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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

REPUBLIC OF MOLDOVA

DRAFT LAW
ON LIMITING EXCESSIVE ECONOMIC
AND POLITICAL INFLUENCE IN PUBLIC LIFE
(DE-OLIGARCHISATION)

Unofficial translation
Draft law

Law
on limiting excessive economic and political influence in public life
(de-oligarchisation)

The Parliament adopts this organic law.

Article 1. Scope and purpose of the law

(1) This Law defines the legal and organisational basis for operation of a framework to prevent threats to human rights, national security, and economic development associated with excessive influence of persons with economic and political influence in public life (oligarchs), the content and procedure for application of preventive measures.

(2) The purpose of this Law is to prevent and resolve the conflict of interests caused by the merger of interests of political, media and business representatives, preventing public authorities from exercising their duties and ensuring the national security of the Republic of Moldova in the economic, political and information areas, protecting the constitutional rights and freedoms of citizens, democracy, and ensuring the sovereignty of the state.

Article 2. Key terms

For the purposes of this Law, these terms shall mean the following:

Beneficial owner - is a beneficial owner as defined in Article 3 of Law No 308/2017 on prevention and combating money laundering and terrorist financing [*Translator Note*¹].

Public official - as defined in Article 3 of Law No. 82/2017 on integrity; [*Translator Note*²]

Mass media source - print media (publications and news agencies), online media, audiovisual media service, broadcasting services [national level];

Online media – a source of information that systematically shares information in textual or audiovisual form, electronically (digitally), in Internet via a website, with a permanent name as a distinguished element;

Media control holder - a person who has the possibility of exercising decisive influence over a legal entity, which derives from rights, contracts or any other means, separately or in combination, having regard to the relevant legal and factual circumstances, in particular from:

- a) the right of ownership or use of all or part of the assets of a legal entity;
- (b) rights or contracts which offer a decisive influence on the structure, votes or decisions of the governing bodies of the legal entity;
- (c) significant financing of the legal entity.

The control is gained by individuals or legal entities who are holders of rights or beneficiaries of rights under contracts or who, although not holders of such rights or beneficiaries of rights under such contracts, have the power to exercise the rights deriving therefrom;

Affiliated person - a person who directly or indirectly holds an interest, or voting right in a company or another type of person in accordance with Article 203 of the Civil Code;³

Representative of a person included in the Registry of Persons with Excessive Economic and Political Influence in Public Life (Oligarchs) is a natural person which organizes and attends meetings, liaises with public officials by telephone, in writing or by electronic means on their own behalf and/or on behalf of a person included in the Registry of Persons with Excessive Economic and Political Influence in Public Life (Oligarchs);

¹ See at: https://www.legis.md/cautare/getResults?doc_id=125309&lang=ro# . Please use Google Translate in Google Chrome to translate documents or websites.

² See at https://www.legis.md/cautare/getResults?doc_id=120706&lang=ro#

³ See at: https://www.legis.md/cautare/getResults?doc_id=135157&lang=ro#

Family member - as defined in Law 133/2016 on the declaration of wealth and personal interests (spouse, children, including adopted children or dependent of the subject of the declaration)⁴;

Other terms to be defined - print media, broadcasting, audiovisual media service

Article 3. A person with excessive economic and political influence in public life (Oligarch)

(1) In the context of this law, a person who has excessive economic and political influence in public life (oligarch) shall be considered to be a person, citizen of the Republic of Moldova, i) who is or has been involved in political life at present or in the last 5 years and/or ii) who exercises or has exercised in the last 5 years excessive influence or pressure on state authorities/politically exposed persons; iii) with regard to whom at least two of the following circumstances can be established:

a) exercises a significant influence on the media;

b) has a confirmed value of personal assets and business entities in which he is a beneficiary that exceeds the amount of 50,000 average monthly salaries established for the economy; [*Translator's note*: appx. 29 mln EUR]

c) is the beneficial owner or has control over a commercial entity which, after the entry into force of this Law, has a dominant position on the market, according to the Law on competition No. 183/2012⁵, and maintains or strengthens this position during a consecutive year, or is covered by a decision of the Competition Council on violation of the fair competition regime, as well as in cases when the person is the beneficial owner or has control over a commercial entity which has made investments in areas of strategic importance for state security according to the Law No. 174/2021 on the examination mechanism of investments of importance for state security⁶;

d) has been convicted of committing corruption offences or acts related to corruption;

(e) is subject to international restrictive measures imposed by resolutions of the United Nations Security Council, by EU legal acts, by acts and decisions of other international organisations or other States, or by the Republic of Moldova on its own initiative.

