular in 2024, and the call by the Constitutional Court of the Republic of Moldova to amend the relevant legislation, the Venice Commission recognises that there was an urgent need for reform, even before the parliamentary elections of September 2025. That said, it must be noted that the time for implementing the new regulations was extremely short. The practice in Moldova of frequent and very late changes, just before elections, risks undermining the principle of stability of electoral law. The Venice Commission recommends making every effort to ensure that any future amendments to electoral legislation be adopted by broad consensus after extensive public consultations with all relevant stakeholders, well in advance of elections, thus ensuring confidence in the electoral process.

104. The Venice Commission remains at the disposal of the Moldovan authorities for further assistance in this matter.