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

COMPILATION

OF VENICE COMMISSION OPINIONS AND REPORTS

CONCERNING POLITICAL PARTIES*

(revised in October 2026)

* This document will be updated regularly. This version contains all opinions and reports adopted up to and including the Venice Commission's 148th Plenary Session (9-10 October 2026).

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I. Introduction

A. Venice Commission's compilations

The Venice Commission's compilations contain quotations taken from its Opinions, reports/studies, and *amicus curiae* briefs, structured in a thematic manner, and are intended to assist those – like law-making bodies, institutions, civil society, the academia – who are interested in knowing the Commission's position on specific topics.

Compilations contain quotations from different types of Venice Commission documents, including country-specific Opinions, comparative reports, studies, and *amicus curiae* briefs. While these documents differ in purpose and scope, they collectively contribute to the Commission's interpretative framework.

Each Opinion referred to in a compilation relates to a specific country and any recommendation made has to be seen in the specific context of that country. This notwithstanding, the compilation enables the reader to identify recurring principles, common standards, and converging approaches across different jurisdictions.

By contrast, the Venice Commission's reports and studies seek to present general standards for all member and observer states of the Venice Commission. Recommendations made in the reports and studies will therefore be of a more general application, although the specificity of national/local situations is an important factor and should be taken into account adequately.

Lastly, *amicus curiae* briefs respond to particular questions raised by Constitutional and European or international courts. Therefore, they are diverse in nature and may address a broad range of issues, for example – but not limited to – the existing international standards or comparative practices on a specific issue.

In addition to the variety of documents from which the quotations are drawn, it is important to understand that each quotation carries a different "normative weight." This refers to the fact that, beyond the authority of coming from a document adopted or endorsed by the Commission, the findings or recommendations contained in a given quotation may have additional legal basis or authority. For example, some may be directly grounded in binding ("hard law") standards,¹ the case-law of the European Court of Human Rights (ECtHR)², non-binding ("soft law") standards, or international principles such as those arising from the Rule of Law (for instance, those enshrined in the Updated Rule of Law Checklist³). In turn, other findings and recommendations may rely on comparative analysis across member States, without direct reference to international instruments.

For these reasons, any quotation must be seen in the context of the original document adopted by the Venice Commission from which it was taken and in reference to the basis of the Commission's findings/recommendations. Therefore, each quotation has a reference that sets out its exact position in its source (paragraph number, page number for older documents), which allows the reader to find it in the corresponding document and context.

¹ Like protection of freedoms of expression, assembly, association, and participation in public affairs (Articles 19, 21, 22, 25) under the International Covenant on Civil and Political Rights; safeguards of freedoms of expression, assembly and association (Articles 10 and 11), and the right to free elections (Article 3 of Protocol No. 1) under the European Convention on Human Rights.

² While in theory ECtHR judgments are inter partes and the erga omnes effect is not expressly provided by the ECHR, the principle of res interpretata de facto introduces such an effect (see Venice Commission, [CDL-AD\(2024\)035](#), Poland - Opinion on the draft constitutional amendments concerning the Constitutional Tribunal and two draft laws on the Constitutional Tribunal, fn. 52).

³ Venice Commission, [CDL-AD\(2025\)002](#), the Updated Rule of Law Checklist.

Compilations include only the quotations that most clearly reflect the Commission's relevant position. Not all aspects of a given document are reproduced, and, importantly, quotations do not fully reflect the comprehensive scope or significance of the original source. Given that Opinions, studies/reports, and *amicus curiae* briefs are always adopted in response to specific contexts, the compilation prioritises those excerpts which are most pertinent and up-to-date, thereby enabling readers to engage directly with the positions and findings that are currently authoritative in this field.

The Venice Commission's position on a given topic may evolve over time in light of new Opinions, developments in international and European standards and case-law, comparative constitutional practice, and the experience gained through its co-operation with member states. To enhance accessibility and clarity, the order of the excerpts is presented in reversed chronology, with more recent documents appearing first. Older sources are retained only if they remain pertinent and help explain how a position was formed.

This allows readers to quickly identify the latest established position of the Venice Commission on each topic.

For this same reason, compilations are not static documents and are regularly updated with additional excerpts of newly adopted Opinions, reports/studies, and/or *amicus curiae* briefs, while those that are no longer pertinent are removed.

B. The Compilation on Political parties

This is the third version of the compilation of Venice Commission's Opinions and reports concerning political parties, which follows the ones endorsed by the Commission at its 96th Plenary Session (October 2013) ([CDL\(2013\)045](#)) and 128th Plenary Session (15-16 October 2021) ([CDL-PI\(2021\)016rev](#)).

This update pays particular attention to the consequences linked to the prohibition of a political party, as well as to the prohibition of so-called successor or clone parties of prohibited political parties which the Commission has extensively examined more recently.

The structure of the compilation has been reorganised around key thematic areas, in-line with the interpretative notes in the Joint Guidelines of the Venice Commission and the OSCE/ODIHR on Political Party Regulation, adopted at the 125th Plenary session ([CDL-AD\(2020\)032](#)). Specifically, the present document covers:

- Part I: External functioning of political parties in relation to the state and to individuals aspiring to be party members or representatives (Section III)
- Part II: Internal functioning of political parties (Section IV)
- Part IV: Funding of political parties (Section V)
- Part V: Oversight of political parties (Section VI)

An overview of the Venice Commission's position on political parties in elections (which corresponds to Part III of the Joint Guidelines) is available in separate compilations dedicated to more narrow topics.⁴ This document therefore concentrates on the broader organisational, financial and oversight aspects of political parties.

⁴ See, for example: Compilation of Venice Commission opinions and reports concerning electoral systems ([CDL-PI\(2019\)001](#)), Compilation of Venice Commission Opinions and Reports concerning Electoral Systems and National Minorities ([CDL-PI\(2019\)004](#)), Updated Compilation of Venice Commission opinions and reports on the protection of National minorities ([CDL-PI\(2022\)049](#)), Compilation of Venice Commission Opinions and Reports concerning Electoral Systems and Gender Representation ([CDL-PI\(2019\)005](#)), Compilation of Venice Commission opinions and report concerning Gender Equality ([CDL-PI\(2021\)002](#)), Compilation of Venice Commission opinions

Notwithstanding the foregoing, this compilation is not intended to replace the Joint Guidelines or other international standards adopted by the Commission. The compilation should be read in conjunction with, and not instead of, these standards. To this end, the quotations from the Joint Guidelines have been removed, with the exception of a single reference to the principles they enshrine. Likewise, a single quotation from the Code of Good Practice in the field of political parties, which should also be read in conjunction with this compilation, has also been kept.

Please do not hesitate to kindly inform the Venice Commission's Secretariat if you think that a quote is missing, superfluous or filed under an incorrect heading (venice@coe.int).

II. Guiding principles

“Political parties are the primary manifestation of political pluralism, providing citizens with a means of participating in political life and, especially, in representative institutions. Their role is so fundamental that modern democracy is often referred to as 'party democracy'. This importance has led to them being recognised in some contemporary constitutions as a special form of association. [...]

Political parties are a form of association. In any democratic system, states must respect the freedom of parties to form and operate, both internally and externally. The Venice Commission and OSCE/ODIHR have pointed out that “the states shall not only (passively) respect freedom of association, but also actively protect and facilitate this exercise. The state shall protect political parties and individuals in their freedom of association from interference by non-state actors, by legislative means.”

[CDL-AD\(2025\)032](#) *Amicus curiae* brief for the Inter-American Court of Human Rights on democracy as a human right, as a means for social, political and economic development and the effective exercise of human rights, or as both, §§77 and 79.

“Most Principles have a hard international law core and derive from various values and legal sources, the most important being the freedom of association, as well as the freedom of expression and opinion, enshrined in the ECHR and the ICCPR (1–4). From these freedoms also flow requirements as to the legality and proportionality of restrictions on these freedoms, and as to legal remedies ensuring the effectiveness of these requirements (5–7). Furthermore, general provisions in the ECHR and the ICCPR, as well as specific treaties on the protection of minorities providing for equal treatment and non-discrimination, also play a fundamental role (8–9). The other Principles – concerning good administration and accountability of political parties (10–11) – although not containing hard law norms, formulate essential policy guidelines.

One basic rule is not listed as a normative Principle, because it is of a primarily pragmatic nature, although it formulates an important aim of political party regulation. A political party system must not only be in accordance with fundamental rights and good policy; it must also be *workable*, must serve *effective government*. Accordingly, party regulation also is a legitimate means to support effective democratic government and should not lessen that capacity. For instance, for this purpose, reasonable restrictions on political fragmentation such as electoral thresholds and minimum sizes of parliamentary groups could be introduced, provided that they are proportionate and necessary in a democratic society. Furthermore, limitations may be imposed on small parties in respect of the formation, ballot access, election, independent functioning within parliaments, and access to state resources in order to assure some coherence in the political space.”

[CDL-AD\(2020\)032](#) Joint Guidelines of the Venice Commission and OSCE/ODIHR on Political Party Regulation, §33-34 [this quotation has been kept extraordinarily to illustrate the principles enshrined in the Joint Guidelines].

“The rule of law, democracy and human rights are three pillars of the European and the Council of Europe’s constitutional heritage. Therefore, provisions on democracy, the rule of law and human rights’ protection alongside norms regulating the political system and the separation of powers, stand among the basic principles of the Council of Europe’s Member States. Political parties are major actors in any democratic society, hence they enjoy the benefits of the guarantees of those principles by the State and, accordingly, they must also respect and

promote these very same principles. The latter should be taken into account in the parties' organisation, functioning and financing."

[CDL-AD\(2009\)002](#) Code of Good Practice in the field of political parties, §15 [this quotation has been kept extraordinarily to illustrate the principles enshrined in the Code of Good Practice].

[CDL-AD\(2009\)021](#) Code of Good Practice in the field of political parties, adopted by the Venice Commission at its 77th Plenary Session (12-13 December 2008) and Explanatory Report, adopted by the Venice Commission at its 78th Plenary Session (Venice, 13-14 March 2009), §15.

III. Freedom of political parties, regulation, restrictions

A. Political parties: legal framework

1. Definition of political parties

"The Law defines a political party as *"a non-commercial legal entity established by the citizens of the Republic of Azerbaijan in accordance with this Law in order to participate in the political life of the country and the expression of the political will of the citizens"* (Article 1.1.1). This definition is in line with the standard definition of a political party as *"a free association of individuals, one of the aims of which is to express the political will of the people, by seeking to participate in and influence the governing of a country, inter alia, through the presentation of candidates in elections"*. The legal definition reflects that political parties are a special category of associations, as their purpose and function is to take part in elections and constitute the elected body of government of a country. This inherently political role renders political parties crucial for any functioning democracy."

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §23.

"Article 4.1 of the Draft Law provides a definition of a political party as a *"voluntary association of citizens who regularly and freely expresses the political will of the citizens, participates and represents the people in elections by formulating national policies, takes collective decisions, and is collectively responsible"*. The reference to the *"collective responsibility"* is rather unclear as this could refer to the citizens' collective responsibility when working together in favour of a particular political platform, or to the responsibility of the party as a legal entity for the decisions it makes and activities it implements or to the (potentially criminal) responsibility of the political party for the individual acts of one of its officials or of individual members."

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §30.

2. Relevant rights

"Additionally, states must respect and ensure respect for other fundamental rights belonging to political parties and their members, including freedom of expression and opinion, and the right to assemble and demonstrate."

[CDL-AD\(2025\)032](#) Amicus curiae brief for the Inter-American Court of Human Rights on democracy as a human right, as a means for social, political and economic development and the effective exercise of human rights, or as both, §79.

"Article 4.9 of the Law appears to limit the right to freedom of expression of political parties by stating that *"[a] political party does not have the right to speak on behalf of the entire nation"*

and appeal on behalf of the entire nation". It must be stressed that according to international standards political parties have the right to participate in political and public debate, regardless of whether the position taken by them is in line with government policy or advocates for legal or societal change or is unpopular or offensive to some groups. Although it is legitimate to aim to delineate the distinction between political parties and state institutions, this provision should not be interpreted as limiting the right to freedom of expression of political parties and their members."

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §28.

"The rights to free association and free expression are fundamental to the proper functioning of a democratic society. Political parties, as collective instruments for political expression, must be able to fully enjoy such rights. Fundamental rights afforded to political parties and their members are found principally in Articles 19 and 22 of the International Covenant on Civil and Political Rights (hereinafter "ICCPR"), and in Article 10 and 11 of the European Convention on Human Rights (hereinafter "ECHR"), which protect the rights to freedom of expression and opinion and the right to freedom of association respectively.

Moreover, Article 25 of the ICCPR provides individuals with the right to take part in the conduct of public affairs, either directly or through freely chosen representatives. Article 25 also guarantees the right to vote and to be elected at genuine periodic elections by universal and equal suffrage, guaranteeing the free expression of the will of the electors. The right to free elections, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature is likewise set out in Article 3 of Protocol 1 to the ECHR."

[CDL-AD\(2021\)008](#) Georgia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on amendments to the Election Code, the Law on Political Associations of Citizens and the Rules of Procedure of the Parliament, §§24-25.

B. Establishment and registration of political parties

1. Registration of political parties

Requirement for registration

"Some countries require the registration of political parties for certain purposes, such as to acquire legal personality, to allow parties to participate in elections, and to receive certain forms of state funding. This requirement does not represent a violation of the right to free association."

[CDL-AD\(2025\)032](#) Amicus curiae brief for the Inter-American Court of Human Rights on democracy as a human right, as a means for social, political and economic development and the effective exercise of human rights, or as both, §80.

See also: [CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §§44 and 54; [CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §§41.

Substantive registration requirements and procedural steps

"[...] substantive registration requirements and procedural steps for registration should be reasonable and be carefully drafted to achieve legitimate aims necessary in a democratic society. At the outset, the Venice Commission and ODIHR reiterate their position expressed in previous opinions that two-step processes for the establishment of political parties, beyond

increasing the complexity of the registration process, do not generally promote political participation and political pluralism. Such a lengthy and cumbersome process may also preclude some political parties from participating in elections, a concern further exacerbated by the requirement to re-register.

[...] The combined effect of the lengthy procedure of registration, the denial of registration based on minor formal deficiencies, and the prohibition for unregistered parties to “operate” as such, without guaranteeing the right to participate in the political life of the country otherwise than through direct participation in the elections, might actually prevent certain political forces from being able to take part in the political life, thus again limiting political pluralism rather than strengthening it. Consequently, the Venice Commission and ODIHR recommend revising the strict prohibition in Article 4.7 of the Law.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §44 and 56.

“The Draft Law seeks to describe in great detail the different steps to be followed to establish a political party as well as the timeframe for collecting signatures and the procedure for verifying such signatures, with the methodology applied by the [General Election Commission] GEC (Articles 14.3 and 14.4). At the same time, overall, the procedure appears rather long and overly complicated, and renders rather cumbersome the process of party formation and registration, thereby potentially restricting the right to freedom of association. [...] It is recommended that the registration process is simplified, for instance by removing the provisions concerning the process and stages of formation of a political party and simply listing the required documents and information to be submitted for registration.

Moreover, certain of the formation and/or registration requirements appear rather cumbersome. For instance, the obligation for participants to the public meetings to submit their names, ID and contact details to the working group (Article 11.5) seems excessive, especially if they are only attending to find out what the prospective party is about but not necessarily for ultimately becoming a member of such a party. Also, some of the supporting documents to be submitted for registering a political party may appear unreasonable. Requiring that the party’s platform and ideology be finalized at the first founding meeting might be cumbersome (Article 12.6.1). Additionally, regardless of when the party has a chance to finalize its platform, there is no reason for the state to require the inclusion of the party’s platform at the time of applying for registration as a political party (Article 13.3.4), as the decision on registration of the party should not be contingent on the content of the party’s platform. This issue should be left to the political party to decide internally.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §43, 45.

Information required, including name and symbols of a political party

“A new provision in the Law on Political Parties (Article 4(6)) provides that the attributes of political parties declared unconstitutional (name, symbol, logo, etc.) may not be used by other political parties and electoral subjects. Using such attributes will result in refusal to register the political party by the Public Service Agency or refusal to register the electoral subject by the competent electoral body. While a prohibition on use of the attributes of a banned political party may not, as such, breach any international standard, the automatic refusal to register a political or electoral subject for use of such attributes is disproportionate in light of the nature of the act. Alternative remedial measures, such as warnings and a range of fines would be in line with the proportionality principle as applied to such conduct.”

[CDL-AD\(2023\)031](#) Republic of Moldova - Joint Opinion of the Venice Commission and ODIHR on amendments to the Electoral Code and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, §54.

“Under Article 10, a political party must have a name encompassing the word party, which may be too prescriptive. It can have an abbreviated name and certain symbols. The name, the abbreviated name and the symbols need to be different from those used by other parties. This regulation is in line with the Joint Guidelines which make it clear that “the regulation of party names and symbols to avoid confusion, especially with other parties, is an important means to enable the state to ensure a duly informed electorate that is able to exercise a free and conscious choice.”

Article 10.3 prohibits the name, abbreviated name and symbols of a political party to refer to racial, religious, origin, gender, ethnic characteristics, as well as to use the names of natural persons. This regulation is somewhat unusual in the European context and seems to be, in reality, directed against the creation of political parties based on the enlisted characteristics. While there might be good reasons to prohibit the establishment of political parties based on certain problematic grounds (such as race or exclusive feature of ethnicity), it is less clear why it should not be possible to establish a political party based on some of the other grounds. Targeting more specifically a certain electorate does not necessarily mean promoting racial, religious, origin, gender, ethnic and other discrimination (Article 4.3.2), which is rightly prohibited. Furthermore, the Venice Commission and ODIHR stress that legislation restricting the use of certain names and symbols needs to be drafted with utmost care and needs to be sufficiently clear and foreseeable in order to comply with the principle of legal certainty. Having a blanket prohibition on the name of a party on an ethnic group, a religion or other component may indirectly discriminate certain religious, ethnic or other groups and would be contrary to the principles of freedom of association, freedom of expression and non-discrimination. The Venice Commission and ODIHR recommend removing those blanket prohibitions from Article 10.3 of the Law and ensuring freedom of expression and participation of ethnic, religious and minority groups.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §§75-76.

“The Draft Law also contains a number of limitations concerning the naming of a political party. Article 6.1 of the Draft Law requires that the name of a political party shall include the general term “party” at the end, which may be too prescriptive. Further, Article 6.6 of the Draft Law provides that in case of deregistration, reorganisation by merger or change of name, a newly established party or other parties are prohibited from reusing the names/abbreviated names, symbols and flags of such party for 12 years. While there may be local circumstances that may justify such duration, the length of this restriction appears very long and therefore too restrictive. Moreover, Article 24.3 provides that the reorganised party following a merger may use the name of one of the parties to the merger as the name of the newly established party. This provision seems to contradict Article 6.6 of the Draft Law. It is therefore recommended to the drafters to reconsider such limitations and ensure consistency.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §40.

“The requirement to adopt the party charter at the founding meeting is not inherently illegitimate, provided that it is not used to unfairly disadvantage or discriminate against any political party, especially those espousing unpopular ideas. In contrast, the mandatory adoption of the party programme at this early stage appears rather burdensome. The Venice Commission and ODIHR have already stated that such a regulation requiring that the party’s programme and ideology be finalised at the first founding meeting might be cumbersome, that

there was no reason for the state to introduce such requirements at the time of applying for registration as a political party, and that this issue should be left to the political party to decide internally.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §40.

Moreover, the obligation for a political party to publish and/or broadcast information about its registration within three days of registration (Article 6.5) also appears overly intrusive and the publication in the register should be enough to inform the public. [...]

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §46.

Deadlines

“According to the Venice Commission and OSCE/ODIHR, deadlines for deciding registration applications should be reasonably short, to ensure the effective realisation of the right of individuals to associate. Decisions on registration should be taken in a politically neutral way; at the very least, political parties should have the right to appeal adverse decisions before a judicial body. In case of denying party registration, grounds must be clearly stated in law and based on objective criteria.”

[CDL-AD\(2025\)032](#) Amicus curiae brief for the Inter-American Court of Human Rights on democracy as a human right, as a means for social, political and economic development and the effective exercise of human rights, or as both, §80.