(2) If the person cumulatively meets the basic criteria provided in paragraph (1) i) and ii), in order to be declared as an oligarch it shall be necessary to meet only one of the circumstances referred to in paragraph (1) (a) to (e).

(3) The person who has excessive economic and political influence in public life may request the exclusion of this quality in his/her regard and the issuance of a decision to remove him/her from the Register of persons with excessive economic and political influence in public life (oligarch), in accordance with the provisions of Article 10, if he/she proves that the circumstances referred to in paragraph (1) (a) to (e), no longer apply. The fact that the person who has excessive economic and political influence, subsequent to be included in the Register, is no longer involved in political life or no longer exerts unlawful influence or pressure on State authorities/politically exposed persons with the aim of affecting the normal, independent and lawful exercise of their powers shall not serve as a ground for exclusion of this status.

(4) The value of the assets referred to in paragraph (1) of this Article shall be calculated as the total value of the assets of the person and commercial entities of which the person is the beneficiary, excluding media assets.

Article 4. Involvement in political life

(1) A person shall be considered to meet the criteria of involvement in political life if:

a) holds or has held in the last 5 years (or earlier) the position of the President of the Republic of Moldova, Member of Parliament, Member of the Government, Secretary General of the Apparatus of the President of the Republic of Moldova, Secretary General of the Parliament, Secretary General of the Government, Secretary of State, Governor (Bashkan) of the

⁴ See at: https://www.legis.md/cautare/getResults?doc_id=134895&lang=ro#

⁵ See at: https://www.legis.md/cautare/getResults?doc_id=133198&lang=ro#

⁶ See at: https://www.legis.md/cautare/getResults?doc_id=128620&lang=ro

Autonomous Territorial Unit of Gagauzia, Chairman of the People's Assembly of the Autonomous Territorial Unit of Gagauzia, Deputy Chairman of the People's Assembly of the Autonomous Territorial Unit of Gagauzia, Chairman of the Standing Committee of the People's Assembly of the Autonomous Territorial Unit of Gagauzia, First Deputy Chairman and Deputy Chairman of the Executive Committee of the Autonomous Territorial Unit of Gagauzia, Mayor of the municipality; and/or

b) is or has been within the last 5 years a leader or member of the governing body of a political party; and/or

c) is a family member or associated/affiliated person of the person who holds or has held within the last 5 years one of the positions listed in (a) of this Article or of the person listed in (b) of this Article; and/or

d) has personally or through affiliated persons financed an independent candidate, a political party and/or electoral campaigns.

Article 5. Excessive influence or pressure on state authorities/politically connected persons

A person shall be deemed to meet the criterion of exerting excessive influence or pressure on state authorities/politically exposed persons if one of the following can be established in relation to that person:

(a) while he or she is exercising one of the functions referred to in Article 4 (1) lit. a) or any other public office, the status and manner of exercise of which is regulated by law, he/she undertakes or has undertaken in the last 5 years actions which cannot be considered as the ordinary exercise of his/her powers conferred by law and which, based on the details of the actions undertaken, can be considered as undue influence on the law-making process or the implementation of policies by other public persons whose appointment is regulated by the Constitution or who are appointed by the President or the Parliament, with the purpose of affecting the normal, independent and lawful exercise of their powers;

(b) although not holding any of the offices referred to in point (a), has committed an act in the last five years, unrelated to and not deriving from the purpose of the organisation in which he or she serves and expressly set forth by law, by which he or she has effected undue influence on the law-making process or the implementation of policies by other public persons whose appointment is regulated by the Constitution or who are appointed by the President or Parliament has been exercised with the purpose of affecting the normal, independent and lawful exercise of their powers.