“The Venice Commission and ODIHR also recommend adequately extending the 30-day deadline for submitting the charter, the programme and the protocol to the Ministry of Justice. A restrictive timeline can have a negative effect on the establishment of a political party in which the members of the party are involved by participating in a democratically organised debate, which may take some time.

On the other hand, the term reserved for the verification of the documents – which only implies formal checking of the number of founders and the content of the minutes of the founding meeting – seems unreasonably long. The Joint Guidelines note that deadlines that are overly long constitute unreasonable barriers to party registration and participation, and that the 30 days period appears to be a reasonable maximum deadline for decisions by state authorities on party establishment and registration. The Law however reserves this period (of 30 days) for a preliminary verification which is only then followed by the registration procedure (with its own terms). This regulation risks turning the whole procedure into quite a lengthy one. The Venice Commission and ODIHR therefore recommend shortening the timeframe reserved for the formal verification by the Ministry of Justice under Article 5.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §§41-42.

“Article 15.8 of the Draft Law prevents the submission of an application for registration of a political party during the 90 days preceding the State Great Hural election. It is noted that Article 26.1 of the Law on Parliamentary Elections provides that political parties shall submit a request to participate in the parliamentary elections to the GEC at least 60 days before the election day. There should not be time limits in the Draft Law on the registration as a party and on the suspension of the deadlines specified in Articles 14.1 and 15.1 once the registration is submitted (Article 15.8 of the Draft Law). Indeed, there is no reason to limit the right of individuals to associate during the election period.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §44.

Grounds for denying party registration

“Under Article 6 of the Law, the application for registration is submitted to the determined body, which is again the Ministry of Justice, by the authorised person no later than 10 days after the expiration of the period of 180 days reserved for ensuring the adequate number of members and compiling the register of members. Failure to meet these deadlines or to submit the register “*causes the process of establishing of political party to be restarted*” (Article 6.3). This is a very strict rule; the Venice Commission and ODIHR recommend making it clear that this rule should only be applied in case of serious failure on the side of the political party, which should be specified in the law in order to avoid arbitrary application.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §45.

“It also contravenes the autonomy of political parties that the mere failure to submit within 30 days amendments introduced in a party statute as well as decisions on appointing a party leader to the GEC (Article 16.3) may serve as grounds for refusal to register the amendments or the new leader of a party.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §53.

“[...] The Electoral Commission of Malta may refuse to register a political party if it considers its purposes obscene or offensive. A similar provision appears concerning its emblem (...) According to the European Court of Human Rights’ case-law, the “mere expression of a disturbing or offensive idea” is protected under the Convention, and therefore should not be used as a ground to dismiss an application to register a political party.”

[CDL-AD\(2014\)035](#) Joint Opinion on the Draft Act to regulate the formation, the inner structures, functioning and financing of political parties and their participation in elections of Malta, §19.

2. Minimal membership requirement

Thresholds

“Article 5 regulates the establishment of a political party. A party is founded by at least 50 Azerbaijani citizens (founders) who shall be “fully functional” (para I). While the 1992 law did not require any specific number of founders, the figure of 50 does not seem unreasonable or excessive, though it is understood from the information gathered during the online meetings that some founders may at times be prevented by the authorities from organizing such founding meetings. [...]

The number of members required for the state registration of a new political party is newly set up at 5,000. This is a sharp increase in comparison to the 1992 law which only required 1,000 members. Such an increase was already contemplated in the past, when the amendments to the 1992 law were drafted in 2011. The Venice Commission then noted that “*the new threshold seems to be formidably high and put a burden on citizens trying to exercise their rights under Article 11 of the ECHR which is potentially restrictive and as such would be disproportionate and not necessary in a democratic society. It seems a large threshold particularly for a new party*”. This conclusion applies to the new law as well. As the Joint Guidelines note, it is critical that the minimum number of members required to establish a party is reasonable and not overly burdensome. While an increase in the number of members required for the state

registration is, as such, not necessarily incompatible with international standards, the increase foreseen in the new law is quite dramatic (increase by 400%) and the motives for it have not been specified. The Venice Commission and ODIHR repeat the conclusion reached in the previous opinions that a figure of 1,000 in a country of a population of eight million is a reasonable number but the figure of 5,000 is problematic.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §§38 and 47.

“[...] At first glance the sequence of thresholds of not fewer than 50, 500 and 5000 individuals may appear as good as any other. However, closer inspection reveals, that these thresholds will be obstacles which would be very difficult or simply impossible to overcome. [...]

In this context the question could be asked whether and to which extent there will be public support for a newly founded political party. But to find an answer to this question should not be a matter for a court of law in registration proceedings. Instead, it should be left to the electorate to decide, whether public support is forthcoming.

Therefore, thresholds of not fewer than 50, 500 and 5000 individuals are questionable. Probably they are far too high and should be reconsidered.

[CDL-AD\(2008\)034](#) Opinion on the Draft Amendments to the Law on Political Parties of Bulgaria, §§14, 17-18.

De-registration of political parties due to low membership

“It would be contrary to the freedom of association to dissolve a party, for example, when its membership falls below a certain threshold. As emphasised in the Joint Guidelines, de-registration for lack of minimum support should not result in the dissolution of the party. It can be envisaged to end the registration of such a party, but it should be provided with reasonable amount of time to address the issue and in any case, be able to continue its existence as a non-registered political party or association and strive to grow again. The forced dissolution of a “long-established and law-abiding” party based on a formal ground, such as the failure to comply with minimum membership requirements, has been held to be a disproportionate measure by the ECtHR.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §73.

“[...] It seems [...], for example, indefensible to require a party to dissolve itself when its membership falls below a certain threshold. [...] this is contrary to the right of freedom of association and cannot be regarded as necessary in a democratic society. Nor would such a forced dissolution appear to be consistent with the provisions of the European Convention on Human Rights and the Venice Commission’s guidelines.”

[CDL-AD\(2002\)028](#) Opinion on the draft law on political parties and Socio-Political organisations of the Republic of Moldova, §28.

3. Requirements for retention of registration

“Once party registration is approved, requirements for retaining it should be minimal. Loss of registration should be limited to cases of serious legal violations and carried out according to clearly defined procedures. The Joint Guidelines on Freedom of Association also underline that re-registration should only be required in exceptional cases where significant and

fundamental changes are to take effect and a sufficient transitional period should be provided to enable the associations to comply with the new requirements.

The Venice Commission and ODIHR note that the Law makes all registered political parties undergo re-registration based on the new requirements introduced in Articles 5 and 6. It will certainly be difficult for some parties to raise the number of members by several times within mere 180 days. The terms reserved for the verification by the Ministry of Justice are also again quite lengthy. All these factors place the registered political parties under strain and create the risks of negatively affecting political pluralism and even paralysing, at least temporarily, the political life in the country. The Venice Commission and ODIHR recommend reconsidering entirely the requirement to re-register. In any case, the length of the transitional period should be considerably increased and the loss of registration of already registered parties should be limited to cases of serious legal violations.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §§53-54.

“The requirement to regularly contest national (parliamentary) elections in order not to be considered inactive, and ultimately dissolved is problematic. In practical terms, this means that a political party based at a regional or local level only would be dissolved after ten years (two consecutive parliamentary terms followed by two years of inactivity). This constitutes a disproportionate restriction, which may also have discriminatory effects against parties enjoying regional or local support, smaller parties and parties representing national minorities.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §68.

4. International communication and co-operation

“Parties are free to cooperate with political parties from other countries, sign agreements with them or become members of international alliances of political parties. The formal activities have to be reported to the Ministry of Justice within 30 days. The Venice Commission and ODIHR cannot see a justifiable reason for the state to obtain such information. The obligation of a political party to inform the state body on international cooperation carries the risk of excessive state control over the operation of the party and should be removed from the Law.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §80.

“Article 7.1.7 of the Draft Law specifies the scope of the international activities of political parties i.e., “to establish contacts with political parties and international organisations of other countries”. This appears rather restrictive. As emphasized in the 2020 Joint Guidelines, limitations on the interaction and functioning of political parties at an inter-state level are unjustifiable and contrary to good practice, and should be avoided in all relevant legislation. Generally, associations, including political parties, should be able to communicate freely and co-operate with similar associations at the international level. In addition to what is provided in Article 7.1.7 of the Draft Law, some other potential international activities could also be considered, such as the possibility to become members of international party organizations.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §58.

C. Limitation of political parties' activities, their prohibition and dissolution

1. Limitation or suspension of a political party's activities

"Limitations imposed on political parties' impact not just the party but also its members' electoral rights, as well as citizens at large: if a party's activities are limited or the party is dissolved, its members might be deprived of a vehicle to run in elections and, in turn, citizens may be deprived of the full range of political choices."

[CDL-AD\(2026\)006](#) 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, §47

"The Moldovan legislation envisages a step-by-step procedure with a view to address irregularities in the activity of a party which may first lead to temporary limitations of their activity: only if, following a requirement of the Ministry of Justice to take measures to cease the actions or inactions referred to in Article 21(1) and (11) and to inform the Ministry about the measures taken and about the elimination of the respective violations, the governing body of a political party has not fulfilled it within 30 days, the Ministry can request that the activity of the political party is suspended, for up to 6 months. Whereas the recently adopted amendments now allow the Ministry of Justice to apply directly to the Court without prior warning, this possibility is limited to those cases in which the actions or inactions under Article 21(1) and (1¹) threaten sovereignty, security or public order, accompanied by a list of aggravating factors (paragraph (3¹) a)–f)), namely:

- "a) actions to undermine electoral processes;
- b) disinformation campaigns, incitement to hatred, propaganda of military aggression, messages with extremist content, with terrorist content or that otherwise pose a threat to national security;
- c) acts of large-scale corruption of voters;
- d) illegal financing or illegal provision of services or material values to the political party or its electoral competitors;
- e) actions to launder money or introduce into the country, systematically and illegally, financial means for current or electoral activities of the political party;
- f) actions to plan, coordinate, support violent actions."

In this context, the Venice Commission finds that the measures foreseen in the examined provisions do not conflict per se with Articles 10, 11, and 17 ECHR."

[CDL-AD\(2026\)006](#) 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, §§35-36.

"Article 8 regulates the suspension of the activities of a political party, which can take place either upon the decision of the congress of the political party or upon a court decision. In the two cases, suspension of the activities is, by its very nature, temporary and can result either in the restoration of the activities, or the (final) dissolution of the party. There is no specific time limit in case of voluntary suspension, the involuntary suspension may last for a period from two to six months. It would be useful to indicate some criteria determining the length of the suspension period in concrete cases.

Suspension upon a court decision takes place if the political party fails to report violations determined by the Ministry of Justice in a warning and to inform it within the period indicated in the warning (Article 8.3). During the suspension period, the party may not operate. Another 30-days term running from the end of the period of suspension is foreseen for redress by the party, followed by the usual 30 days reserved for the verification of the submission by the

Ministry of Justice (Article 8.7). Only if such verification reveals no deficiencies, are the activities of the political party fully restored. If the party fails to redress the violation or to inform about the redress within the 30-day term, the Ministry of Justice shall file a claim for its dissolution (Article 8.9)."

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §§62-63.

"[...] even if inactive, the parties should be able to participate in elections and should not lose the basic rights awarded to all associations and this should not affect their continued existence as an association. Hence, the prohibition of the party to participate in elections if it is considered inactive, but not dissolved, should be reconsidered entirely."

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §70.

2. Prohibition and dissolution of political parties

General principle

"Prohibition or dissolution of a political party is a serious interference and should be regarded as exceptional measures to be applied in cases where the party concerned uses violence or threatens civil peace and the democratic constitutional order of the country. Thus, the competence of state authorities to dissolve a political party or prohibit one from being formed should concern exceptional circumstances, must be narrowly tailored and should be applied only in extreme cases. Legislation should specify narrowly formulated criteria, describing the extreme cases in which prohibition and dissolution of political parties is allowed. Even where such reasons for prohibition or dissolution are listed in legislation, it is important to note that prohibition is only justified if it meets the strict standards for legality, subsidiarity and proportionality."

[CDL-AD\(2025\)032](#) *Amicus curiae* brief for the Inter-American Court of Human Rights on democracy as a human right, as a means for social, political and economic development and the effective exercise of human rights, or as both, §81.

"The law should specify narrowly formulated criteria, describing the extreme cases in which prohibition and dissolution of political parties is allowed. Prohibition is only justified if it meets the strict standards for legality, subsidiarity and proportionality. The Venice Commission provided a detailed overview of the legal standards applicable to the dissolution of political parties and the actual practice in this area in its 2009 Opinion on the Constitutional and Legal Provisions relevant to the Prohibition of Political Parties in Türkiye. The opinion concluded that although there is a diversity of national regulations, dissolution must always be treated as an exceptional tool that is, moreover, virtually never resorted to in practice."

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §71.

"At the outset, the Commission would like to clarify that universal and regional human rights instruments and the case law of the ECtHR recognise that there are valid reasons for restrictions on the freedom of association such as national security and public safety (including measures intended to counter terrorism and violent extremism), the prevention of disorder or crime and the protection of the rights and freedoms of others. Therefore, in principle, the Venice Commission accepts the right of the state authorities, under certain conditions, to prohibit, dissolve or impose analogous restrictive measures against political parties.

Taking into consideration the fundamental role of political parties in the functioning of a pluralist democracy, the Venice Commission has underlined in its opinions the importance of some key principles concerning the prohibition or dissolution of political parties: (1) the exceptional nature of prohibition or dissolution to be used only as a means of last resort (2) the proportionality of the dissolution or prohibition in relation to the legitimate aim pursued and (3) the necessity of dissolution in a democratic society and 4) prohibition or dissolution of political parties only through independent court proceedings in which the principles of fairness, due process and openness are guaranteed.

In its previous opinions, the Commission has held that the dissolution of a political party shall only be used as a means of last resort and only after all less intrusive legal instruments available have been utilised. In this context, the Commission recommends that state authorities, when addressing non-compliance with laws and regulations, should make use of a broad spectrum of available sanctions which are limited in scope and dissuasive in nature.⁴¹ Only when the legitimate aim pursued cannot be reached using less restrictive means of regulation, dissolution may be applied as an instrument of last resort.”

[CDL-AD\(2022\)051](#) Republic of Moldova - Amicus curiae brief on declaring a political party unconstitutional, §§33 and 35-36.

“A main point when comparing national rules on party closure is that as regards the legal (formal) regulation, there is no common European model, but rather “considerable diversity” – reflecting different constitutional traditions, differences in history, context and social and political conditions. A number of states have no rules on party closure at all and manage well without. Those states that do have rules on the prohibition of parties have regulated this very differently, both in form, procedure and substance.

On the other hand, there is a clear common European approach in that there is a common democratic legacy that political parties are *not* prohibited and dissolved. Even in states with seemingly wide rules on party closure there is “extreme restraint” in how these rules are applied. The threshold for actually applying (or even invoking) these rules is extremely high. The very few examples to the contrary only serve to confirm this common legacy.

This practice demonstrates a clear common European approach to the classic “liberal dilemma” of how a democracy should respond to those forces that threaten it – namely by way of open debate and through democratic channels. There is a common practice for allowing parties which advocate fundamental changes in the form of government, or which advocate opinions that the majority finds unacceptable. Political opinions are not censored by way of prohibition and dissolution of the political party concerned, while illegal activities by party members are sanctioned through the ordinary criminal law system. [...]

In those states which have specific provisions on party closure, these are usually the result of historical factors – but even there the provisions are hardly ever invoked. Even in those states, where the constitution formally provides for relatively wide rules on party dissolution, these rules do not appear to form part of the operative and “living” constitution, but are rather a passive safety valve, which might serve a function by its mere existence, but which is rarely if ever actually invoked.”

[CDL-AD\(2009\)006](#) Opinion on the Constitutional and Legal Provisions Relevant to the Prohibition of political parties in Türkiye, §§17-19 and 22.

Legitimacy of aims

“By means of Article 4.3 it is not allowed to establish or operate parties for the following purposes: forcible change of the constitutional structure, fragmentation of territorial integrity,

seizure or retention of power by force, open calls for mass riots, terrorism; promotion of terrorism, religious extremism, violence and cruelty, as well as racial, religious, origin, gender, ethnic and other discrimination, as well as actions contrary to the protection of health and the environment; and incitement of racial, religious or ethnic enmity.

Some of the purposes indicated in Article 4.3 contain the element of violence in one form or another and, as such, the prohibition of parties pursuing such purposes is compatible with Article 11 of the ECHR and Article 22 of the ICCPR. Some other purposes, however, are drafted in a more cryptic manner and do not necessarily include elements incompatible with fundamental democratic principles. In any case, any ground for prohibition needs to be narrowly construed. This is so for “fragmentation of territorial integrity” (para 4.3.1) and “actions contrary to the protection of health and the environment” (Article 4.3.2). The broad reference to “open calls for mass riots”, might also be abused to unduly restrict the right to freedom of peaceful assembly – bearing in mind that the peaceful intentions of organisers and participants in an assembly are to be presumed, unless there is convincing evidence that they themselves intend to use or incite imminent violence.

Furthermore, the reference in Article 4.3.2 to the “promotion of terrorism” is inherently vague and would benefit from further clarification. Under international human rights law, such actions should only be prohibited if they: (a) expressly refer to the intent to communicate a message and intent that this message incite the commission of a terrorist act; and (b) are limited to the incitement to conduct that is truly terrorist in nature; and (c) include an actual (objective) risk that the act incited will be committed; and (d) preserve the application of legal defences or principles leading to the exclusion of criminal liability in certain cases. The “incitement of racial, religious or ethnic enmity” (Article 4.3.3) should similarly be given a restrictive interpretation and only concern organisations that intent to incite imminent violence, if there is a likelihood of such violence and a direct and immediate connection to such violence.

Finally, the reference to “*religious extremism*” as ground for refusing the establishment or for dissolving a political party also raises concerns. It is noted here that there is no consensus at the international level on a normative definition of “*extremism*”. Several international bodies including the ODIHR and the Venice Commission have raised concerns pertaining to “*extremism*”/“*extremist*” as a legal concept, given the vague and imprecise nature of such a term, particularly in the context of criminal legislation. In practice, the vagueness of this term may allow states to adopt highly intrusive, disproportionate and discriminatory measures, as demonstrated by the findings of international human rights monitoring mechanisms, which point to persistent problems, in particular, the abuse of measures to counter so-called “*extremism*” to restrict the legitimate exercise of the rights to freedom of religion or belief, expression, association, and peaceful assembly.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §§32, 34-36.

See also: [CDL-AD\(2018\)025](#) Tunisia. Opinion on the draft institutional law on the organisation of political parties and their funding, §63. [CDL-AD\(2009\)006](#) Opinion on the Constitutional and Legal Provisions Relevant to the Prohibition of political parties in Türkiye, §§23-25 and 28.

“The Law specifies that a political party cannot pursue “*racial, religious, origin, gender, ethnic and other discrimination*” (Article 4.3.2). This provision should not be understood as preventing the establishment of political parties promoting the rights and political participation of national minorities, religious or belief communities or promoting related identity.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §28.

See also: [CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §32.

“On the issue of alleged criminality of party leaders, representatives in parliament and members of a party, guideline 4 in the Guidelines on the Prohibition and Dissolution of Political Parties and Analogous Measures states that “*A political party as a whole cannot be held responsible for the individual behaviour of its members not authorised by the party within the framework of political/public and party activities.* For the dissolution to be justified as a lawful restriction, it must be shown that it was the party’s statutory body (not individual members) or the de facto leadership that set objectives or authorised activities justifying such dissolution.

Furthermore, the Commission notes that guideline 4 affirms the principle that the responsibility for criminal behaviour should generally remain at individual level and the party, as an entity should not be held responsible for its members’ isolated actions, especially if such actions are contrary to the party constitution or party activities. The guideline refers to situations when the criminal behaviour of individual members is incidental and not of such a pervasive and/or recurring nature that it may, under certain conditions, justify harsh measures. Only where a party as such is a habitual offender with regard to legal provisions and makes no effort to correct its behaviour, restrictive measures such as dissolution or loss of registration may be called for.⁵⁹ Clandestine methods of political party financing from a foreign country might then, not in themselves, but in combination with other activities such as illegal or subversive activities funded through such unauthorised sources, justify harsher measures, including prohibition.