Article 6. Influence on the mass media

A person shall be considered to meet the criteria of media influence for the purposes of this Law if:

(a) is the owner, founder or beneficiary owner of a media outlet(s);

b) is the holder of control over a media outlet(s);

c) has been the owner/beneficiary owner/holder of control of a mass media until the date of adoption of this Law, but has given his right before the entry into force of this Law to a person who does not have an irreproachable reputation in business within the meaning of Article 16.

Article 7. National Committee for the De-oligarchisation

(1) The National Committee for De-oligarchisation shall examine referrals concerning the designation of a person as having excessive economic and political influence in public life.

(2) The National Committee is established by the Government and is convening whenever it receives a referral.

(3) The National Committee shall be composed of the Prime Minister, the First Deputy Prime Minister, Deputy Prime Ministers, the Minister of Justice, the Minister of Economy, the Minister of Finance, the Minister of Internal Affairs, Minister of Agriculture, the Governor of the Autonomous Territorial Unit of Gagauzia (Gagauz-Yeri), the Director of Security and Intelligence Services, the President of the Audiovisual Council, the President of the Competition Council, the President of the Central Electoral Commission, the General Prosecutor, the Director of the National Anti-Corruption Centre.

(4) The President of the National Committee shall be elected by the members of the Committee from within its members at the first meeting of the Committee.

(5) The Committee shall adopt its decisions by a majority votes of its members.

(6) In its activity, the National Committee shall be guided by the Constitution of the Republic of Moldova, this Law and other normative acts regulating the areas related to its activity. The National Committee for De-oligarchisation shall function on the basis of rules of organisation and functioning, approved by it.

(7) Any of the following can submit referrals to the Committee: a member of the Committee, a Member of Parliament, the Governor of the NBM, the Chairman of the Board of Directors of the National Commission for Financial Market, the Director of the Service for the Prevention and Combating of Money Laundering, the Director of the State Tax Service.

(8) The National Committee shall have the following competences:

- (a) draw up and approve its own rules of organisation and functioning;
- (b) review and consider any relevant information regarding the identification of a person as having excessive economic and political influence in public life;
- (c) collect and verify any data relevant to its activity;
- (d) have access to any information systems containing relevant data to the performance of its mandate, including through the platform (MConnect);
- (e) interview relevant persons in the process of examining the complaint;
- (f) request information from individuals and legal entities governed by public or private law and gather any information relevant to the performance of its mandate;
- (g) submit to Parliament the report with the proposal to declare the person to be economically and politically excessive in public life
- (h) other competences provided for by this law.

(9) The members of the National Committee have the following obligations:

- a) to ensure the confidentiality and security of personal data that become known to them during the examination of the complaint;
- b) not to use, transmit or disclose confidential information which has become known to them during the examination of the complaint;
- c) declare any conflict of interest, activity that may give rise to a conflict of interest in the way set out in the Regulation on the Organisation and Functioning of the National Committee.

(10) Meetings of the Committee shall be deliberative if attended by a majority of its members.

Article 8. Procedure for evaluation of a referral for designating a person as having excessive economic and political influence in public life (Oligarch)

(1) Within 30 days of the submission of the referral, the Chairperson of the National Committee shall set the date of the first meeting for the examination of the information on the fulfilment of the criteria for being designated as a person having excessive economic or political influence in public life (Oligarch).

(2) The notification of the meeting of the National Committee shall be published on the official website of the Government, in the Official Monitor and shall be communicated to the person concerned in the referral at his/her place of residence.

(3) The person subject of the referral regarding designation as a person having excessive economic and political influence in public life (as an oligarch) shall have the right to:

- to submit in written form any explanations, data, documents and other additional information it may consider necessary no later than five working days before the date of the meeting;
- to be heard at the meetings or to ask to have written explanations;
- to be assisted at the hearing by a representative;
- to be informed of the report of the National Committee and the materials gathered during the examination of the complaint;
- to appeal against the Parliament's decision regarding his/her designation as a person with excessive economic and political influence in public life (oligarch).

(4) The fact that the person concerned did not receive the above-mentioned notification, did not submit written explanations or documents denying the fulfilment of the criteria for recognition as having an excessive economic and political influence in public life, the unwillingness to provide

explanations at the hearing or the non-attendance at the hearing, including the reasoned attendance, shall not constitute grounds for postponing the hearing in question or for not examining the referral.