[...] In assessing which actions of a party and/or party leadership would justify its declaration as being unconstitutional in the context of the Republic of Moldova, the Venice Commission cannot replace the Constitutional Court. It finds itself unable to formulate all hypothetical scenarios going against pluralism, rule of law, sovereignty, independence, and territorial integrity which would justify the dissolution of a party in conformity with the Constitution and international standards. The Commission does not have detailed information on the multiple legal proceedings against party leaders and members which may be at various stages in different competent courts/institutions. The Constitutional Court is in a better position to assemble and evaluate all the relevant facts, in particular the objectives and activities of political parties, and to weight them in a judgment on their constitutionality.”

[CDL-AD\(2022\)051](#) Republic of Moldova - *Amicus curiae* brief on declaring a political party unconstitutional, §§43-44, 62.

“It may appear disproportionate that the mere inactivity for two years may trigger the dissolution of the political party, i.e., simply on the basis of non-contestation in parliamentary elections for two consecutive terms or mainly administrative reasons (delay in submitting financial reports or the absence of meetings of its governing bodies). Indeed, there may be a variety of reasons for a political party not to contest parliamentary elections, including for instance situations where local/regional political parties participate in other (sub-national) elections but not national ones. When it comes to the non-submission of financial statements, dissolution might be an appropriate sanction but only as a last resort and if other lesser sanctions, timed with appropriate and reasonable deadlines, are not effective in practice.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §74.

“Article 16.4 of the Draft Law further states that “[t]he charter and platform of a party shall not contradict the main structure and the fundamental principles of the Constitution”. As emphasized in the 2020 Joint Guidelines, “the law should not forbid a political party from advocating a change to the constitutional order of the state, as long as the means used to that

end are legal and democratic, and the change proposed is in itself compatible with fundamental democratic principles". Moreover, "the mere fact that a party advocates a peaceful change of the constitutional order or promotes self-determination of a specific people is not sufficient per se to justify a party's prohibition or dissolution". The party programmes may be incompatible with the current principles and structures of a given state, but may still be compatible with the rules of democracy, as it is "the essence of democracy to allow diverse political programmes to be proposed and debated, even those that call into question the way a State is currently organised, provided that they do not harm democracy itself". Consequently, a political party must be able to promote a constitutional change on two conditions: firstly, the means used to that end must be legal and democratic; secondly, the change proposed must be compatible with fundamental democratic principles. In light of the above, the generic reference to the "fundamental principles of Constitution" provided in Article 16.4 of the Draft Law may result in unjustified limitations of the rights to freedom of association, freedom of expression and to political participation and should be reconsidered."

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §56.

3. Successor parties of prohibited political parties

"Article 3(1²) of the Law on Political Parties provides a list of circumstances that "shall be taken into account" for the determination of the status of a successor political party of a political party declared unconstitutional. 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). The list 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 requires that these aspects are compared to the elements that were at the basis of the declaration of unconstitutionality of the previous party (Art. 3(1²)(7)). [...]

The Venice Commission finds that these criteria are objective. [...] However, whether these criteria are compatible with the right to be elected and with the freedom of individuals to associate in political parties, particularly from the perspective of foreseeability, will depend heavily on how they are applied in practice. If the law is interpreted as allowing the classification of a party as a "successor" based on any single criterion, without requiring a substantial nexus or functional continuity, the criteria may become too broad and subject to arbitrary application. This may dissuade new parties from forming or from accepting former members of dissolved parties, undermining political pluralism. There is also a risk of being used arbitrarily against legitimate parties. On the other hand, if the criteria are too strict and mechanistic, the criteria may be rendered ineffective in fulfilling the law's objective, with the result that political parties declared unconstitutional could re-establish themselves and distort the genuine democratic debate. [...]

determining the continuity of two political actors requires a careful assessment of multiple factual circumstances and should be conducted on a case-by-case basis. For this contextual and fact-based assessment, a number of concurrent indicators should be taken into account. Therefore, the Venice Commission considers that the criteria set out in Article 3(1)–(13) of the Law are objective criteria to determine the status of a successor political party as long as the list of the circumstances provided by the Moldovan legislation is interpreted holistically. On the one hand, it is not enough that one of the listed circumstances occurs to prove the continuity. On the other hand, neither is it necessary that all the circumstances concur to provide evidence of continuity. Depending on the context, some of the criteria may be fulfilled, others not."

[CDL-AD\(2026\)006](#) 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, §§24, 26, and 28.

“However, and this is the issue at stake here, Article 22(2)(f) prescribes dissolution of a so-called successor party as the sole measure/sanction for such parties. Dissolution can therefore follow if the court finds that a party continues or resumes the activities of a party declared unconstitutional. As concerns successor parties, therefore, the issue is first whether the declaration of a party as unconstitutional *ipso iure* extends to a party which can be considered to be its successor and, second, whether in those cases dissolution is the only adequate measure/sanction.

Limitations to freedom of association, especially when they amount to the dissolution of an organisation, must comply with the above-mentioned requirements [...], including the principle of proportionality. 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 program or methods. [...]

A separate question arises as to whether the dissolution of a political party is the sole measure available to the State when dealing with a party regarded as the successor of a political party declared unconstitutional. In the opinion of the Venice Commission, providing for the dissolution of a political party as the necessary consequence of determining its successor status is at odds with the principle of proportionality, which requires that such serious measures as the dissolution of a political party be adopted only when there are no other means of achieving the same aims that would interfere less seriously with the right to freedom of association.

[CDL-AD\(2026\)006](#) 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, §§37-38 and 44.

“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. 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.”

[CDL-AD\(2026\)007](#) Republic of Moldova - Opinion on Law no. 100/2025 containing a set of legislative amendments aiming to combat electoral corruption, §51.

“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(1¹) 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.

[CDL-AD\(2026\)007](#) Republic of Moldova - Opinion on Law no. 100/2025 containing a set of legislative amendments aiming to combat electoral corruption, §58.

4. Consequences for individuals linked to prohibited political parties

“the Venice Commission and ODIHR consider that a clear distinction has to be drawn between the political parties that have been prohibited and dissolved and the rights of individuals who militate or have militated within that political party. The prohibition of the party should not directly affect the rights of all these individuals.”

[CDL-AD\(2023\)049](#) Republic of Moldova - Joint *amicus curiae* brief of the Venice Commission and ODIHR on the ineligibility of persons connected to political parties declared unconstitutional, §29.

See also: [CDL-AD\(2023\)048](#) Republic of Moldova - Joint Follow-up Opinion of the Venice Commission and ODIHR to the Joint Opinion on amendments to the Electoral Code and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, §36; [CDL-AD\(2023\)031](#) Republic of Moldova - Joint Opinion of the Venice Commission and ODIHR on amendments to the Electoral Code and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, §44; [CDL-AD\(2023\)025](#) Ukraine - Joint opinion of the Venice Commission and ODIHR on the draft law amending certain legislative acts of Ukraine which restrict the participation in the state power of persons associated with political parties whose activities are prohibited by law, §40.

“the criteria set in the amendments for imposing the limitation on the right to stand are not always adequately legally defined: in particular, the four sub-items of Article 16(2)(f) refer to behaviours which have been mentioned (or considered) “as an argument in the decision of the Constitutional Court on the declaration of the unconstitutionality of the political party”. This formulation appears as excessively broad and vague.

In relation to the first sub-item, with respect to convicted individuals, it is also important to note that Article 16(2)(c) already deprives those sentenced to imprisonment (deprivation of liberty) by final court decision or those who were sentenced for deliberately committing crimes from the right to stand as candidate. In addition, Article 16(2)(d) of the Electoral Code read together with Article 65 of the Criminal Code of the Republic of Moldova already provide the possibility for a court to deprive a convicted individual of the right to occupy certain functions, as principal or complementary penalty. This means that these provisions overlap or potentially duplicate with part of Article 16(2)(f), which may create confusion detrimental to the principle of legal certainty and foreseeability.

Moreover, the second sub-item of Article 16(2)(f) broadly refers to the exclusion from previous elections and does not set the period of time during which the exclusion from previous elections for violation of the electoral legislation would be considered. Moreover, the provision does not mention the type of violations, the intentionality and the level of gravity necessary to justify such a general exclusion.

In addition, the law foresees ineligibility also in the case of introduction in the lists of individuals subject to international sanctions adopted by foreign States or organisations, outside of judicial procedures in the Republic of Moldova (third sub-item). International listing processes have been subject to criticisms due to the (frequent) lack of legal certainty, procedural inadequacies and due process deficiencies, and the fact that often, domestic implementing measures pertaining to persons on such list do not provide for access to judicial review of the said measures pertaining to persons on such list nor adequate minimum safeguards.

Finally, the catch-all formulation provided for by the fourth sub-item of Article 16(2)(f) (applying the restrictions to individuals who “have committed acts that, without falling expressly under the actions provided for in points 1)–3), have been mentioned as arguments considered in the decision of the Constitutional Court on the declaration of the unconstitutionality of the political party”) is rather vague and may cover a large variety of situations implying a possibility of arbitrary application of the restrictions. It does not define the evidence needed in order to prove that the persons in question have committed the action and does not allow their clear individualisation and of the alleged offences committed.

The Venice Commission and ODIHR therefore doubt of any sub-item of Article 16(2)(f) being in line with the principle of foreseeability, which is part of legal certainty.”

[CDL-AD\(2023\)049](#) Republic of Moldova - Joint *amicus curiae* brief of the Venice Commission and ODIHR on the ineligibility of persons connected to political parties declared unconstitutional, §§19-24.

See also: [CDL-AD\(2023\)048](#) Republic of Moldova - Joint Follow-up Opinion of the Venice Commission and ODIHR to the Joint Opinion on amendments to the Electoral Code and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, §§26-31.

“The restriction provided for in the Law has a broad application *ratione personae*, insofar as it would apply to the members of the executive body of a party declared unconstitutional and to members of such party who hold an elected office – at the time of pronouncement of the unconstitutionality by the Constitutional Court. The question has therefore to be raised whether that restriction constitutes a proportionate measure. The restriction applies automatically – without further assessment of the individual conduct by an independent and impartial body or decision of a court - on the sole basis of the party membership and holding of a specific position. The restriction also applies indiscriminately without distinguishing between party members who may have actively contributed to the illegitimate acts attributed to the political party, from those who were only performing neutral duties or were unaware of the potential unlawful acts committed by the party. This means that the restrictions on the right to be elected apply to a group of people, without an individualised assessment of their active involvement in the illegitimate activities of the prohibited parties.

[...] This leads in practice to a general, automatic and indiscriminate application of restrictive measures, thus going against the principles of proportionality and prohibition of arbitrariness guaranteed by Article 3 of Protocol 1 to the ECHR and other international treaties and standards in the field of elections.”

[CDL-AD\(2023\)031](#) Republic of Moldova - Joint Opinion of the Venice Commission and ODIHR on amendments to the Electoral Code and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, §§47-48.

“The issue of proportionality also needs to be examined in the context of the severity of the restrictive measures to be imposed on these persons. In this respect, as noted earlier, the European Court of Human Rights has made clear that an indefinite ban from running for political office is in any case a disproportionate measure. In one case, it held that increasing a 10-year legal restriction on being elected by an additional 10 years without justification given by Parliament or the Government was manifestly arbitrary. [...] In addition, applying a standardised measure to all concerned persons can itself be seen as a disproportionate measure in light of the fact that there may be varying levels of culpability for, and thereby threat from, individuals determined responsible for the actions that led to the banning of their party. As such, establishing a range of measures that are proportionately applied in an individualised manner would be more appropriate.”

[CDL-AD\(2023\)031](#) Republic of Moldova - Joint Opinion of the Venice Commission and ODIHR on amendments to the Electoral Code and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, §50.

See also: [CDL-AD\(2023\)025](#) Ukraine - Joint opinion of the Venice Commission and ODIHR on the draft law amending certain legislative acts of Ukraine which restrict the participation in the state power of persons associated with political parties whose activities are prohibited by law, §45.

“While the grounds relied on by the Ukrainian authorities and judicial bodies for banning or upholding the ban of the political parties may also, by extension be applicable to individuals seeking electoral office with the same illegitimate aims, the law proposes to render ineligible to be elected all individuals who have militated in such political parties for the sole reason of having held elective functions as MPs, local council members or village, town or city mayors under the banner of that party.

As appears from the case-law of the European Court of Human Rights and the Code of good practice in electoral matters, the principles of proportionality and prohibition of arbitrariness imply the individualisation of the measures taken. [...]

[...] The restriction on the right to be elected, in order to ensure a proper balance between the legitimate defence of democracy and the protection of individual political rights, must be limited to those persons who had an active participation, or, in an official or otherwise verifiable documented manner, expressly condoned, in the actions that led to the banning of the parties for instance, concretely endangering the democratic system of the country, territorial integrity or national security and must be assessed on an individual basis with adequate procedural safeguards, including the possibility to challenge the decision (see below). A preventive measure applied to these persons would be justified on the ground of such active participation or documented expression, since one may anticipate that they would continue to pursue or support illegitimate aims and therefore represent a threat.”

[CDL-AD\(2023\)025](#) Ukraine - Joint opinion of the Venice Commission and ODIHR on the draft law amending certain legislative acts of Ukraine which restrict the participation in the state power of persons associated with political parties whose activities are prohibited by law, §§41-42 and 48.

“In this regard the draft law would impose harsh measures on the MPs who belong(ed) to the suspended political parties, including members who may have left the party before its suspension. As outlined above, in fact, in the opinion of the Venice Commission the deprivation of the right to participate in: (a) plenary and solemn sessions of the Verkhovna Rada; (b) parliamentary hearings; (c) meetings of the Conciliation Board; (d) committees and subcommittees; (e) temporary investigative and temporary special committees; and (f) other parliamentary bodies, would amount to a de facto stripping of the mandate. There seems to be no possibility, in the draft law, of limiting only some of the listed rights rather than the whole set of rights.

Insofar as the foreseeability of the interference is concerned, the Venice Commission notes that in the procedure before the Verkhovna Rada, the latter “may” decide to deprive an MPs of his/her representation rights. It therefore seems that, at least in principle, the deprivation of parliamentary rights stems from an individualised decision. However, the draft law does not provide any criteria that could guide the decision of the Committee in charge or the Plenary. Such a lack of criteria would result in the deprivation of the parliamentary rights of all the MPs who belonged to the suspended political parties, regardless of their personal political activities and of their active involvement in the illegitimate activities of the suspended parties.

In light of the above, the Venice Commission finds that, while *prima facie* accompanied by some sort of individualised decision-making, the measure under consideration is of a general nature. Indeed, the lack for individualised decisions would make current or former members of suspended political parties collectively responsible for the illegitimate activities of the party they belong to, leading in practice to a general, automatic and indiscriminate application of restrictive measures, contrary to the principles of proportionality and prohibition of arbitrariness guaranteed by Article 3 of Protocol 1 to the ECHR and other international treaties and standards in the field of elections.”

[CDL-AD\(2023\)026](#) Ukraine - Opinion on the draft law on Amendments to Article 51 of the Rules of Procedure of the Verkhovna Rada on political liability of Members of Parliament of Ukraine associated with political parties whose activities have been suspended, §§31-33.

D. Regulation of political parties in parliament: forfeiture of a parliamentary mandate

“The Venice Commission is of the view that the mandate of the representative remains personal and should not be linked inexorably to the existence of a party, whether in Parliament or outside it. Indeed, MPs are supposed to represent the people and not their parties. This is a cornerstone of pluralist democracies: a parliamentarian represents the people and of the nation as a whole and not just a part, or a specific group of people or a territorial part of the country.”

[CDL-AD\(2023\)026](#) Ukraine - Opinion on the draft law on Amendments to Article 51 of the Rules of Procedure of the Verkhovna Rada on political liability of Members of Parliament of Ukraine associated with political parties whose activities have been suspended, §34.

“[...] Parties are instruments not owners of the social contract between the electors and the parliament. According to a generally accepted principle in modern democracies, the parliamentary mandate belongs to an individual MP, because he/she receives it from voters via universal suffrage and not from a political party. (...) This principle equally applies to candidates on party lists.”

[CDL-AD\(2016\)018](#) Ukraine - Opinion on the Amendments to the Law on elections regarding the exclusion of candidates from party lists, §15.

See also: [CDL-AD\(2015\)014](#) Joint Opinion on the draft law "on introduction of changes and amendments to the Constitution" of the Kyrgyz Republic. §§50-51; [CDL-AD\(2014\)019](#), Joint Opinion the Venice Commission and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on the draft Election Law of the Kyrgyz Republic, §33; [CDL-AD\(2014\)019](#) Joint Opinion the Venice Commission and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on the draft Election Law of the Kyrgyz Republic. §§35-36.

E. Membership in political parties

1. General principles

“One of the other grounds for such measures [imitation of the activity of the political party, as a precautionary measure, and the dissolution of the party], 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, 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. 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.

However, the Venice Commission and ODIHR have repeatedly raised concerns 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; 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. 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. The Venice Commission therefore recommends 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, 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 capacities of smaller parties.”

[CDL-AD\(2026\)007](#) Republic of Moldova - Opinion on Law no. 100/2025 containing a set of legislative amendments aiming to combat electoral corruption, §§56-57.

“The requirement for political parties to set up, maintain and update a register of members is not in itself necessarily unlawful and illegitimate. The requirement of making such a list available to the Ministry of Justice and, even more, to the general public could however be so, especially if all the personal data indicated in Article 20.10 would need to be made accessible. As the Venice Commission and ODIHR recalled in one of their previous joint opinions, “the obligation to inform public authorities and the wider public of the names of all members of the political parties is clearly a limitation of the freedom of association of these members individually and of the party collectively. Information on the membership of a political party is also protected by the right to privacy, as such information provides direct insights into the political opinions of individuals”. The Joint Guidelines further underline that the requirement for the party to provide the state with lists of its members would appear to be an overly intrusive measure that is not compatible with the principles of necessity and proportionality.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §98.

“Articles 3.1.1 and 3.1.2 of the Draft Law provide the definitions of a “party member” and a “party supporter”, making a distinction on the basis of payment of the membership fee associated with voting rights. This distinction creates a distinct level of involvement for those unable or unwilling to pay a membership fee. It is worth noting that in addition, there is a possibility for a party, under Article 33.6 of the Draft Law, to provide in its own charter and regulations for a party membership fee deduction or exemption for a party member. Generally, political parties should decide freely whether to allow participation in party functions to someone who is not paying a membership fee. Political parties should be able to decide internally (in their charters) whether to allow participation in their party functions. The Draft Law should not be regulating this matter.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §33.

“The bureaucratic control over the political parties, as well as the submission of documents including details about every member of the political party to the Minister of Justice, may have a chilling effect on individual membership and on the registration of political parties. In the light of the above considerations, bureaucratic control over political parties should be reduced and any supervisory powers should be given to an independent authority not part of the executive branch, in order to ensure transparency and build institutional trust.”

[CDL-AD\(2012\)003](#) Opinion on the Law on political parties of the Russian Federation, §45.

2. Non-discrimination and affirmative action

“Article 4.12 states that *“the charter of a political party should not limit the participation of persons with disabilities”*. This provision is welcome in principle, but its wording should be reconsidered to provide for a more proactive approach in line with international standards. In particular, pursuant to Article 29(b)(i) of the CRPD, States Parties shall undertake to promote actively an environment in which persons with disabilities can participate in non-governmental organisations and associations concerned with the public and political life of the country, and in the activities and administration of political parties. [...]

Article 20.9.4 stipulates that a person’s membership in a political party is terminated if s/he is deprived of legal capacity by court decision. This may cover circumstances where a person is deprived of legal capacity on the basis of intellectual or psychological disability. Article 29 of the CRPD requires states to guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and Article 12 of the CRPD requires that States Parties shall recognise that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life. Additionally, and more specifically, Council of Europe Recommendation (2011)¹⁴ invites member states to enable persons with disabilities freely and without discrimination, particularly of a legal, environmental and/or financial nature to meet, join or found political parties. Paragraph 24 of the 1990 OSCE Copenhagen Document provides that any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law.