(5) The National Committee evaluates the information gathered according to its own conviction, formed after a multi-aspectual, comprehensive and objective research of the information. None of the material submitted has any predetermined probative value without the Committee's assessment.

(6) The referral and the documents submitted by the person concerned shall be examined in closed meetings within 6 months from submission.

(7) Following the procedure for examining the complaint, the National Committee shall issue a report on whether or not a person meets the criteria to be recognised as having excessive economic and political influence in public life (oligarch). The report must contain the relevant facts, reasons and the Committee's conclusion as to whether the criteria are met.

(8) The report of the Committee shall be adopted by two thirds of the members of the Committee. The members of the Committee may not abstain from voting.

(9) If the National Committee considers from the gathered materials that the person meets the criteria indicated in Article 3 of this Law, it shall submit the report to the Parliament with the proposal to declare the person as having excessive economic and political influence in public life (oligarch).

(10) The report of the National Committee may be published with the consent of the person concerned in the report.

(11) The Committee shall review periodically and at least once every 24 months the situation of persons in respect of whom it has issued reports on the fulfilment of the criteria for being recognised as having an excessive economic and political influence in public life (Oligarch) and who have subsequently been included by resolution of Parliament in the Register of Persons having an Excessive Economic and Political Influence in Public Life (Oligarch) provided for in Article 12.

(12) If, following the review, the Committee finds that the persons concerned no longer meet the criteria for being recognised as having an excessive economic and political influence in public life (oligarch), it shall draw up a Report proposing to Parliament that the persons concerned be removed from the Register. The Parliament decides on the report by a Parliamentary resolution, adopted according to the procedure in Article 10.

Article 9. Gathering and Review of Information

(1) In order to exercise its powers and make decisions regarding recognition of a person as an oligarch, the Committee may use as evidence any relevant information received from public authorities, natural persons or legal entities or contained in articles, investigations, or declarations. Decision of the Committee to recognize a person as an oligarch can also be made once it has taken into consideration evidence obtained by other states, by non-profit organizations operating in the area of protection of democracy and rule-of-law state, as well as based on other information obtained from sources outside of the country.

(2) In the process of review of referrals, the National De-oligarchisation Committee shall have the right to request from individuals and legal entities of public or private law, including financial institutions, the documents and information necessary for the assessment of the criteria. The requested information shall be submitted to the Committee free of charge, including in electronic format, within a maximum of 10 days from the date of the request. Depending on the type of information requested, this period may be reduced or extended by the Committee but, in total, shall not exceed 30 days.

(3) Failure to submit the information required under paragraph (2) within the specified time limit shall be sanctioned in accordance with the law.

(4) By way of derogation from the provisions of Law No 133/2011 on personal data protection, the processing of personal data of the person referred, their family members and related persons is allowed during the procedure of examination of the referral.

(5) Individuals and legal entities under public or private law, including financial institutions, cannot refuse to provide the information set out in paragraph (2) on the grounds of protection of

personal data, bank secrecy or other data with limited access, except for information falling under the provisions of Law no.245/2008 on state secrecy⁷.

(6) The Committee may request, at any stage of the examination of the referral, analyses, reports and findings from the responsible public authorities, which may involve investigations, research and the drafting of conclusions.

(7) The Committee shall evaluate the material gathered according to its own best judgment, formed by a comprehensive, objective and multi-perspective examination of the information. None of the material submitted shall have any presumptive probative value without the Committee's assessment.

(8) If the Committee finds that the activity of the person presumed to be a person with excessive political and economic influence in public life reveal illegal activity, it shall refer the matter to the competent bodies with a view to documenting the facts in question and, where appropriate, applying sanctions.

Article 10. Procedure for recognising a person as having excessive economic and political influence in public life (Oligarch)

(1) The decision to designate a person as having excessive economic and political influence in public life (oligarch) shall be adopted by the Parliament at the proposal of the National Committee.

(2) The Parliament shall review the report of the National Committee in a public sitting, affording the person concerned a hearing, at his/her request, and decide by a vote of 3/5 of the elected deputies whether the person meets the criteria for being designated as having excessive economic and political influence in public life (oligarch).