In this connection, the Venice Commission and ODIHR draw attention to previous opinions in which they supported removal of the requirement of “active legal capacity” to become a member of a political party. Freedom of association, including in the formation of and support to political parties, is essential to ensuring the full enjoyment and protection of the rights to freedom of expression and political participation, and it must be respected without discrimination. Furthermore, as emphasised in the Joint Guidelines, all individuals and groups that seek to establish or join a political party must be able to do so on the basis of equal treatment before the law. State regulations on political parties may not discriminate against individuals or groups on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Therefore, the Venice Commission and ODIHR recommend revising Article 20.9.4 of the Law to ensure that deprivation of legal capacity on the grounds of disabilities does not lead automatically to termination of membership in a political party.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §§31, 89 and 90.

“Article 5.1 of the Draft Law provides that “citizens of Mongolia who are eligible to vote shall have the right to freedom of association, to form a party, join or leave a party”. Pursuant to Article 5.2 of the new Law on the Election of the President of adopted in December 2020, a citizen who has been deprived of legal capacity by a court – including on the basis of

intellectual or psychological disability – or who is serving a prison sentence – irrespective of the nature and gravity of the crime – shall not be entitled to participate in elections. As emphasized in previous opinions and election reports, these restrictions on voting rights are inconsistent with international standards and OSCE Commitments.

In addition, such restrictions might as a consequence also limit the right to establish and register, as well as join, a political party for citizens deprived of legal capacity and persons serving a prison sentence without regard to the nature and gravity of the crime. Freedom of association, including in the formation of and support to political parties, is essential to ensuring the full enjoyment and protection of the rights to freedom of expression and political participation and must be respected without discrimination.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §§34-35.

3. Prohibition on certain office holders from being members of political parties

“The Law introduces a double-track regulation in this area. First, certain professions – judges, the Human Rights Commissioner, military personnel, special-ranking employees of the prosecutor's office, justice, internal affairs, customs, emergency situations, migration, foreign affairs, tax authorities, the Broadcasting Council of the Public Television and Radio Broadcasting Company, members, general director and his/her deputies, members of the Board of Directors and the Accounting Chamber of the Central Bank, religious figures and notaries – cannot be members of political parties and cannot participate in the activities of political parties (Article 20.5). Second, *“other public servants, /.../, as well as those who are created on behalf of the state and carry out public policy in the relevant field and have the power of authority /.../, employees holding administrative positions in public legal entities may be members of a political party but may not participate in the activities of a political party while performing their duties”* (Article 20.6).

The Venice Commission and ODIHR note that some of the terms used in these provisions, e.g., public servants created on behalf of the state, special-ranking officials, are not fully clear, though this may be due to translation. It also notes that it would be useful to clarify whether the prohibition to participate in the activities of a political party refers only to the exercise of the right enshrined in Article 21.2.1 (i.e., to participate in the organisation of party bodies and be elected to them) or also to the other rights stipulated in Articles 21.2.2-21.2.6.

The distinction between the two categories of professions is not in itself problematic. The list under Article 20.5 seems to be a rather limited one, though the inclusion of notaries is somewhat unusual. In most European countries, notaries are free to become members of political parties, though sometimes they may be prohibited from becoming members of governing bodies of such parties or from being politically active. Furthermore, the reference to “religious figures” gives rise to concerns; this is a vague concept that needs to be clarified. The list under Article 20.6 seems to be conversely rather broad, encompassing all public servants as well as persons in the authoritative or, even, administrative positions in various public entities. Read together with the increase of the required minimum number of members, such incompatibilities may render even more difficult for the parties to fulfil the criteria for registration of the party. The Venice Commission and ODIHR note that prohibiting such a large number of persons from engaging in political activities, especially if the prohibition would cover all the activities listed in Article 21.2, could be found a disproportionate and excessive interference with the right to freedom of association. They recommend reconsidering this provision to ensure that restrictions only apply to a limited range of persons for which such restrictions are necessary to guarantee their impartiality and the proper functioning of their non-partisan public offices.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §93-95.

“Article 5.3 of the Draft Law provides that if a party member is appointed as a so-called “core civil servant”, his or her party membership shall be suspended. The Law on Civil Service distinguishes between four categories of civil servants and its Article 6.2 specifies that two of such categories shall be regarded as “core civil service”, i.e., “administrative civil servants” as defined in Article 12 of the Law on Civil Service and “special civil servants” as defined in Article 13 of the Law on Civil Service.⁷³ At the same time, Article 37.1.4 of the Law on Civil Service further states that except for state political officials (who are listed in Article 11 of the same Law),⁷⁴ a civil servant shall not participate in any form of political party during his or her term in office. This implies that not only “core civil servants” but also “general public servants” as defined in Article 14,⁷⁵ are excluded from party membership during their terms of office. As such, Article 5.3 of the Draft Law is not fully in line with Article 37.1.4 of the Law on Civil Service.

It is important to note that Article 22(2) of the ICCPR specifically envisions restrictions concerning membership in associations of two categories of public servants i.e., members of the armed forces and of the police. In the 2020 Joint Guidelines, it is emphasized that although generally legitimate, restrictions to political party membership “may be considered undue infringements if they are applied in an overly broad manner, e.g., to all persons in government service”. The category of so-called “core civil servants” in the Law on Civil Service goes much beyond what is contemplated in the ICCPR as it not only encompasses the military and the police, but also other representatives of institutions/agencies, as well as administrators, executive professionals and supervisors. And Article 37.1.4 of the Law on Civil Service goes even further by prohibiting an even broader category of civil servants to participate in any form of political party. The limitation to political party membership applicable to “core public servants” as it stands appears too broad and should be more strictly circumscribed. In any case, as also recommended in the 2019 OSCE/ODIHR Opinion, the term “core civil servant” should be clarified in the Draft Law by specifying the type of public officials prohibited from membership in political parties or by cross-referencing the relevant legislation, while ensuring that any restriction on political party membership is strictly justified, for instance to ensure the political neutrality of the said civil servants.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §§49-50.

See also: [CDL-AD\(2004\)025](#) Opinion on the law on political parties of the Republic of Azerbaijan (Venice, 18-19 June 2004), §§16-17.

4. Membership of foreign citizens and stateless persons

“Membership in a political party is reserved to citizens of Azerbaijan. Article 20.4 makes it clear that *“foreigners and stateless persons cannot be members of a political party”*. This principle is also enshrined in other provisions of the Law, including Article 1.1.7 and Article 20.9.3 according to which loss of citizenship will result in termination of membership in a political party. Such a restriction already existed in the 1992 law and it was extensively, and critically, commented upon in the previous opinions.

The Venice Commission and ODIHR acknowledge that the regulation in this area is not completely uniform across Europe and that Article 16 of the ECHR expressly recognises the right of states to impose restrictions on the political activity of aliens. Yet, the ECtHR has held that this provision should be construed as only allowing restrictions on “activities” that directly affect the political process. Moreover, it is Recommendation 1500 (2001) on Participation of immigrants and foreign residents in political life in the Council of Europe member states, the Parliamentary Assembly has declared that democratic legitimacy required equal participation

by all groups of society in the political process, and that the contribution of legally resident non-citizens to a country's prosperity further justified their right to influence political decisions in the country concerned (para 4). In the Joint Guidelines the Venice Commission and ODIHR considered that only the possibility of aliens to establish political parties could be restricted under Article 16 of the ECHR, and this provision should not be applied in order to restrict the membership of aliens in political parties."

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §§79-81.

"[...] a general exclusion of foreign citizens and stateless persons from membership in political parties is not justified. This would also constitute an excessive restriction to their rights to freedom of association and freedom of expression. As emphasized in the 2020 Joint Guidelines, only the possibility of aliens to establish political parties can be restricted but not the membership of aliens in political parties. During the online meetings, it was mentioned that some references to "citizens" in the English version of the Draft Law would actually mean an individual in general. At the same time, some provisions of the Draft Law specifically refer to "Mongolian citizens" and their right to freedom of association (Article 1.1) or their membership in political parties (Article 5.1). To avoid any ambiguity, it is recommended to replace the reference to "citizen"/"citizens of Mongolia" in Articles 1.1, 3.1.1, 3.1.2 and 5.1 by "individual" or "everyone" in order to ensure that foreigners and stateless persons may become members of political parties if they so wish."

[CDL-AD\(2021\)008](#) Georgia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on amendments to the Election Code, the Law on Political Associations of Citizens and the Rules of Procedure of the Parliament, §48.

"[...] the Venice Commission believes in principle that "general exclusion of foreign citizens and stateless persons from membership in political parties is not justified"; it has also stated that "at the very least, the country of residence should make membership in political parties possible" for persons who can take part in elections; however, in Tunisia, only Tunisian citizens are allowed to vote (see Article 5 of the Electoral Law). With all due respect for Tunisia's legitimate choice here, consideration could nevertheless be given to rethinking this approach in future, "as non-citizens may have an interest in participating in the political life of a country, especially if they have lived there for some time."

[CDL-AD\(2018\)025](#) Tunisia - Opinion on the draft institutional law on the organisation of political parties and their funding, §20.

"Foreign citizens and stateless persons should to some extent be permitted to participate in the political life of their country of residence, at least as far as they can take part in elections. At the very least, the country of residence should make membership in political parties possible for these persons. In dealing with issues of the participation of foreign nationals in the public life of their country of residence, the member states are invited to apply to the largest possible extent the provisions of the European Convention on the Participation of Foreigners in Public Life at Local Level. Additional measures further extending the guarantees provided for by the provision of this convention would be most welcomed."

[CDL-AD\(2011\)046](#) The Draft Law on Amendments to the law on political parties of the Republic of Azerbaijan, §12.

5. Multiple membership

"Simultaneous membership in several political parties is also prohibited under the Law (Article 20.1). The Venice Commission and ODIHR have stated in several opinions that the question of whether party founders may also be members of other political parties should be left to the

discretion of political parties themselves. They recall that *free* association is a fundamental individual right that should not generally be limited by legislative requirements obliging an individual to only associate with a single organisation. Therefore, laws that limit party membership to only one political party must show compelling reasons for doing so.¹³⁴ Individual political parties may require the termination of membership in other political parties for persons wishing to join their party, but regulating such matters in state law cannot be deemed “necessary in a democratic society” in the sense of Article 11, para 2 of the ECHR. For this reason, the Venice Commission and ODIHR recommend removing from the Law the prohibition of multiple membership in political parties.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §96.

“The draft law also provides that a person cannot be a member of more than one political party (Article 12.4). This should not be specifically prohibited in law, but rather be left to the individual parties, which should decide whether they see membership in their party as exclusive. The respective provision could, however, require instead that a person cannot be a founding member of more than one political party (as long as both parties are registered and functioning).”

[CDL-AD\(2016\)038](#) Armenia - Joint Opinion on the Draft Constitutional Law on Political Parties, adopted by the Council for Democratic Elections at its 57th meeting (Venice, 8 December 2016) and by the Venice Commission at its 109th Plenary Session (Venice, 9-10 December 2016), §21.

IV. Internal organisation of political parties, including membership issues

A. Internal party rules

“Articles 13 recalls that a political party must have a charter and a programme that are publicly available. The provision also sets the minimal content of these two documents in an unnecessarily detailed manner which may constitute an unjustified interference with the internal autonomy of political parties.

Articles 14-18 relate to the main bodies of a political party, i.e., the supreme governing body (Article 14), a collegial governing body (Article 15), chairperson (Article 16), a control body (Article 17) and structural institutions (Article 18). Some of these bodies must be established, other are optional. The provisions define the main competences of each of the bodies as well as the relationship among them. [...]

Overall, the Venice Commission and ODIHR are concerned about the above-mentioned detailed regulations on the internal organisation and decision-making processes of political parties. With all those provisions, the Law determines – with limited space for variations – almost the same structure for all political parties, the same competencies of the party bodies for all political parties, the same relations between all parties and their members. This approach unduly limits the autonomy of the party to decide on internal organisational matters.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §§79-81.

“the Draft Law remains overly detailed with regard to the structure and functioning of political parties, including their internal organization, content of the charter and decision-making process. According to international good practice, political parties are granted a certain level of autonomy in their internal structure and decision-making, as well as external functioning and internal democracy is recognized as a key element for the functioning of political parties.

Pursuant to this principle, political parties should be free to establish their own organization and the rules for selecting their party leaders and candidates, since this is regarded as integral to the concept of associational autonomy of a party. It should also be up to the parties themselves to determine how their conferences and decision-making procedures are organized. As it stands, the Draft law is overregulating matters that usually lie within the discretion of the political parties and as a consequence, limits the party autonomy to decide on issues such as the party's internal organization and structure, membership, its leadership, charter, program and decision-making procedure. As such, the provisions are too detailed and unnecessary, as they limit political parties' right to self-regulate these matters, and thereby constitute an excessive encroachment on the autonomy of political parties."

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §52.

"Under international standards, political parties, as associations, are granted a certain level of autonomy in their internal and external functioning. According to this principle, political parties should be free to establish their own organisation and the rules for selecting party leaders and candidates, since this is regarded as integral to the concept of associational autonomy. (...) The principle of democracy applies not only regarding their external functioning, but also in their internal structure and in internal decision-making processes."

[CDL-AD\(2016\)038](#) Armenia - Joint Opinion on the Draft Constitutional Law on Political Parties, §31.

"The new Chapter III (Articles 24 et seq. of the draft law) concerns political parties' internal regulations. *First of all, it would be desirable for it clearly to set out the principle of parties' freedom to determine their internal structures, subject to certain limits laid down by law.* The Venice Commission refers here to the recommendation made in A above that the law should guarantee not only the freedom to set up political parties but also the freedom to conduct activities within them, and also to its previous comments about the autonomy of parties' internal and external functioning in modern democracies."

[CDL-AD\(2018\)025](#) Tunisia. Opinion on the draft institutional law on the organisation of political parties and their funding, §32

B. Choosing party leadership and candidates for elections

1. General principle

"it is legitimate for states to introduce some legislative requirements for the internal organisation and selection of candidates for elections, in the interest of democratic governance and equal treatment or participation of minorities or disadvantaged groups, although without interfering too much with the internal matters of political parties. The 2020 Joint Guidelines further state that "[l]egal regulation of internal party functions, where applied, must be narrowly construed so as to respect the principle of party autonomy and not to unduly interfere with the right of parties as free associations to manage their own internal affairs". In that respect, as mentioned in Section C supra, it is welcome that gender and diversity considerations become an integral part of a party's internal decision-making processes, especially regarding the nomination to the party's leadership positions and to candidates to public offices (Articles 8.1 and 8.2)."

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §55.

2. Participation of women in political parties

“The Venice Commission has recognized that States can achieve this goal [that women’s representation should be increased in democratic institutions, including in Parliament and in local and regional councils] through a variety of measures. Some of them are related to internal party regulations, whilst others may be contained in legislation. For example, *“Gender equality may be promoted through the creation of a “women’s section” or “gender division” within political parties; by introducing electoral gender quotas that could increase women’s parliamentary representation, by providing training and capacity-building programmes developed for female members and potential candidates prior to their selection, by adopting, implementing or evaluating gender-equality strategies, plans and programmes at different levels, including specific action plans to achieve balanced participation and representation of women and men in internal political party offices, or by recognizing and considering the family responsibilities of party members.”*

The Venice Commission's reports recommend that States take or improve measures to increase the presence of women in representative institutions or the governing bodies of political parties. Electoral quotas are regarded as an appropriate and legitimate measure to increase women's parliamentary representation but is for each country to decide how to improve gender equality.”

[CDL-AD\(2025\)032](#) *Amicus curiae* brief for the Inter-American Court of Human Rights on democracy as a human right, as a means for social, political and economic development and the effective exercise of human rights, or as both, §§51-52.

“[...] several provisions of the Law refer to equality in general terms. While such provisions are welcome in principle, they are unlikely by themselves to lead to more gender balanced or diverse representation in political parties or in political life generally. The Law could be further elaborated regarding the balanced representation of women and men, and generally more diversity, in party structures and as candidates for public offices.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §27.

“It is especially welcome that many provisions of the Draft Law demonstrate a willingness to mainstream gender and diversity in political parties’ internal and external processes, in line with good practices and recommendations at the international level. Particularly, the Draft Law provides gender requirements already at the stage of political party formation, by requiring that the working group in charge of establishing a political party includes at least 40 percent of its members of the same sex as well as youth representatives (Article 11.1) and that the founding meeting be attended by at least 30 percent of delegates of the same sex (Article 12.4). Moreover, the principle of offering equal opportunities is supposed to guide the process of nominating, electing and appointing candidates for public positions and for party leadership/executive positions (Article 8.1). Article 8.2.4 of the Draft Law further specifies the gender requirement to be applied during the selection process for such positions, i.e., having a representation of at least 40 percent of either sex, which is in line with good practices at the international level. At the same time, it is not clear whether such a threshold applies to the nominating body and its members, or refers to the outcome of the selection process, ideally both, and this should be clarified. Additionally, while it is welcome that the Draft Law puts a focus on ensuring the participation of youth in political parties, it would be good to have a clearer idea of what this entails. In particular, where Article 11.1 requires that the working group shall have a “representation of youth”, it might be best to specify the kind of representation sought, just as the Draft Law does by specifying the required representation of women in the working group.

Article 16.2.8 of the Draft Law further states that the charter of a political party shall include procedures for ensuring gender equality, while Article 18.6 specifies that the central representative body and executive body of a political party shall be composed of members representing at least 40 percent of either gender, which is also welcome and in line with good practices. The Draft Law also includes provisions linking the allocation of public funding and its amount to measurable efforts to promote the political participation of women and persons with disabilities, which is commendable (Article 27.3 and 28.6). Finally, the Draft Law also incorporates a clear anti-discrimination statement (Article 8.6) and contemplates regular reporting to the National Committee on Gender Equality in accordance with the Law on Promotion of Gender Equality (Article 8.7 of the Draft Law).

These provisions are welcome and demonstrate the willingness to put in place governance structures that can be called truly democratic, representative and inclusive.

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §§25-28.

“The most demanding requirements on the selection of candidates by political parties are those aimed to ensure equal gender representation. The Guidelines on Political Parties Regulation recognise that “the small number of women in politics remains a critical issue which undermines the full functioning of democratic process”. Hence, “electoral gender quotas can be considered an appropriate and legitimate measure to increase women’s parliamentary representation”.

There are various socio-economic, cultural and political factors that can hamper women’s access to the political arena. Structural obstacles in society limiting the political representation of women are not easy to remove and fundamental changes will require much time and effort. Thus, changing the electoral system, for instance, by introducing quota rules, may offer a viable alternative to increase female representation. The Venice Commission, in its Code of Good Practice in Electoral Matters, considered that the legal rules requiring a minimum percentage of persons of each gender among candidates should not be considered contrary to the principle of equal suffrage, if they have a constitutional basis. [...]

Legislated quotas are more respectful of political parties’ freedom when they only impose a certain percentage of female candidates in the electoral list. When the proportion of women must be respected in groups of seats, the restriction placed on political parties is higher. The most demanding system is the zipper list, because in this case men and women must alternate. However, this kind of list seems to be the most effective for securing the representation of women.

It should, in any event, be noted that according to the European experience, although gender quotas are an effective tool for increasing women’s presence in political bodies, they do not automatically result in an equal representation of women and men. Quotas must include rules about rank order and sanctions for non-compliance. According to the Study of the European Parliament of 2013, quota provisions must incorporate rules about the placement of candidates on the list. Indeed, a quota system that does not include such rank-order rules may have no effect at all: “If the 40 per cent of a party’s candidates on the electoral list in a PR system are women but they are placed at the bottom of the list, this may result in no woman being elected at all. In plurality/majority electoral systems, rules are needed with regard to the gender distribution of “winnable” or “safe” seats”. Other aspects of the electoral system in place also influence the effectiveness of quota regulations. For instance, even if women have to be placed at the top of the list, in a system of preference voting, it is the voter who determines which persons will be elected. This may lead to lesser female representatives than might be expected from their position on the list.

Furthermore, the effectiveness of quota provisions depends on the existence of institutional bodies that supervise the application of quotas and impose sanctions for non-compliance.”

[CDL-AD\(2015\)020](#) Report on the method of nomination of candidates within political parties, §§43-44, 49-51.

“The draft Act does not contain provisions on the promotion of gender equality within internal party structures or in the wider electoral process. According to the Guidelines, in respecting universal and regional instruments designed to ensure equality for women, as well as general principles for non-discrimination, legislation should endeavour to ensure that women are able to participate fully in political parties as a fundamental means for the full enjoyment of their political rights. There are a number of ways of achieving this goal, some of which are related to internal party regulations, whilst others may be contained in legislation. Gender equality may be promoted through the creation of a “women’s section” or “gender division” within political parties; by introducing electoral gender quotas that could increase women’s parliamentary representation, by providing training and capacity-building programmes developed for female members and potential candidates prior to their selection, by adopting, implementing or evaluating gender-equality strategies, plans and programmes at different levels, including specific action plans to achieve balanced participation and representation of women and men in internal political party offices, or by recognizing and considering the family responsibilities of party members. It is recommended to consider including specific provisions to promote gender equality in the draft Act, and in particular, to ensure greater gender balance in electoral lists.”

[CDL-AD\(2014\)035](#) Joint Opinion on the Draft Act to regulate the formation, the inner structures, functioning and financing of political parties and their participation in elections of Malta, §60.

“The OSCE/ODIHR noted in its election report on the 2010 parliamentary elections: “women do not feature prominently in politics and are under-represented in decision-making positions”. As a result, previous recommendations of the OSCE/ODIHR have included: (1) considering the extension of gender distribution requirements on candidate lists so that they apply to the final candidate lists; (2) requiring political parties to replace any withdrawn candidate with a member of the same gender; (3) positioning women higher on candidate lists; (4) political parties voluntarily providing female candidates opportunities which are equal to those of their male colleagues, such as addressing the public at rallies and being featured in party campaign materials and advertisements; and (5) political parties voluntarily providing for leadership advancement of female party members. As noted in the discussion on the electoral system for parliamentary elections, the draft law, which presents no new provisions that will result in strengthening the participation of women in elections, will not facilitate the effective participation of women in elections.”

[CDL-AD\(2014\)019](#) Joint Opinion the Venice Commission and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on the draft Election Law of the Kyrgyz Republic, §58.

V. Funding of political parties

A. Funding

“Transparency is an essential standard applying to all areas of the legislation on political parties, and in particular to political financing. “Weak party and campaign financing and transparency rules are the most problematic and constitute a particularly high-risk area for corruption when it comes to the involvement of third parties in the sphere of political activities”. Transparency applies in particular to reporting, which should remain public for an appropriate amount of time, to allow for proper public scrutiny.”

[CDL-AD\(2024\)017](#) Haiti - Interim Opinion on possible constitutional and legislative solutions to conduct future electoral processes, §59.

“Article 37 deals with the financial statements of a party, which should record a number of incomes, including “earnings from business activities” (Article 37.3.5). Article 36 of the Draft Law elaborates on the kind of activities a political party may carry out to generate income, i.e., income from the selling of publications related to the party itself and income from its assets (Article 36.1). The party is otherwise prohibited to earn income from any other activities (Article 36.2 of the Draft Law). At the same time, this would prevent the selling of other party-related materials at a sub-market price, which is a very common practice and should be allowed and be accounted for as donations.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §87.

“The draft Act provides for rules on the financing of political parties. This regulation is a welcome effort; in this context, it is essential that all different aspects relating to financing of political parties are considered. Otherwise, the impact of specific regulations on limitations of donations to the political parties, their assessment and the transparency requirements would be weakened in practice.

The draft Act does not regulate other sources of financing, including the state budget or possible profitable activities undertaken by the party itself. It is recommended to include such financing instruments in the draft Act as well. Such regulation should include safeguards for equal treatment of political parties in accordance with European standards. Article 35 provides for these issues to be stipulated in a separate law, but it would be preferable if they were incorporated into legislation on political parties. At the same time, consideration may be given to also ensuring a proper balance between the different financing sources, so as to safeguard the freedom of association. Limitations on loans or provisions on donations to entities connected with a political party should also be provided.”

[CDL-AD\(2014\)035](#) Joint Opinion on the Draft Act to regulate the formation, the inner structures, functioning and financing of political parties and their participation in elections of Malta, §§21-22.

“Financing of political parties can also be done through non-monetary contributions, which is not an issue dealt with in the draft amendments. In a previous Election Observation Report, OSCE/ODIHR has pointed out that the Law does not provide a clear mechanism or reference to other legislation for evaluating such non-monetary contributions. It is recommended that this issue be addressed in the draft amendments as well. In this context, it is noted that all rules regarding funding of political parties should apply *mutatis mutandis* to the funding of electoral campaigns for candidates and to the funding of political activities for elected representatives, as stated in Article 8 of the Council of Europe Committee of Ministers Recommendation 2003 (4).”

[CDL-AD\(2014\)034](#) Joint Opinion on Draft Amendments to the Law on the financing of political activities of Serbia, §21.

“[...] The safeguards to prevent abuse are for all these reasons inadequate. The Venice Commission and OSCE/ODIHR indicated in some of their standard-setting documents that reasonable limits on the total amount of contributions may be imposed so that there is not distortion in the political process in favour of wealthy interest and that corruption or purchasing of political influence is made impossible.”

[CDL-AD\(2011\)046](#) Opinion on the Draft Law on Amendments to the law on political parties of the Republic of Azerbaijan, §45.

“[...] in the development of legislation in this sphere states should adopt several important parameters when creating political finance systems. These include: restrictions and limits on private contributions, a balance between public and private funding, restrictions on the use of state resources, fair criteria for allocation of public financial support, spending limits for campaigns, requirements that increase transparency of party funding and credibility of financial reporting as well as an independent regulatory mechanism and appropriate sanctions for violations.”

[CDL-AD\(2010\)048](#) Joint opinion on the draft law on financing political activities of the Republic of Serbia by the Venice Commission and the OSCE/ODIHR, §13.

B. Private and foreign funding

1. Sources and limitations

Membership fees

“While introducing an annual limit on donations might be legitimate, it is not clear why the figure of 35 minimum wages has been opted for. This same amount is set for the maximal annual membership fee (Article 23.3). It might however be expected that annual membership fees would be lower than donations.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §104.

“Pursuant to Article 33.3 of the Draft Law, monthly membership fees of an elected member shall not exceed the minimum monthly wage. As noted in the 2020 Joint Guidelines, “[p]olitical parties may levy ‘taxes’ from their sitting elected officials” and “[t]his is a wide-spread practice in many democratic states”. At the same time, the maximum amount mentioned in Article 33.3 appears to be rather onerous for elected members and should be assessed in light of the national context.

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §82.

“[...] although Article 10 sets a maximum value for donations, it does not set any maximum value for membership fees, which are not included in the definition of donations in Article 9. This would allow political parties to circumvent the Law by asking for very high membership fees. It is therefore recommended, as suggested in the OSCE/ODIHR-Venice Commission *Guidelines on Political Party Regulation* to treat membership fees as donations.”

[CDL-AD\(2014\)034](#) Joint Opinion on Draft Amendments to the Law on the financing of political activities of Serbia, §25.

“[...] While it is not for the state to establish [the membership] fees, it is noteworthy that legislation should ensure that membership fees are not on the other hand used to circumvent contribution limits, which can be accomplished by treating membership fees as contributions. It is therefore recommended to consider for the [...] law to treat the amount of membership fee as part of the total contributions possible by members under the [...] Law.”

[CDL-AD\(2010\)048](#) Joint opinion on the draft law on financing political activities of the Republic of Serbia by the Venice Commission and the OSCE/ODIHR, §15.

Donations

“As for the prohibitions which are explicitly included in Draft Article 7, international standards recognise and, to some extent, recommend certain restrictions, particularly limitations on or prohibition of donations from legal entities which provide goods or services for any public administration, donations from legal entities under the control of the State or of other public authorities, donations from foreign donors, and donations from anonymous donors. The Venice Commission has recognised on previous occasions that certain restrictions on donations are reasonable and common, “such as limitations on donations from businesses and private organisations, and the prohibition of donations from legal entities under the control of the State or of other public authorities, and from anonymous donors”.

More particularly, the prohibition of funding by commercial companies, including companies with State capital participation, by legal persons which have concession contracts, public-private partnership contracts, etc., with a three-year cooling-off period, is to be welcomed, as it prevents the so-called “pay-to-play” situations where awarding service contracts constitute a payback for party and campaign contributors. In this connection, attention is drawn to international standards according to which States should take measures aimed at limiting, prohibiting or otherwise strictly regulating donations from legal entities which provide goods or services for any public administration, and should prohibit legal entities under the control of public authorities from making donations to political parties.”

[CDL-AD\(2026\)015](#), Albania - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft law "On the Financing of Political Parties", §§47-48.

“Many of the above-mentioned limitations on funding are reasonable and common, such as limitations on donations from businesses and private organisations, and the prohibition of donations from legal entities under the control of the state or of other public authorities.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §102.

“Political parties may receive donations, but only from citizens of Azerbaijan (Article 24.1). Donations may not be linked to or conditioned on any specific services or favours (Articles 24.2-3) and they can be in the form of cash, property or services (Article 24.4). The upper limit of a person’s donation to one or more parties during one year may not exceed 35 times the minimum wage (Article 24.5). While introducing an annual limit on donations might be legitimate, it is not clear why the figure of 35 minimum wages has been opted for. This same amount is set for the maximal annual membership fee (Article 23.3). It might however be expected that annual membership fees would be lower than donations. The Joint Guidelines stress that membership fees should not be so high as to unduly restrict membership and they should be of reasonable amount. In the view of the Venice Commission and ODIHR, minimum wages would appear as a rather high annual membership fee. While parties are free of course to opt for lower fees, it is recommended to set a lower maximum amount in the Law. This would also prevent the risk of misusing membership fees as “hidden donations” and avoiding transparency of party finances, bearing in mind that only donations are to be reported in detail to the Central Election Commission (Article 24.6). In turn, the maximum amount for donations could be adequately increased.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §104.

Article 34 of the Draft Law regulates donations, which include monetary and non-monetary donations (Article 34.1). Donations received from one individual citizen per year shall not

exceed twelve times the minimum monthly wage (around 1,300 EUR) and from one legal entity, fifty times the minimum monthly wage (around 5,500 EUR). It is welcome that Article 34.10 specifies that a legal entity also includes its affiliates and subsidiaries, branches and representative offices as this avoids circumventing donations ceilings. Article 34.10 also provides that the amount of donations given to the party is calculated as the total amount of monetary and non-monetary donations, which is welcome. It is noted that increasingly, states ban donations from companies to political parties and election candidates though there is very differing practice across the OSCE and Council of Europe region. At the same time, it was emphasized during the pre-assessment visit that in the Mongolian context, such donations by legal entities tend to favour major political parties, to the detriment of smaller or newly established parties but also that a complete ban of such donations by legal entities could indirectly discriminate against smaller or newly established political parties.

In light of the foregoing, it is recommended to the legal drafters to re-assess whether the possibility of donations from legal entities should be retained at all, while guaranteeing in parallel adequate provision of public funding to ensure that newly established or smaller parties are not negatively impacted. If retained, donations from companies should be more strictly regulated. Article 35.7 of the Draft Law prohibits donations by citizens or legal entities which have been awarded a public contract following a bidding process to donate to a political party within four years following the participation in the bid. It would be advisable to also prohibit the award of a public bid to a donor during a similar period following the donation, though this may require amending the applicable legislation on public bidding.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §§83-85.

“[...] Finally, the draft law provides for limits on donations to parties, which is encouraged by international standards, and also for membership fees and party borrowing from banks and financial institutions, which may prevent the circumvention of the limits on donations, in line with international recommendations. The fact that the reform increases the various ceilings (e.g. TND 100 000 – approximately €33 000 instead of TND 60 000 - approximately €19 800 for annual contributions from an individual) does not call for any special observations; in this context, the effects of inflation since 2011 must be taken into account, in addition to the fact that contributions to political parties by legal persons are prohibited, which reduces the risk of over-dependence on particular interest groups.”

[CDL-AD\(2018\)025](#) Tunisia. Opinion on the draft institutional law on the organisation of political parties and their funding, §36.

“[...] it is important to stress that it is vital for the credibility of a democratic process that private donors of political parties are clearly separated from state business. In this context, the delegation was informed about draft legislation which had been submitted to Parliament according to which companies which benefitted from contracts with the state should be banned from making donations during a period of three years, which appears reasonable in the current context. It is recommended that both Article 26(6) of the LPP and Article 38(3) of the EC are amended so as to prohibit legal persons involved in contracts or public tenders with any public institution from making donations to political parties or electoral candidates for a specified period, for example, at least for three subsequent years. Such a prohibition should also apply to in-kind donations, loans, credits and cancellation of debts, in order to prevent circumvention of the rules.

[CDL-AD\(2017\)027](#) Republic of Moldova - Joint Opinion on the legal framework governing the funding of political parties and electoral campaigns, §58.

“The draft amendments establish limits on private contributions, together with a regime of reporting and accounting obligations, which is laudable and in line with previous

recommendations made by OSCE/ODIHR. However, the draft amendments mostly deal with private contributions in terms of direct financial donations and in-kind support. In practice, private contributions can also take the forms of loans, credits or debts to circumvent restrictions on prohibited sources or contribution limits. This is reflected, e.g., in the definition of “donation to a political party” of Article 2 of the Council of Europe Recommendation Rec (2003)4 pursuant to which this term is defined as “any deliberate act to bestow advantage, economic or otherwise, on a political party.” Loans may be taken out by parties to finance campaign or other activities. If these loans are granted at advantageous conditions or even written off by the creditor, they should be treated as any other kind of financial contribution. While loans and other benefits are mentioned in ... Law, which lists them as contributions to the benefit of a party, loans, credits and debts should be consistently covered by reporting obligations and contribution limits set out in other provisions, both as regards the financing of political parties’ statutory activities and as regards campaign financing, throughout the draft. This is necessary to avoid loopholes that would permit the unlimited channelling of money to the benefit of certain parties. [...] Law prohibits certain natural and legal persons from contributing money to political parties. Concerning the prohibition on donations from companies in which the government or local government owns 25%, this percentage could be too high. It is common practice for legislation pertaining to political party financing to ban donations from companies that the state is involved in, regardless of the extent of such involvement. States which do not ban such donations completely usually tend to set the limit of government involvement lower, and prohibit, for example, donations from companies in which the State owns more than 10%. Similarly, the prohibition on donations from companies benefiting from public contracts that account for over 20% of the company turnover during the “period of the contract plus one year” may also be too permissive. The length of the ban on donations (extending only one year after the end of the contract) is quite short. The draft amendments should consider stricter bans, for example lowering the financial threshold. [...]

Current Article 43 par 3 of the Presidential Elections Law stipulates that, whereas private donations are subject to contribution limits, contributions given by a candidate to his or her own campaign fund or his or her party are not limited. This provision is not changed by the draft amendments. While a candidate’s own contributions are often perceived to be of lesser concern in relation to possible corruption and undue influence, unlimited funding of one’s own campaign carries the risk that a few wealthy individuals are able to spend unlimited amounts in campaigning for public office. This may not always properly represent societal interests and could jeopardize the creation of a level playing field for political participation. A reasonable limitation could e.g., consist in setting a limit to the amount of contributions which can come from a single source, setting spending limits or stating in the draft amendments that the funding provided by the candidate cannot be more than a certain proportion of the overall private contributions.”

[CDL-AD\(2015\)025](#) Joint Opinion on the draft amendments to some legislative acts concerning prevention and fight against political corruption of Ukraine, §§31-32, 35.

“As previously noted by the OSCE/ODIHR, the limits on private funding set by the Law appear to be too high to be effective. The donation limit by a private individual in an election year is 40 average monthly salaries (approximately EUR 21,000 at a monthly salary, rate of September 2014), while for a company the donation can be up to 400 average monthly salaries in an election year (i.e. approximately EUR 210,000). As noted in para 175 of the Guidelines, limitations on private contributions “have been shown to be effective in minimizing the possibility of corruption or the purchasing of political influence”. It is therefore recommended to lower the limits on private funding in the Law for both private individuals and companies.”

[CDL-AD\(2014\)034](#) Joint Opinion on Draft Amendments to the Law on the financing of political activities of Serbia, § 28.

Other sources

“The Venice Commission and DGI also recommend providing for specific regulations concerning the terms and conditions for granting loans for party/campaign funding purposes, to the extent that such loans are permissible, which needs to be clarified (such as the maximum value of loans, the categories of permissible lenders, repayment conditions, etc.); the current Draft Law only mentions loans in Article 6 as a possible funding source but does not foresee any specific rules. As the Joint Guidelines stress, it is important that rules on transparency deal consistently with such resources, as well as with credits and debts, to avoid the circumvention of limits on private donations and the ensuing exercise of undue influence.”

[CDL-AD\(2026\)015](#), Albania - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft law "On the Financing of Political Parties", §55.

“Political parties may own property and may use it (only) for the achievement of goals and objectives arising from their charter and programme and the implementation of tasks. They are not allowed to own industrial enterprises, cooperatives or production enterprises (Articles 26.1-3). This regulation is not problematic. Somewhat unusually, a state body, the Ministry of Economic Affairs of Azerbaijan, is expected to provide political parties with headquarters (Article 26.5). The provision of headquarters, if retained, should comply with the principle of equality of treatment of political parties and transparency.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §109.

“Articles 36.5 to 36.8 of the Draft Law regulate loans to political parties, which is welcome since loans may constitute potential loopholes that may be used to circumvent limits on private donations and the ensuing exercise of undue influence. Article 36.6 specifies that the maximum annual borrowing limit shall not exceed 25 percent of the public funding provided to the party. This de facto would prevent political parties that do not receive public funding, i.e., newly established parties which have not contested in parliamentary elections as well as non-parliamentary parties which have not reached the threshold of 3 percent of the total votes, from obtaining any loan, which is discriminatory. While states may regulate upper loan limits, the provision should not be indirectly discriminatory towards certain parties and should therefore be reconsidered. The Draft Law also addresses the issue of interest rates that may be below market and concessional loans, as well as repayment of loan by a third party, which are considered as donations made to the party, which is welcome. At the same time, it may be advisable to include a specific provision either banning banks to forgive loans to political parties or expressly recognizing that when a bank forgives loans, this constitutes a donation.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §89.

“Article 10 of the draft amendments amends Article 21 of the Law, so that political parties shall not have the right to be involved in entrepreneurial activity, give property belonging thereto by the right of ownership for lease, as well as be the founder or participator of a commercial legal person. (...) While it is possible and perhaps desirable to curb the commercial activities of political parties, such curbs have to be proportionate and equally applied to all. Instead of a blanket ban on property lease, bans of leasing property to public or semi-public entities and

provisions indicating that such lease cannot be significantly or disproportionately higher than the current market prices should be considered.”

[CDL-AD\(2020\)004](#) Armenia - Joint opinion of the Venice Commission and OSCE/ODIHR on draft amendments to the legislation concerning political parties, §31.

“In contrast, the Venice Commission notes that another recommendation made by the aforementioned Council of Europe experts has not been implemented, namely to “clarify the extent to which the direct or peripheral economic activities of political parties are taken into account, first by drawing up rules on the scope of the accounts (in particular as regards local party representations where they exist in municipalities for example) and second by introducing more precise transparency rules with regard to the financing of associations and press and communication organs (...). It should be noted in this respect that Rec(2003)4 also advocates taking into account “all entities which are related, directly or indirectly, to a political party or are otherwise under the control of a political party”, in the rules on donations, including accounting and transparency rules.”

[CDL-AD\(2018\)025](#) Tunisia Opinion on the draft institutional law on the organisation of political parties and their funding, §52.

2. Third parties

“Furthermore, the Draft Law lacks a comprehensive framework regulating entities affiliated with or controlled by parties as well as third parties that campaign in support of, or against, political parties without being formally affiliated with them. In this connection, attention is drawn to Article 6 of Rec(2003)4, according to which rules governing donations to political parties should also apply, as appropriate, to all entities directly or indirectly connected to, or controlled by, political parties. Furthermore, The Joint Guidelines recommend that States regulate third-party spending capable of circumventing political finance rules and treat such spending as functionally equivalent to party expenditure beyond specified thresholds. In the absence of such regulation, otherwise comprehensive donation and expenditure limits may easily be circumvented through the channelling of funds via civil society organisations, think tanks, or media entities.