(3) The decision shall enter into force on the date of publication in the Official Monitor and shall be published on the official website of the Parliament.

Article 11. Appeal against Parliament's decision

(1) Parliament's decision may be appealed by the person concerned within 15 days of publication in the Official Monitor.

(2) The appeal shall be submitted to the Supreme Court of Justice and shall be heard by a panel of 3 judges who have passed the evaluation according to the Law on the Evaluation of judges and candidates for the position of a judge of the Supreme Court of Justice.

(3) The appeal shall be examined in accordance with the procedure stipulated in the Administrative Code, with the exceptions established by this Law, and shall not have suspensive effect on the decision.

(4) When examining the appeal, the special panel of the Supreme Court of Justice may adopt one of the following decisions:

- a) dismissal of the appeal;
- b) to admit the appeal and to order the reopening of the procedure of evaluation of the criteria provided for in Article 3 of this Law.

Article 12. Register of persons with excessive economic and political influence in public life (Oligarchs)

(1) The Registry is a record-keeping and communication system designed to publicise and process information regarding persons with excessive economic and political influence in public life (oligarchs) and those that declare contacts with the persons recorded in the Registry or their representatives/persons associated with them.

(2) Registrations in the register shall be made after the publication of the decision on designation of the person as having excessive economic and political influence in public life (oligarch).

(3) The register shall be public and placed on the official website of the Parliament. The procedure of registration and the application form of the declaration of contact shall be stipulated in the Regulations approved by the Parliament.

⁷ See at: <https://www.legis.md/cautare/rezultate/94289>

- (4) The following information shall be registered in the register:
- a. the decision to identify the person as having excessive economic and political influence in public life (oligarch) including the criteria on the basis of which the decision was adopted;
 - b. the person's identity data - name, surname;
 - c. notified statements on contacts with persons listed in the register;
 - d. the decision to exclude/remove the person from the register and the reason for adopting of the decision;
 - e. the list of legal entities whose beneficial owner he/she is;
 - f. the list of persons involved in political life, political parties that in the last 3 years have received financing from the person registered in the register.

Article 13 Legal Implications/Consequences of Recognition of a Person as That Having Excessive Economic and Political Influence in Public Life (as an Oligarch)

(1) A person designated as holding excessive economic and political influence in public life (oligarch) and registered in the register shall be prohibited, directly or through affiliated persons:

- a. to finance political parties and/or electoral campaigns;
- b. to participate in the privatisation of public property, to receive public property under concession, or to enter into public-private partnerships;
- c. to finance or organize meetings or demonstrations with political demands

(2) Within 30 days of being registered in the register, the person declared to have excessive economic and political influence in public life (oligarch) shall submit a declaration of assets and interests in the way prescribed by Law 133/2016 on the declaration of personal assets and interests, and will continue to submit declarations of assets and interests annually from the date of submission of the last declaration.

(3) In the event that a person was designated as having excessive economic and political influence in public life (as an oligarch) on grounds of meeting the criterion for involvement in political life and exerting influence over mass media, the person shall give up control over mass media within six months.

(4) If a political party accepts funds from a person declared to have excessive economic and political influence in public life (oligarch), this party shall be excluded from the electoral campaign.

(5) Financing of the party for the purposes of this Article shall be considered to include the use of the name of the person declared to have excessive economic and political influence in public life, his/her image, voice or signature or images associated with his/her activity in any form of publicity for a political party.

Article 14. Reporting contacts with persons with excessive economic and political influence in public life (oligarchs) or their representatives

(1) If a public official, defined in Art. 4 (1) a), is in contact with a person registered in the register as having excessive economic and political influence in public life or his representative, if the representative is known to the public official, the official in question is obligated to file the Declaration of contacts.

(2) For the purposes of this Article, the contact with a person included in the register or his representative means a meeting and conversation (including online), communication in any form, regardless of its content, by telephone or electronic means of communication, other than the activities referred to in paragraph (4) of this Article.

(3) Prior to the meeting (conversation), communication, including by telephone or by means of electronic communication, persons included in the Register and their representatives shall inform public officials that they or the persons they represent are included in the Register.