The Venice Commission and DGI note that the Draft Law essentially addresses the direct financing of political parties. Yet modern risks of party financing often arise through indirect channels: entities affiliated with or controlled by parties, third-party actors, communication agencies, digital platforms, sponsored content, coordinated online activity, loans, debt forgiveness, in-kind services or public resources. The Draft Law touches on some of these matters but does not regulate them fully and coherently: Draft Article 8 prohibits parties from establishing commercial or non-commercial legal persons engaged in activities for profit, directly or through third parties; Draft Article 13(2)(c) requires the annual report to include entities directly or indirectly linked to political parties, or controlled by them, as declared by the party itself; and Draft Article 19 gives the CEC power to examine documentation concerning entities linked to or controlled by parties. At the same time, the Draft Law neither defines linked or controlled entities nor does it foresee detailed reporting obligations for such entities. A party finance system cannot be effective if political finance can be moved to a foundation, association or informal campaign organisation that acts for the party or in coordination with it. A clear understanding of which organisations are to be regarded as entities affiliated with or controlled by political parties is important to ensure equal treatment under the law and predictability for political parties and other organisations seeking to influence policy. The Venice Commission and DGI recommend regulating this matter more comprehensively.”

[CDL-AD\(2026\)015](#), Albania - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft law "On the Financing of Political Parties", §§33-34.

"Article 10.1.4 of the Draft Law prohibits the demand and receipt of collateral or deposit or other form of monetary or non-monetary assets and services by party members and supporters when granting the right to stand as a candidate for election. This provision is welcome as it avoids the common practice of pledge-money."

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §61.

"The relevant decision-makers in Ukraine may consider including third-party involvement in the ambit of the draft amendments. The term "third party" refers to both individuals and organisations, not legally tied to any candidate or political party, which, in the course of an election, campaign in support of or in opposition to a candidate or a political party or which try to influence policy and decision-making with a view to obtaining some designated results from government authorities and elected representatives. Apart from setting limits on individual contributions, the stakeholders could discuss introducing registration and reporting obligations for lobbyists and political foundations..."

[CDL-AD\(2015\)025](#) Joint Opinion on the draft amendments to some legislative acts concerning prevention and fight against political corruption of Ukraine, §34.

3. Foreign funding

"Regarding the prohibition of funding from foreign sources, the Venice Commission and DGI note that Article 7 of Rec(2003)4 calls upon States to specifically limit, prohibit or otherwise regulate donations from foreign donors. 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. 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. The Joint Guidelines state that foreign funding of political parties is an area that should be regulated carefully; such regulation should 1) in principle allow for donations from citizens residing abroad if they are allowed to participate in elections at home – in the case of Albania, the prohibition only applies to foreigners, not to citizens residing abroad; and 2) avoid the infringement of free association in the case of political parties active at an international level, an issue which is, in the case of Albania, addressed by Draft Article 7(2): "Political parties may receive donations and assistance from political parties, international associations of political parties, or political organisations and foundations of other countries for the purpose of carrying out their lawful activities or for purposes such as strengthening cooperation with sister organisations, promoting and respecting human rights, fostering gender equality, democratisation, etc.". Furthermore, it would be advisable to take into account relevant EU law, including as regards the voting rights that non-national EU citizens living in Albania would enjoy in the context of Albania's prospective accession to the European Union.

That said, the Albanian authorities may wish to consider replacing the term "democratisation" in Draft Article 7(2) by "promoting values of democracy" which seems more appropriate. Moreover, in the opinion of the Venice Commission and DGI, clarification is needed in order to identify which donations and types of material assistance from foreign organisations and foundations are permitted under this paragraph, bearing in mind also the prohibition of donations and material assistance from foreign NGOs specified in paragraph 1 of this Article.

It must be noted that the exception in Draft Article 7(2) is drafted very broadly: neither does it impose caps on acceptable amounts, nor does it provide for additional disclosure obligations beyond the general reporting framework or require prior notification to the CEC. Given the simultaneous absolute prohibition on donations from foreign natural persons under Draft Article 7(1)(c), this asymmetry could potentially be exploited through the channelling of funds via formally constituted foreign party structures.”

[CDL-AD\(2026\)015](#), Albania - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft law "On the Financing of Political Parties", §§49-50.

“[...] Particular emphasis is placed on conduct involving financing or influence originating from foreign States, foreign organisations, or anti-constitutional entities, 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.

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. [...]

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. [...]

Regarding more particularly the introduction of references to foreign involvement in electoral corruption (in Article 1811, paragraph 13c) of the Criminal Code) and in illegal financing of political parties and electoral competitors³⁵ (in Article 1813, paragraph 2c) of the Criminal Code), allowing for higher sanctions [...]

[...] 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 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 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. 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. In the view of the Commission, the Moldovan approach is therefore a legitimate response to the reported rise of foreign interference in recent elections, and it is not inconsistent with international standards, as long as the aforementioned proportionality requirements are ensured when applying sanctions.”

[CDL-AD\(2026\)007](#) Republic of Moldova - Opinion on Law no. 100/2025 containing a set of legislative amendments aiming to combat electoral corruption, §§27-29, and 34-35.

“[...] political parties can no longer receive in-kind support, such as the organisation of lectures or seminars, from legal entities or associations registered in Georgia or abroad. According to the Explanatory Report, the purpose of the amendments is to close loopholes in regulation of political financing by entirely prohibiting parties and electoral candidates from accepting any such donations or support, including free public events; the amendments therefore prevent circumvention of existing restrictions and ensures greater transparency and integrity in political funding.

These amendments form part of the same legislative campaign aimed at limiting access to foreign funding that could be seen as external influencing domestic political processes. However, European standards on the funding of political parties differ from those applicable to civil society organisations and the media. The Venice Commission has observed that restrictions or prohibitions on foreign funding of political parties may be justified, given their central role in governance and policy-making, where foreign interference can directly affect national sovereignty. The amendments in question therefore fall within the permissible margin of discretion of the national authorities.”

[CDL-AD\(2025\)034](#) Georgia - Opinion on the Law on the Registration of Foreign Agents, the amendments to the Law on Grants and other Laws relating to “foreign influence”, §§107-108.

“Many of the above-mentioned limitations on funding are reasonable and common, such as limitations on donations from businesses and private organisations, and the prohibition of donations from legal entities under the control of the state or of other public authorities. However, the strict prohibitions regarding funding from abroad are problematic. As noted in previous opinions, international obligations tend to be restrictive when it comes to foreign funding of political parties and this requires a careful and nuanced approach to foreign funding which weighs the protection of national interests against the rights of individuals, groups and associations to co-operate and share information. The Venice Commission and ODIHR have stressed on several occasions that there should be exceptions to an outright prohibition for contributions from international organisations or even by other states when based on international agreements, which might provide resources for purposes of party-building or education and for resources provided by international and European party groups. Similarly, the Joint Guidelines underline that an exception “can be made for donations from international organisations for the purposes of party-building and education, as long as it is ensured that these contributions are not used to fund electoral campaigns or to advantage some parties at the expense of others”. The Venice Commission and ODIHR recommend considering such exceptions to the prohibition of funding from abroad.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §102.

See also: [CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §80; [CDL-AD\(2015\)025](#) Joint Opinion on the draft amendments to some legislative acts concerning prevention and fight against political corruption of Ukraine, §33. [CDL-AD\(2014\)035](#); Joint Opinion on the Draft Act to regulate the formation, the inner structures, functioning and financing of political parties and their participation in elections of Malta. §§24-25; [CD-AD\(2010\)048](#) Joint Opinion on the Draft Law on Financing Political Activities of the Republic of Serbia, §20.

“For example, donations from foreign states or enterprises may be prohibited by domestic legislation. This is consistent with Article 7 of Council of Europe Committee of Ministers Recommendation (2003), on common rules against corruption in the funding of political parties and electoral campaigns, which provides that “*States should specifically limit, prohibit or otherwise regulate donations from foreign donors.*” In fact, the Commission has noted that this restriction aims to avoid undue influence by foreign interests, including foreign governments, in domestic political affairs, and strengthens the independence of political parties. [...]

As the Commission has noted in the past opinions, the most important purpose of restrictions on the “use of externally donated monies” is to prevent or stop clandestine political influence on national politics from unknown or uncontrollable sources abroad as distinguished, for example, from open and transparent support by international organisations as the Council of Europe or the European Union or even by other states when based on international agreements. On the other hand, sanctions imposed on political parties in the area of finance violations should include a consideration of the amount of money involved, whether there were attempts to hide the violation, and whether the violation is of a recurring nature. As a general rule, irregularities regarding the fulfilment of reporting or public disclosure obligations cannot be qualified as “serious misconduct” which would justify the dissolution.”

[CDL-AD\(2022\)051](#) Republic of Moldova - *Amicus curiae* brief on declaring a political party unconstitutional, §§39 and 42.

See also: [CDL-AD\(2018\)025](#) Tunisia. Opinion on the draft institutional law on the organisation of political parties and their funding, § 40.

C. Public funding

1. *Rationale* and advantages

“Some systems also recognise political parties as having public relevance. In such cases, States typically provide parties with public resources, such as funding to cover their day-to-day running costs or election expenses.”

[CDL-AD\(2025\)032](#) *Amicus curiae* brief for the Inter-American Court of Human Rights on democracy as a human right, as a means for social, political and economic development and the effective exercise of human rights, or as both, §79.

See also: [CDL-AD\(2016\)038](#) Armenia - Joint Opinion on the Draft Constitutional Law on Political Parties, §48.

“Political parties also obtain financial assistance from the state. The rules for the allocation of such assistance are set out in Article 25 of the Law. Provision of state financing is important for the ability of political parties to free themselves from influences of narrow, affluent interests. Currently the total sum appears to be determined and allocated on yearly bases as a line in the state budget, thus detracting from legal certainty. As underlined in the Joint Guidelines, the level of available public funding should be clearly defined in the relevant legislation and the rights and duties of the body with legal authority to set and revise the maximum level of financial support should also be clearly set out. The Venice Commission and ODIHR recommend supplementing the provision on annual public financing allocation (Article 25.1) accordingly.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §105.

“The draft amendments introduce a system of direct public funding, which is welcomed and follows previous recommendations made by OSCE/ODIHR. This is the most significant innovation proposed in the draft. The allocation of public funding in a clear, objective and fair manner is an essential tool in the fight against corruption and reduces the dependency of political parties on wealthy individuals. As such, public funding of political parties also enhances public participation and contributes to the levelling of the playing field for all political parties.”

[CDL-AD\(2015\)025](#) Joint Opinion on the draft amendments to some legislative acts concerning prevention and fight against political corruption of Ukraine, §22.

“As stated in the Guidelines, public subsidies should be set at a meaningful level to fulfil the objective of providing support, but should not be the only source of income or create the conditions for over-dependency on state support. The OSCE/ODIHR and the Venice Commission have previously expressed concern at the amount of funding provided from public sources to political parties in Serbia. It was noted that although public funding must be set at a meaningful level, this should not create an over-dependence of political parties and actors on state support. It was therefore recommended that the amounts in question be reconsidered.”

[CDL-AD\(2014\)034](#) Joint Opinion on Draft Amendments to the Law on the financing of political activities of Serbia, §29.

See also: [CDL-AD\(2011\)006](#) Joint opinion on the revised draft law on financing political activities of the Republic of Serbia by the Venice Commission and the OSCE/ODIHR, §10.

“One recurrent problem is the risk of mismatch of possibilities, that is to say an inequality between the government party(-ies) and the opposition party(-ies). Such imbalances can be somehow counteracted by a system of public financing of parties' activities. This system must be established under a thorough legislation on public grants to political parties based on the principle of equality. On another related issue the report also highlights the need to provide proper conditions for parties without representation in parliament...

In the context of a system of financial grants to political parties, it may be envisaged to establish some financial compensation so that the opposition parties would have an additional contribution in the course of a legislature, compared to the ruling parties. This is intended to compensate them up to a certain extent for the advantage in resources the party(-ies) in power get by having access to the human resources of the government as well as local and regional administrations.

In such context, another important element can also be the establishment of a public system of financing. This system could permit printing of ballot papers and provide financial support, e.g., free or subsidised facilities and office services.

Legislation could also provide for members of parliament and ministers the right to free domestic travels at public expense, and this even during electoral campaigns.”

[CDL-AD\(2013\)033](#) Report on the misuse of administrative resources during electoral processes, §§127-130.

“Lastly, in this same context, it should be noted that if the draft law is passed, there will be two public political funding systems, one governing the financing of election campaigns and the other concerning the regular funding of political parties, as described above. In such situations, the Venice Commission and the OSCE/ODIHR have taken the position that the relevant legislation “should include clear and precise guidelines for the appropriate use and allocation of funds for these different reasons” and that “guidance should also be given with regard to how to classify expenses which are necessary for a campaign but still required outside of electoral periods”.⁷² *It is therefore recommended that provision be made for such legislative amendments (e.g. in the Electoral Law)*”.

[CDL-AD\(2018\)025](#) Opinion on the draft institutional law on the organisation of political parties and their funding, §47

2. Requirements and conditions

“Draft Article 11 on the Public Fund for the support of political parties includes a distribution formula in paragraph 2 [...]

This provision maintains the current distribution formula, which is thus based on the results of the most recent general elections, and which also provides for some support for parties who did not enter Parliament but received more than 1% of votes nationwide. That said, the 10% share of the Public Fund which is reserved for the parties exceeding this threshold is distributed in proportion to the percentage obtained by all political parties concerned, including parliamentary ones. Overall, the Venice Commission and DGI find that the strong emphasis placed on parliamentary representation in the allocation formula, combined with the redistribution of undistributed funds to parliamentary parties, may merit further consideration in light of the principles of equal opportunity and political pluralism. Even though there is no universally prescribed system for determining the distribution of public funding, systems of public financing should avoid creating excessive structural advantages for established parliamentary parties or reinforcing dominant political positions. In the political context of Albania, which is dominated by two major parties, it might be advisable to increase access to public funding to smaller competitors, including those not yet represented in Parliament.”

[CDL-AD\(2026\)015](#), Albania - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft law "On the Financing of Political Parties", §§63-64.

“The very high number of political parties in Haiti appears as linked, at least partially, to the system of public financing. According to the 2014 Law on political parties, 1 % of the state budget is dedicated each year to the functioning of the legally recognised political parties, and financing is ensured, for example, to parties which have obtained 30 representatives of in the administrative councils of the (146) municipalities or of the (571) municipal sections, or, for regional parties, to those which have 3 representatives in municipal councils, in the administrative councils of the municipal sections or as members of the assemblies of the municipal sections (Article 31). The minimum number of members of a political party is 20 (Article 8). The interim Opinion therefore recommended financing electoral campaigns– and not political parties as such - and limiting public financing to those parties which obtain a certain percentage of votes. The creation of political parties could also be submitted to a minimum support, bearing in mind however that while “requirements based on minimum support (...) are legitimate, the state must ensure that they are reasonable and democratically justifiable and not so burdensome as to restrict the political activities of small parties or to discriminate against parties representing minorities”.”

[CDL-AD\(2024\)042 Haiti](#) - Final Opinion on possible constitutional and legislative solutions to conduct future electoral processes in Haiti, §39.

“The very high number of political parties appears as linked, at least partially, to the system of public financing. It should be noted that limiting public financing to those parties which obtain a certain percentage of votes does not go against international standards, as long as the threshold is not unreasonably high. The limitation of beneficiaries of public financing could thus be a way to avoid a proliferation of parties weighing excessively on the state budget.”

[CDL-AD\(2024\)017](#) Haiti - Interim Opinion on possible constitutional and legislative solutions to conduct future electoral processes, §60.

“The fact that the Law only provides for post-election public funding to parties that participated in the last national elections gives rise to concern. This approach will especially undermine newly founded political parties or parties that missed out on one election, as they would then not be eligible for state funding, even though they might be the ones who need it most. It is

therefore recommended to consider the establishment of a funding system that would allow funding allocations early enough in the electoral process, to ensure equal opportunities throughout the period of campaigning.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §108.

“The threshold of 3 percent of the total votes to access public funding tends to favour the largest parties and as mentioned above, only a very little number of political parties would be eligible to public funding with such a threshold. More generally, no non-parliamentary party would have received public funding in the last four out of eight democratic elections. While it may be reasonable for legislation to require a party to be representative of a minimum level of the electorate prior to receiving public funding, the de facto low number of parties eligible to access public funding can lead to a decrease in pluralism and political alternatives.

[...] In their past opinions, the OSCE/ODIHR and the Venice Commission have for instance welcomed the initiative to lower the threshold from 5 percent to 2 percent of the total number of votes, as a condition for obtaining public funding. This would generally allow parties that are not necessarily represented in the parliament to be eligible for public funding. Moreover, the restrictive distribution of public funding contravenes the levelling of the playing field for all parties, also for small and newly established parties, and the aim of public funding to avoid corruption and the undue reliance on private money, including by a few wealthy individuals and oligarchs. The provisions of the Draft Law mean that public funding is only allocated post-election to political parties that previously participated in the last national elections. This approach discriminates against newly founded political parties or undermine parties that missed out on one election, as they would then not be eligible for public funding, even though they might be the ones who need it the most.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §§91-92.

“Article 29.1 of the Draft Law provides that “[i]n order to receive public funding in the eligible year, a party shall submit its request to determine the amount of such funding and to obtain funding to the GEC before 15 August of the preceding year.” The Draft Law does not specify what will happen if the parties fail to comply with the 15 August deadline. As noted by the OSCE/ODIHR and the Venice Commission in the past, depriving political parties of public funding until the next year for missing the deadline would appear disproportionate and could impact the political parties’ ability to implement their activities. It is therefore recommended to adopt a more proportionate approach, which would foresee a certain delay in receiving funds that would not be as lengthy. As noted in previous joint opinions, since suspending public funding is quite a drastic measure, it is recommended for the Draft Law to include a provision that would trigger suspension of public funding for failure to comply with certain regulatory requirements only after a reasonable period of time (e.g. after four or six months) following the warning received from relevant authorities in order to give political parties the opportunity to rectify the situation.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §97.

“Obliging parties that are eligible for public funding to submit a declaration of written consent every year in order to receive funding and depriving thereof those who do not for an entire year, would appear to be an unnecessary administrative step that imposes additional burdens on both the political parties and the CEC. For the above reasons, deleting and replacing the current Article 30 (4) of the Law on Political Associations is a positive step.”

[CDL-AD\(2021\)008](#) Georgia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on amendments to the Election Code, the Law on Political Associations of Citizens and the Rules of Procedure of the Parliament, §§35.

“[...] one could argue that even if this is not specifically mentioned in the Constitution or in the Law on Political Associations of Citizens, representing their supporters in parliament and taking part in the parliamentary process is nevertheless part of political parties’ tasks and objectives, should they receive enough votes to do so. Public subsidies to political parties may at least partially also be justified by the performance of public functions by those parties, including the participation in parliament. It would therefore not be unreasonable to link a portion of the funding to the extent to which members of political parties carry out public functions in the legislature if elected to do so.

Given the other non-parliamentary functions of a political party, such considerations should not disproportionately influence the amount of public funding received, and would also need to depend on the number of party members who have or have not taken their seats as Members of Parliament. This should be set out clearly in law, as should the length of time that political parties shall be deprived of a certain portion of their public funding.”

[CDL-AD\(2021\)008](#) Georgia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on amendments to the Election Code, the Law on Political Associations of Citizens and the Rules of Procedure of the Parliament, §§45-46.

“Overall, there is no universally prescribed system for determining the distribution of public funding and each legislator may choose to require minimum thresholds of support for political parties to qualify for public funding. The OSCE/ODHR and Venice Commission nevertheless stress that unreasonably high thresholds may be detrimental to political pluralism and the opportunities of small political parties. Rendering only post-election public funding to political parties that previously participated in the last national elections may not provide political parties with the minimum initial financial resources necessary to fund a political campaign. This approach will especially undermine newly founded political parties or parties that missed out on one election, as they would then not be eligible for state funding, even though they might be the ones who need it most (...).”

[CDL-AD\(2021\)003](#) Ukraine - Joint Opinion of the OSCE/ODIHR and the Venice Commission on the draft law on political parties, §105.

“[...] the draft Act chooses to leave regulation of direct public funding to future, separate legislation [...]. While this is of course up to each state, it is noted that public funding could be a useful tool by which to further level the playing field between political parties, so that also smaller parties, with less funds at their disposal, will have a chance to be part of the political landscape of a state. Moreover, a good balance of public and private funding will ensure that political parties do not become too dependent on their donors and will on the other hand reduce outside influence on political parties (provided such funding is distributed equally, in a neutral and legally foreseeable manner).

Public funding can also be a valuable tool to further gender equality, for example where allocation of public funds is made contingent on compliance with requirements for women’s participation. At the same time, as noted in the Guidelines, “[i]rregularities in financial

reporting, non-compliance with financial-reporting regulations or improper use of public funds should result in the loss of all or part of such funds for the party.” Bearing in mind the above statements, consideration may be given to including provisions on public funding in this draft Act as well, which should then also include clear provisions on expenditure reporting, and sanctions for wrongdoing.”

[CDL-AD\(2014\)035](#) Joint Opinion on the Draft Act to regulate the formation, the inner structures, functioning and financing of political parties and their participation in elections of Malta, §§58-59.

“[...] An allocation of funds based on party support for women candidates is not considered discriminatory and should be considered in light of the requirements for special measures to be adopted by states according to the UN Convention on the Elimination of All Forms of Discrimination Against Women”.

[CDL-AD\(2010\)048](#) Joint opinion on the draft law on financing political activities of the Republic of Serbia by the Venice Commission and the OSCE/ODIHR, §32.

D. Expenditures, campaigns

1. Campaign spending limits

“All spending limits have to be balanced with the equally legitimate need to protect other rights, such as those of free association and expression, and have to be carefully constructed so that they are not overly burdensome. OSCE/ODIHR has previously underlined that “the lack of spending limits in Ukraine caused many contestants to rely on the support of wealthy individuals or business interests.” In order to guarantee a level playing field for all parties, the draft amendments should consider introducing restrictions on election campaign spending, including carefully constructed maximum spending limits.”

[CDL-AD\(2015\)025](#) Joint Opinion on the draft amendments to some legislative acts concerning prevention and fight against political corruption of Ukraine, §29.

“[...] According to common rules against corruption in the funding of political parties and electoral campaigns, states should consider adopting measures to prevent excessive funding of political parties, including the establishment of limits on expenditure in electoral campaigns.”

[CDL-AD\(2014\)035](#) Joint Opinion on the Draft Act to regulate the formation, the inner structures, functioning and financing of political parties and their participation in elections of Malta, §23.

“[...] political parties are required to report to the Agency only 30 days after the announcement of election results and are not obliged to provide information on campaign expenditures during the election process. This reduces the transparency of party funding to voters in the run-up to the elections and runs counter to electoral good practice. It is therefore recommended to require political parties to report on campaign financing in a transparent manner during the election campaign. [...]

[...] establishing by law reasonable and justifiable limits to campaign expenditures [...] would ensure that the free choice of voters is not undermined or the democratic process distorted by disproportionate expenditure on behalf of any party or candidate. It would thus enhance the level playing field among contestants during the campaign, in line with good electoral practice. This recommendation is not addressed by the draft amendments and it is recommended that such a campaign expenditure limit be considered.”

[CDL-AD\(2014\)034](#) Joint Opinion on Draft Amendments to the Law on the financing of political activities of Serbia, §§35 and 37.

"[...] However, in case the authorities indeed choose to dispose entirely of the idea of specific election campaign spending limits, it may be considered to introduce an annual spending limit, for political parties and in this case, clarify that election campaign spending would come within the ambit of this limit".

[CDL-AD\(2011\)044rev](#) Joint Opinion on the Draft Law on Amendments and Additions to the Organic Law of Georgia on Political Unions of Citizens, §10.

2. Abuse of state resources

"Article 65(20) of the draft law retains the current provision that "the balance of non-spent funds on a special account shall be returned to a candidate, political party". This article does not specify any limitation on how a candidate or political party is to use these returned funds. Allowing a candidate to retain unspent campaign funds for personal use could have a corrupting effect. In fact, allowing candidates to use unspent campaign funds for personal use could be seen as a form of bribery. The Venice Commission and the OSCE/ODIHR previously recommended that this provision be amended to prohibit the use of unspent campaign funds for the personal benefit of candidates. Unspent campaign funds could be returned to donors on a proportionate basis, given to charities, or required to be used for some other legitimate public purpose."

[CDL-AD\(2014\)019](#) Joint Opinion the Venice Commission and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on the draft Election Law of the Kyrgyz Republic, §92.

"Finally, a system of public grants to political parties could provide a good starting point for a certain public inspection and auditing of the economic conditions of the parties. There is here an opportunity to implement different protective mechanisms against misuse of administrative resources for electoral processes. Such a grant system based on the principle of equality, ultimately reviewed by courts or specific bodies, may fulfil legitimate aims within a democratic society, like in Mexico, where rules are exhaustive and judicial review is guaranteed in every step of the public financing."

[CDL-AD\(2013\)033](#) Report on the misuse of administrative resources during electoral processes, §131.

"[...] Law would benefit from explicitly stating that party leaders and members are prohibited from converting their party funds (both public and private, for that matter) into personal use. Lack of such a provision opens the possibility for abuse and corruption. [...]"

The [...] Law would also benefit from introducing a provision prohibiting the use of public resources (by an office holder) for the purposes of support of a political actor."

[CDL-AD\(2010\)048](#) Joint opinion on the draft law on financing political activities of the Republic of Serbia by the Venice Commission and the OSCE/ODIHR, §§29 and 54.

3. Airtime and access to media

"Concerning equal access to media, the interim Opinion reminded that, for elections, equality (be it strict or proportional) must be ensured between parties. However, in public radio and television broadcasts on the referendum campaign, equal access must be ensured to the proposal's supporters and opponents (rather than to political parties)."

[CDL-AD\(2024\)042 Haiti](#) - Final Opinion on possible constitutional and legislative solutions to conduct future electoral processes in Haiti, §39.

“International standards, and in particular the principle of equal treatment before the law with regard to the media, refer “not only to the airtime given to parties and candidates, but also to the timing and location of such space.

Moreover, “[d]epending on the subject matter, equality may be strict or proportional. If it is strict, political parties are treated on an equal footing irrespective of their current parliamentary strength or support among the electorate. If it is proportional, political parties must be treated according to the results achieved in the election.” Due to the difficulty to take previous results as a basis and at the same time the risk of proliferation of parties without a real basis, intermediate solutions could be looked for. For example, the emphasis could be on strict equality for access to public media and on proportional equality with a threshold for public funding.”

[CDL-AD\(2024\)017](#) Haiti - Interim Opinion on possible constitutional and legislative solutions to conduct future electoral processes, §§61-62.

“The proposed changes to the Election Code would infringe on the rights of political parties to equal opportunities by denying them free airtime if they do not receive public funding. The denial of free airtime to those parties is both disproportionate and unfounded, as it is exactly these parties with less funds at their disposal that would need access to free airtime in order to voice their opinions and present their programmes to the electorate. Moreover, there appears to be no obvious connection between the allocation of free airtime and receiving state funding that would justify such a step. In addition, such a restriction is not in the public interest, as it would reduce access to information that the public needs in order to make an informed choice in elections.³ It is recommended to also review these amendments to ensure that the opportunities of political parties to address the electorate are not unduly restricted.”

[CDL-AD\(2021\)008](#) Georgia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on amendments to the Election Code, the Law on Political Associations of Citizens and the Rules of Procedure of the Parliament §14.

“Since financial spending limits may be difficult to enforce in practice, additional measures to limit spending should be taken. In particular, consideration should be given to prohibiting paid political advertising on broadcasting media, while ensuring that the system of allocation of free airtime functions in practice. Paid media advertising appears to constitute the highest proportion of campaign spending according to official figures; such a ban could therefore significantly reduce the cost of elections, while being relatively easy to monitor and enforce. Moreover, while the draft amendments cover public funding and private contributions, they do not foresee measures to achieve a proper balance between private and public funding”.

[CDL-AD\(2015\)025](#) Joint Opinion on the draft amendments to some legislative acts concerning prevention and fight against political corruption of Ukraine, §30.

F. Reporting and disclosure

1. Reporting

“[...] the Venice Commission and DGI are of the opinion that the law should define more precisely the reporting requirements and extend them to other items, in order to ensure adequate transparency of party finances. More precisely, they recommend making it clear in the law that the reporting content must include, on an itemised basis, all sources of income, expenditures, assets, liabilities, loans, debts, guarantees, in-kind contributions, below-market-value services, related-entity transactions, public support in kind, media and digital communication expenditure, and the gender and youth grant. A reporting system that does not include liabilities and debts would miss a major form of financial influence on political

parties. In addition, parties should be explicitly required to submit supporting documents – together with the annual report – to the CEC, in order to allow for meaningful control of party finances. It would also be very useful to provide a template for financial reports, as in practice the same requirements may be interpreted very differently by political parties.”

[CDL-AD\(2026\)015](#), Albania - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft law "On the Financing of Political Parties", §77.

“Political parties have to submit a financial report, together with an audit report, once a year (Article 27.1). The form, content and submission procedure are to be determined by the Cabinet of Ministers (Article 27.4). It would be preferable to have those specified directly in the Law. The annual report and the audit report are to be made public (Article 27.6). Although an important transparency provision, this norm could be made more explicit by including such important information as uniform reporting forms that political parties use, specification in which media the reports are published, and specification on the timelines – by what date such report should be published.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §110.

“Article 38.2 provides for the submission of semi-annual financial statements by 20 July and the annual report by 10 February. As noted in the 2020 Joint Guidelines, generally, reporting requirements should be such that smaller parties can also fulfil them, and should not hinder such parties’ participation in political life. It may in practice be quite cumbersome, especially for small political parties to prepare and submit two reports per year except, for example, during an electoral year. It is recommended to provide longer deadlines in between reports and consider simplifying the reporting requirements.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §100.

“[...] it is recommended that the authorities provide political parties with standardized forms for their reports and guidance on how to prepare an accessible and informative report. Standardised and easily searchable formats of reporting also support civil society and other interested stakeholders to review political party finances and contribute to an informed electorate.

The draft amendments include extensive reporting, notification and publication obligations (see paras 42-49 above). This is generally welcomed as an important step to ensure transparency in campaign and political party financing in line with Article 7 par 3 of the UN Convention against Corruption. While it is positive that the law stipulates deadlines, not only for the benefit and legal security of political parties and regulatory bodies, but also for media, civil society and the general public to get prompt access to relevant information and to allow them to conduct their own analyses, the deadlines contained in the draft amendments appear to be too short.⁷⁸ The administrator of a party's running campaign fund shall, for example, submit a final financial report on the use of funds no later than on the seventh day after the election (Article 42 par 4 of the Presidential Election Law and Article 49 par 5 of the Parliamentary Elections Law). Even though reports, in particular pre-election reports, should be processed and analysed quickly, such short deadlines can pose a disproportionate disadvantage to small parties and independent candidates, which may not have a sufficient number of staff or volunteers to comply with these obligations in a timely manner. Hence, the deadlines should provide political parties and regulatory bodies with a reasonable amount of time to fulfil their reporting, analysis and auditing obligations and take into consideration the

form of analysis or reporting required (i.e., deadlines for submission and analysis of pre-election reports might be shorter than in the case of post-election reports)."

[CDL-AD\(2015\)025](#) Joint Opinion on the draft amendments to some legislative acts concerning prevention and fight against political corruption of Ukraine, §§49 and 56.

"The Guidelines note that transparency in party and campaign finance is important to protect the rights of voters and to prevent corruption. Transparency is also important because the public has the right to be informed. Voters must have relevant information as to the financial support given to political parties in order to hold parties accountable. At the same time, regulations should not place an undue burden on parties, candidates and oversight bodies.

In the interest of transparency, it should be clear not only which donations a party may receive, but records should also be kept of loans and debts of political parties and published. This helps increase scrutiny for parties in relation to the receipt of funding claimed to be loans, but which are not actually intended to be paid back. It is recommended that the public and the media should be able to scrutinise records on loans and debts, and that electoral contestants should be required to inform the independent body charged with oversight over political party and campaign finance with information on all loans and debts; the independent body should accordingly be held to publicise such statements on its website.

[CDL-AD\(2014\)035](#) Joint Opinion on the Draft Act to regulate the formation, the inner structures, functioning and financing of political parties and their participation in elections of Malta, §§36-37.

"Contestants do not have an obligation to report on the expenditures of an election campaign during the campaign period as only reports on donations and income of the campaign finances have to be submitted before the elections. The draft Code does not regulate mechanisms for the National Audit Office (NAO) to check the accuracy of the reports. The OSCE/ODIHR election observation mission report on the 2013 parliamentary elections states: "It should be ensured that all political parties and nomination committees submit information to the public register maintained by the NAO as required by the law on an ongoing basis. The NAO could have the authority to request this information if failure to submit it is suspected and to sanction the respective party for failure to comply with the law. The authority of the NAO could be strengthened and additional resources granted thereby enabling it to crosscheck and verify the authenticity of reported expenditures of electoral contestants against actual expenditures. [...]"

The OSCE/ODIHR recommended adopting regulations to require that paid content in political advertising be clearly labelled and legislation to prohibit hidden advertising be introduced..."

[CDL-AD\(2014\)001](#) Joint Opinion on the draft Election Code of Bulgaria, §56 and 60.

"[the provision] on record-keeping is welcomed, in that it also requires political actors to keep detailed accounts on the origin amount and structure of funds. This is in accordance with good practice and the Guidelines which firmly recommend that reports should clearly distinguish between income and expenditure and include itemized lists of donations. Reports should also include general party finance and campaign finance, clearly identifying which was to the benefit of the party and which to the individual candidate. A strong system of party financing oversight outside of elections is imperative in order to avoid providing the possibility for third party interference and circumvention of the rules through conducting activities during a "pre-electoral" period."

[CDL-AD\(2010\)048](#) Joint opinion on the draft law on financing political activities of the Republic of Serbia by the Venice Commission and the OSCE/ODIHR, §40.

2. Disclosure

“Draft Article 3(2) states: “Data on the financial and material resources of political parties and their expenditures shall at all times be public.” It would be advisable to insert a reference to the protection of personal data, similarly as it was done in para. 4 which states: “The monitoring, oversight, and publication of financial data shall be carried out in accordance with the principle of proportionality and with the protection of personal data, in compliance with the legislation in force.” With regard to both paras 2 and 4, the Venice Commission and DGI recommend clearly specifying which personal data may be published and under what circumstances. For example, donations exceeding a certain threshold could be subject to more extensive transparency requirements in compliance with international standards.³⁷ While it is acceptable to introduce provisions mandating the publication of personal data of individuals who donate to political parties, such rules should be embedded in primary legislation. In this context, attention is drawn to the General Data Protection Regulation (GDPR) which permits the disclosure of personal data where there is a substantial public interest, which can apply to the transparency of political financing, without requiring the consent of the individual concerned. However, to rely on this exemption, the State must demonstrate that the processing of such data is necessary to achieve the intended public policy objective and that the principle of data minimisation is respected.”

[CDL-AD\(2026\)015](#), Albania - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft law "On the Financing of Political Parties", §36.

“[...] the law should also explicitly require publication in an open, searchable and machine-readable format. Open data is not merely a technical matter. It enables media, civil society and oversight bodies to compare parties, identify patterns and detect risks. Publication only as scanned documents or non-searchable files would not fulfil the transparency objective effectively.”

[CDL-AD\(2026\)015](#), Albania - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft law "On the Financing of Political Parties", §76.

“Article 23.2.7 provides that a political party is prohibited from being financed by natural persons who do not indicate their name, surname, patronymic, date of birth, registered address and contact telephone number. This is partly in line with the Council of Europe Committee of Ministers’ Recommendation (2003)⁴ which requires that in case of donations over a certain value, donors should be identified in the records. It is not clear to what extent this information on the identity of the donor is made public for the sake of transparency of party financing. If this is the case, it is important to recall that transparency or reporting requirements must strike a fair balance between necessary disclosure and the required privacy and data protection safeguards of individual donors. The Venice Commission and ODIHR recommend providing that only names of donors and amounts above a certain level be made and that the private addresses and contact details of donors shall not be made public.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §103.

“Finally, pursuant to Article 44.1 of the Draft Law, the parties’ financial statements and brief reports on party activities are published on the website of the GEC. Publication of financial reports is crucial to establishing public confidence in the functions of a political party.¹⁵¹ Article 7 para. 3 of the UN Convention against Corruption requires States Parties to consider “taking appropriate legislative and administrative measures (...), to enhance transparency in

the funding of candidatures for elected public office and, where applicable, the funding of political parties". Council of Europe Recommendation 2003(4) to member states on common rules against corruption in the funding of political parties and electoral campaigns also urges States to provide specific rules to "ensure transparency of donations and avoid secret donations". As stated in the 2020 Joint Guidelines, "[t]ransparency in party and campaign finance, [...] is important to protect the rights of voters, prevent corruption and keep the wider public informed. Voters must have relevant information as to the financial support given to political parties, as this influences decision-making and is a means of holding parties accountable."¹⁵³ At the same time, it is important to reiterate that transparency or reporting requirements must strike a balance between necessary disclosure and the required privacy and data protection safeguards of individual donors and members, especially if there is a reasonable probability of threats, harassment or reprisals. Articles 37.7 and 37.8 (and 37.16 regarding donations to lower-level branches of a party) provide that the financial statements shall include the full names and addresses of all donors, including the private addresses of individual donors. Read together with Article 44 on the public disclosure of political parties' reports, including financial statements, this may mean the publication of all donors' names and private addresses, which raises concerns with regard to the privacy rights of individual donors"

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §102.

"The publication of reports submitted by political parties, as well as the analysis of such reports on the official websites of parties and regulatory bodies is positive, since it increases transparency and public participation. It is recommended that the draft amendments stipulate that these publications remain accessible on the respective websites, ideally permanently or at least for a longer period of time, such as five years, so that individuals and political parties have sufficient time to access them."

[CDL-AD\(2015\)025](#) Joint Opinion on the draft amendments to some legislative acts concerning prevention and fight against political corruption of Ukraine, §60.

"In addition, the body charged with oversight over both political party and campaign finance should be obliged to publish its analysis of political party and campaign finance reports, and accounts on its website within a reasonable period after having received them (whilst respecting personal data protection rules). Such reports should be made publicly available without unnecessary delay and should be easy to comprehend; they should also be easily accessible to the public for an extended period of time. This could be done by publishing the reports in a standardised and searchable format, and/or through newspapers with a high circulation. In this context, clear and timely deadlines for oversight bodies to publish reports should be included in relevant legislation. Also, both candidates and political parties should be required to provide regular, detailed reports on their campaign income and expenses, within an acceptable time limit, which could then also be made public (in a timely manner). The use of new technologies could be useful in this respect and should be reflected in the draft Act."

[CDL-AD\(2014\)035](#) Joint Opinion on the Draft Act to regulate the formation, the inner structures, functioning and financing of political parties and their participation in elections of Malta, §§38.

"Article 29 of the Law (on reporting on election campaign costs) does not require the Agency to publish its conclusions on parties' campaign financing reports, nor does it set a deadline for publishing such reports on the Agency's website. The OSCE/ODIHR has noted on a previous occasion that taken together, these factors may undermine the effectiveness of the control mechanisms introduced by the Law and can potentially decrease the public's trust in the way electoral campaigns are financed. It is therefore recommended to set a deadline within which the Agency must publish parties' campaign financing reports on its website, and to require the Agency, within a reasonable deadline, to also publish its conclusions on those reports."

[CDL-AD\(2014\)034](#) Joint Opinion on Draft Amendments to the Law on the financing of political activities of Serbia, §36.