(4) The contact statement shall not be submitted if the communication took place during the participation of a public official and the person included in the Register or his representative at:

- (a) official events, the proceedings of which are broadcast live on radio, television or the Internet in a manner accessible to the general public;
- (b) a court hearing;

c) official events (conferences) initiated by public authorities, on the condition that the information about the event, the list of participants and the subject of the discussion, is published on the official website of the public authority.

(5) The declaration of contacts shall be submitted on the day when the contact with the person included in the Register or his/her representatives took place, but not later than the following day, by filling in an electronic form on the official website of the Parliament. The form of the contact statement is defined by the Rules of Procedure of the Register.

(6) The obligation to notify is applicable to public officials as described in Art. 4 (1) a).

(7) Failure to comply with the obligation to file the Declaration of contacts shall constitute grounds for disciplinary liability.

(8) Failure to notify a person included in the Register or his/her representative that he/she or the person he/she represents is included in the Register shall not release the public official from liability for failure to file the Declaration of contacts.

(9) The Declaration of contacts must contain information relating to:

(a) the person submitting the Declaration of contact and the position;

b) the person included in the Register, his representative with whom the contact took place;

c) the date and place of the meeting (conversation), communication including by telephone or electronic means, the subject of the discussion and the press release if the meeting took place.

Article 15. Decision to strike off from the register a person who has excessive economic and political influence in public life (oligarch)

(1) The decision to strike from the Register the person who has excessive economic and political influence in public life (oligarch) shall be adopted by the Parliament, if it is ascertained that the person concerned does not meet the conditions provided for in Article 3 of this Law.

(2) A person shall be considered to continue to exercise influence over the media if the status of beneficiary, owner of the respective media has changed from the person listed in the register to an affiliated/associated person or a person who does not have an irreproachable business reputation.

(4) The decision to strike from the register the person who has excessive economic and political weight in public life (oligarch) shall be adopted in accordance with the procedure provided for in Article 10 of this Law for adopting a decision to recognize the person as having excessive economic and political weight in public life (oligarch).

(5) The decision to strike from the Register the person having excessive economic and political weight in public life (oligarch) may also be adopted on the basis of a request of the person included in the Register and submission of documents and information justifying the striking from the Register.

(6) If an application to remove from the Register has been rejected, a repeated application may be submitted 6 months after the adoption of the dismissal decision.

Article 16. Irreproachable commercial reputation

(1) A Buyer shall not be considered to be of irreproachable reputation in business if:

(a) he has previously been convicted of corruption offences or offences related to corruption offences;

(b) has been subject to international restrictive measures imposed by means of United Nations Security Council resolutions, acts of the European Union, acts and decisions adopted by other international organisations or by other States, as well as by the Republic of Moldova on its own initiative - during the period in which the sanctions have been in effect and three years after their abolition or termination;

d) has been deprived of the right to hold public functions on the basis of a court decision - for the period of the limitation of the right and 5 years after the termination of this limitation;

e) improper exemption of the person from the obligation to pay taxes, duties or other compulsory payments if the total amount unpaid is equal to or exceeds 50 average monthly wages for the period in which the violation was committed - for the period of the punishment and three years after its termination;

f) purchase (intention to purchase) of a mass media at a price significantly lower than the market price, or with funds whose origin is not confirmed by documents proving the lawful origin of the funds;

g) substantial and/or systematic violation by the person of the provisions of the laws and regulations on the media, banking, finance, foreign exchange, taxation, laws and regulations on financial monitoring, laws and regulations on securities, joint stock companies and stock market.

(2) The procedure for verifying the business reputation of a purchaser of a mass media shall be approved by the National Committee.

Article 17. Final and provisional regulations

(1) This Law shall enter into force within 3 months from the date of its publication in the Official Monitor of the Republic of Moldova.

(2) The Government, within 3 months:

(a) shall submit to the Parliament proposals on aligning the legislation in force with this Law;

b) shall bring its normative acts in line with this Law;

c) shall ensure the drafting of the normative acts necessary for the implementation of this Law;

d) ensure the supervision by central public entities of their internal acts;

e) shall undertake other measures for the implementation of this Law, its study and application by the subjects of law.

(3) This Law shall apply for a period of 10 years from the date of publication.