“[...] In order to provide timely and relevant campaign finance information to the public, the Venice Commission and OSCE/ODIHR recommend that the law should require full disclosure, before and after elections, of sources and amounts of financial contributions and the types and amounts of campaign expenditures. Since the CEC receives these reports, this information can also be published on the CEC website. The OSCE/ODIHR and the Venice Commission recommend that the draft law be revised to provide specific details on the information that must be included on campaign finance reports and that all reports must be publicly available for scrutiny, including on the website of the CEC.

[CDL-AD\(2014\)019](#) Joint Opinion the Venice Commission and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on the draft Election Law of the Kyrgyz Republic adopted by the Council for Democratic Elections at its 48th meeting (Venice, 12 June 2014) and by the Venice Commission at its 99th plenary session (Venice, 13-14 June 2014), §91.

VI. Control and sanctions

A. Scope of mandate of the relevant state bodies

Mandate

“[...] While the Venice Commission and DGI welcome the establishment of an oversight body, they recommend introducing detailed regulations in the law itself, including safeguards of independence of that structure, guarantees of adequate financial and human resources, as well as the mandate and the authority to effectively and pro-actively supervise the funding of political parties and to investigate alleged infringements of political financing regulations – beyond the information submitted by political parties – in cooperation with other relevant State agencies. In this connection, attention is drawn to the Joint Guidelines which state that “generally, legislation should grant oversight agencies the ability to investigate and pursue potential violations. Without such investigative powers, agencies are unlikely to have the ability to effectively implement their mandate. Adequate financing and resources are also necessary to ensure the proper functioning and operation of the oversight body.”

[CDL-AD\(2026\)015](#), Albania - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft law “On the Financing of Political Parties”, §89.

“Article 7 of the Law deals with the control exercised over political parties by “*the body (institution) determined by the relevant executive authority*”, which is again the Ministry of Justice. The Ministry “*verifies the compliance of the activity of the political party with the requirements of normative legal acts and its charter*” (Article 7.1), “*studies the compliance of the political party with the normative legal acts and statutes of the Republic of Azerbaijan*” (Article 7.2) and “*investigates violations of the requirements of normative legal acts*” (Article 7.3). The concrete tasks include carrying out regular checks of the register of members of political parties, reviewing information published in the media, considering application concerning political parties, issuing written warnings in relevant cases (Articles 7.1.3, 7.3.3 and 7.4) and filing judicial application suggesting suspension or dissolution of political parties (Articles 7.1.4 and 7.3.2).

The Venice Commission and ODIHR note that states have the right to exercise oversight over political parties. They furthermore note that the law should enable oversight agencies to

investigate and pursue potential violations. At the same time, they also recall that the bodies charged with the supervision of political parties must refrain from exerting excessive control over party activities and limit their investigations to cases where there has been an indication of wrongdoing by an individual party. The ECtHR raised particular concern about political parties being liable to inspections by the authorities under threat of dissolution. The Court stated in the Republican Party case that it could not discern any justification for such intrusive measures subjecting political parties to frequent and comprehensive checks and a constant threat of dissolution on formal grounds. The far-reaching and intrusive verification mechanism under Article 7 of the Law is incompatible with the political freedom political parties have to enjoy in a democratic society. The Venice Commission and ODIHR recommend significantly reducing the control powers of the oversight body. [...]

Moreover, it is crucial that the competent body exercise the oversight in an impartial manner and free from partisan influence and treats all political parties in the same way (in line with Article 4.2 of the Law). As the Venice Commission has highlighted in one of its previous opinions on political party legislation of Azerbaijan, regulatory authorities must remain neutral and objective in dealing with the process of political party registration, political party finance and regulation of party activities, and it is clear that it is difficult to meet these requirements if the monitoring body is an organ of the executive, linked by hierarchy to political actors, rather than an independent institution. It is important that the monitoring body be impartial and for this reason independent of government or ministers who would have interest in defeating their political rivals. The Venice Commission and ODIHR therefore recommend revising the oversight mechanism to ensure that control over political parties is exercised by an impartial and independent body. Moreover, the competent body should be determined by the Law itself and not by Presidential Decree, for the sake of legal certainty and stability.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §§57, 58, and 60.

“The GEC’s additional responsibilities envisaged by the draft amendments, namely the registration of political parties and the receipt of party financial declarations, further underline the need to maintain this independence and impartiality and the perception of such. [...]

it is essential that the entities involved in oversight have the power to follow up on and investigate alleged irregularities if they receive credible information of falsified reports or other serious financial or other violations. Without such investigative powers as well as adequate financing and resources, agencies are unlikely to have the ability to effectively implement their mandate. It is also important that the relevant legislation clearly outline the various differing competences and mandates of all the bodies involved in supervision and oversight while ensuring that they complement one another. If the GEC is in charge of carrying out political party funding control, it will be essential that it is independent and impartial as stated above, that it has appropriate powers of investigation and resources to implement its mandate, while ensuring proper co-ordination between the GEC, the State Audit Office and the IAAC. The legal drafters could also consider dividing the investigation powers, which could remain vested with the State Audit Office and/or the IAAC, which has a dedicated financial investigative unit, while leaving decision-making powers in the hands of the GEC regarding the potential imposition of sanctions on the basis of the results of an investigation.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §105 and 108.

“During the pre-assessment visit, certain political parties underlined that electoral legislation provides that, when they seek to register for elections, the State Audit Office has the authority to check a political party’s electoral platform to assess its legality and economic feasibility and the political party can be denied registration as a result. They further emphasized that this also

tends to somewhat harmonise all programmes, to the detriment of the principle of political pluralism. As noted in OSCE/ODIHR election reports on Mongolia, this constitutes an excessive interference with the right to stand for elections and freedom to campaign. Consequently, the requirement for political parties' electoral platforms to be confirmed by the State Audit Office for their economic feasibility and adherence to specific policy-based requirements should be repealed from applicable legislation.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §65.

“[...] The monitoring of accounts of political parties, and of expenses involved in election campaigns, including their presentation and publication by an independent regulatory body, is mandated by international standards and crucial to safeguarding the role and proper functioning of political parties and their ability to adequately represent social interests. The establishment of such a specialized regulatory body is in line with the recommendations made by OSCE/ODIHR. When creating a regulatory body, it is essential that it is sufficiently independent from State structures to conduct effective oversight, and that it is endowed with adequate financial support and investigative powers. Regulatory bodies have to be independent, impartial and non-partisan in nature, which is why the establishment and appointment of representatives of these bodies should follow clearly established and carefully crafted procedures.”

[CDL-AD\(2015\)025](#) Joint Opinion on the draft amendments to some legislative acts concerning prevention and fight against political corruption of Ukraine, §36.

Specific powers over compliance with gender regulations

“The Commission has expressed the opinion that any legal requirement imposed on political parties for selecting candidates should be effectively supervised by independent bodies, such as tribunals or electoral commissions, ensuring the existence of effective remedies available to protect the freedom of association of political parties and political rights of individuals.”

[CDL-AD\(2025\)032](#) Amicus curiae brief for the Inter-American Court of Human Rights on democracy as a human right, as a means for social, political and economic development and the effective exercise of human rights, or as both, §79.

“it is not clear which (independent) body will be in charge of monitoring the compliance with gender and diversity requirements provided in the Draft Law, and what will be the criteria for assessing compliance and the consequences. The Draft Law should be supplemented in this respect to ensure that ultimately, these provisions are effectively implemented [...]. In addition, the Draft Law could also contemplate the development of internal party codes of conduct or policies to prohibit discrimination and harassment based on sex or gender, as a good practice.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §29.

Powers

“it should be made clear in the law whether Draft Article 17(5) also allows the CEC to request data from other public institutions. As the Venice Commission has stated on previous occasions, the financial monitoring will be more effective if the oversight body has the power to ask other institutions such as tax, anti-money laundering or anti-corruption authorities for assistance. Draft Article 17(8) states that the CEC shall transmit the audit report to such institutions in case of suspicions of irregularities – which is a welcome innovation, but the Venice Commission and DGI recommend making it clear that the CEC may request their

cooperation at an earlier stage, before the adoption of the audit report. The Draft Law should establish a clearly defined mechanism for cooperation between the CEC and other State agencies on a permanent basis.”

[CDL-AD\(2026\)015](#), Albania - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft law "On the Financing of Political Parties", §82.

“These kinds of competences are in line with international standards and previous opinions of the Venice Commission: in the terms of the *Guidelines*, “generally, legislation should grant regulatory agencies the ability to investigate and pursue potential violations. Absent such investigative powers, agencies are unlikely to have the ability to effectively implement their mandate.”

[CDL-AD\(2018\)016](#) Kosovo - Opinion on the “draft law on amending and supplementing the Law no. 03/I-174 on the Financing of Political Entities (Amended and Supplemented by the Law no. 04/I-058 and the Law no. 04/I-122) and the Law no. 003/I-073 on General Elections (Amended and Supplemented by the Law no. 03/I-256)”, §34.

“The draft amendments further do not provide the institutions responsible for oversight and control with specific powers to access the information they need to perform their roles, such as financial documentation held by parties (e.g., invoices), including the powers to oblige parties to respond to specific requests, etc. Without such powers, it would be difficult for oversight bodies to analyse financial statements in a manner that goes beyond conducting formal checks of internal consistency.

[CDL-AD\(2015\)025](#) Joint Opinion on the draft amendments to some legislative acts concerning prevention and fight against political corruption of Ukraine, §45.

“It may (...) be challenging for any oversight body to detect illegal sources of political party or campaign finance without sufficient powers of investigation. The body enforcing the relevant legislation should therefore have sufficient powers to do so. According to the *Guidelines*, “legislation should grant regulatory agencies the ability to investigate and pursue potential violations. Without such investigative powers, agencies are unlikely to have the ability to effectively implement their mandate”. Similarly, the Committee of Ministers Recommendation 2003(4) requires that: “independent monitoring should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication.” The process of auditing alone may be rendered ineffective if the oversight body may do so solely on the basis of information submitted to it and is not able to examine whether that information is realistic or accurate, and whether it presents an actual and complete picture of a contestant’s income and expenditures. To strengthen the auditing process, several countries have provided their oversight bodies with the power to assess the accuracy of campaign finance reports and their compliance with the rules.

It is thus recommended to consider giving the oversight body a number of additional powers in this area, such as, for example, the power to call witnesses and the power to ask other governmental institutions (tax authorities, anti-corruption authorities, etc.) for assistance in carrying out its work, including through the provision of information or expertise and the power to call witnesses under oath. The infringement of rules on political party and campaign finance should be subject to an effective remedy, including effective, proportionate and dissuasive sanctions. In addition, the body enforcing legislation should be able to issue orders leading to the partial or total loss of funds obtained in contravention to the draft Act. Any sanctions imposed “[...] must bear a relationship to the violation and respect the principle of

proportionality”, and it should be possible for the affected political party to appeal such decisions to a court.”

[CDL-AD\(2014\)035](#) Joint Opinion on the Draft Act to regulate the formation, the inner structures, functioning and financing of political parties and their participation in elections of Malta, §§42-43.

Resources

“Article 40.3 provides that the GEC shall deliver to the State Audit Office the financial statements of parties that have received public funding. It is unclear why only such parties are concerned. Also, the 10 working days for the State Audit Office to control the financial statements appear rather short and the drafters could consider extending such duration.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §101.

“Considering that one reason for failure to perform audits is the lack of a sufficient budget, the Concept document proposes reserving 1% of the Democratisation Fund – which is dedicated to the financing of political entities – to the audit of political entities. However, this proposal is not reflected in the draft law. *The Venice Commission recommends complementing the draft law by more precise guarantees for the Office’s operational capacities, preferably both in terms of financial resources and of a sufficient number of specialised staff able to provide effective follow-up to the audit reports submitted by the external auditors.* The provision of sufficient budgetary guarantees is all the more important as the selection of auditors repeatedly failed in the past for lack of candidates. It would appear that they considered the remuneration proposed as too low. *As an alternative option, such problems could also be avoided by integrating the whole audit process in the Office and by recruiting financial auditors on a permanent basis.*”

[CDL-AD\(2018\)016](#) Kosovo - Opinion on the “draft law on amending and supplementing the Law no. 03/I-174 on the Financing of Political Entities (Amended and Supplemented by the Law no. 04/I-058 and the Law no. 04/I-122) and the Law no. 003/I-073 on General Elections (Amended and Supplemented by the Law no. 03/I-256)”, §44.

B. Sanctions for non-compliance

Principles

“To be effective, the legislation should state the legal consequences in case of non-compliance with the said requirements and include effective, proportionate and dissuasive measures with a real deterrent effect or financial incentives, for example in the form of public funding taking into account for instance the proposed candidates.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §27.

“Most importantly, however, the Venice Commission and ODIHR stress that, while it is undisputable that sanctions should be applied against political parties found in violation of relevant law and regulations, care must be taken that sanctions be objective and proportionate to the specific violation. In order to respect the principle of proportionality, there should be a spectrum of sanctions available in order to be able to adjust the level of punishment to the seriousness of the violation. As the Law only provides for mere executive warnings and for the dissolution of the party – in the absence of redress following its suspension – as possible sanctions for non-compliance with state legislation, it fails to guarantee the respect for the principle of proportionality, which is an essential of the requirement that every restriction of the

freedom of association has to be “necessary in a democratic society”. The above-mentioned provisions of Article 7 seem to imply that any violation of a normative legal act may lead to the suspension of the political party by a court decision, followed by its dissolution in the absence of redress. The suspension of a political party is however a particularly invasive and exceptional measure and should only be imposed in the most serious cases involving particularly grave violations of the rules on donations or on reporting, if other less invasive measures have proven ineffective. The Venice Commission and ODIHR recommend stating explicitly in the Law that suspension may only be resorted to in case of the most serious violations of normative legal acts which would lead to its dissolution in the absence of redress, and providing for a range of less severe sanctions applicable in case of less serious violations.”

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §65.

“The Joint Venice Commission and OSCE/ODIHR Guidelines on Political Party Regulation envisage the possibility of imposing less intrusive sanctions upon parties found to be in violation of relevant laws and regulations, which in certain circumstances should be dissuasive.”

[CDL-AD\(2022\)051](#) Republic of Moldova - *Amicus curiae* brief on declaring a political party unconstitutional, §39.

“[...] gender or diversity requirements do not necessarily or automatically translate into more balanced or diverse representation of under-represented persons in party structures or in elected offices. This is often because the legislation does not state the legal consequences in case of non-compliance with the said requirements nor does it contain any sanctions. In order for gender equality legislation to be effective, infringements of gender equality provisions should be met with effective, proportionate and dissuasive measures to ensure compliance and have a real deterrent effect and/or with financial incentives. More specifically, while the formula for calculating the amount of public funding takes into account the number of women candidates and candidates with disabilities, as well as elected ones (Articles 28.5 and 28.6), the Draft Law does not specify the consequences for not complying with gender and diversity requirements in party governing bodies and activities, such as those mentioned in Articles 8 and 18 of the Draft Law.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §28.

Specific sanctions

“[...] work in parliament is not the only purpose of a political party, as also reflected in Article 30 (1) of the Law on Political Associations of Citizens, which states that parties shall receive funding for “financial support of party activities and development of the party system”. Even in situations where a majority of elected Members of Parliament of a party refuse to take up their mandates, depriving a political party of all state funding is an unduly invasive excessive and disproportionate measure. In some cases, the lack of such funding would seem to deprive political parties of the ability to operate at all.

Similarly, sanctioning political parties, and not individual Members of Parliament, by depriving them of funding for six months if the respective Members do not attend the majority of sittings during a parliamentary session appears disproportionate and at odds with the Parliament's Rules of Procedure, which already regulate such matters in a clear and balanced manner. Similar considerations apply with regard to the proposed amendment to the Rules of Procedure of Parliament, which would result in the full deduction of the salary of a Member of Parliament who does not attend without good reason all plenary sittings during a calendar

month of the regular session, both for the period of the parliamentary session and for the ensuing recess period. This latter proposal would also likely not be compliant with the Constitution of Georgia, which makes salaries for Members of Parliament mandatory. [...]

However, given the broad aim of public funding under Article 30 (1) of the Law on Political Associations of Citizens, it would be disproportionate to take away six months' worth of all public funding for a political party that is eligible for such funding, due to the actions or omissions of Members of Parliament of such a party. Such actions would raise concerns not only under the political party's right to freedom of association, but also with regard to the right to freedom of expression of its members."

[CDL-AD\(2021\)008](#) Georgia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on amendments to the Election Code, the Law on Political Associations of Citizens and the Rules of Procedure of the Parliament §§12-13, 55.

"[...] as suspending public funding is quite a drastic measure and to close loopholes open to abuse, it is recommended for the draft law to include a provision that would trigger suspension only after a certain period of time (e.g. after four or six months) in order to give political parties the opportunity to rectify the situation and account for cases in which unforeseen circumstances (e.g. illness) force council members to quit their positions (...)."

[CDL-AD\(2020\)004](#) Armenia - Joint opinion of the Venice Commission and OSCE/ODIHR on draft amendments to the legislation concerning political parties, §39.

Sanctions for funding violations

"Draft Article 16(1) states: "1) Where a political party fails to pay its obligations, such as fines imposed by the CEC, tax liabilities, or obligations arising from the enforcement of final court decisions, the corresponding amount shall be deducted from the funds allocated to the party from the Public Fund. 2) Where the amount of a political party's obligations exceeds the funds it receives from the Public Fund, the political party may not participate in elections without first paying the relevant obligation." The relationship between these provisions and Draft Article 21(1) (item g), which provides for administrative fines for breaches of the provisions on the financing of political parties by the person responsible for the finances of the political party, should be clarified in the law. Moreover, Draft Article 16(2), which may prevent a party from participating in elections if unpaid obligations exceed the public funds it receives, should be more nuanced. Exclusion from elections is one of the most serious interferences with political pluralism. It should not operate automatically for ordinary debts or administrative disputes. The Venice Commission and the DGI recommend that, if this mechanism is retained, it should apply only to serious, final and enforceable obligations, after notice, opportunity to remedy and effective judicial review."

[CDL-AD\(2026\)015](#), Albania - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft law "On the Financing of Political Parties", §78.

"The failure by a political party to submit the report "in an appropriate manner" is sanctioned by the suspension of the state financial aid (Article 27.7). If this violation is repeated in the next year, the political party will not be paid state financial aid for the remaining quarters of that year, as well as for the next year. These sanctions are quite harsh and, thus, the conditions for their application should be stated in much clearer terms to minimise the risk of their abuse and ensure proportionality of the sanction. The Venice Commission and ODIHR recommend amending Article 27 accordingly and, in addition, providing explicitly for legal remedies in cases where state funding is not paid."

[CDL-AD\(2023\)007](#) Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties, §111.

“Articles 42 and 43 of the Draft Law stipulate that in case public funding is incorrectly calculated due to errors or discrepancies in the financial reports, political parties have to repay double the amount of funding received and that illegally received or undisclosed donations have to be reimbursed at three times the amount of such donations, respectively. At the same time, there are still actions in the Draft Law, such as public disclosure of the report (Article 44) or the breach of Article 35 on non-monetary donations for which no sanction is provided, which may lead to ineffective enforcement. As noted in 2020 Joint Guidelines, “all sanctions must be flexible and proportionate in nature. In the area of finance violations, this should include a consideration of the amount of money involved, whether there were attempts to hide the violation, and whether the violation is of a recurring nature.” Furthermore, legislation shall include guidelines on how the violation may be brought to the attention of the relevant supervisory bodies, while specifying which body is competent to pronounce which type of sanctions. The Draft Law should be supplemented in this respect and include sanctions that are proportionate and dissuasive and have the potential to be effective for each type of violation, while being particularly clear on which body is competent to impose such sanctions and detailing the type of penalty that each infraction entails. For the sake of clarity, it is recommended that all applicable sanctions be listed in the same article and/or to make cross-references to applicable legislation (Law on Civil Service, Criminal Code or Law on Infringement).”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §110.

“The Venice Commission agrees with the previous observations of the Council of Europe experts that the range of sanctions applicable under Legislative Decree no. 2011-87 (...) – since in the “countries where the dissolution of a political party is authorised, it is pronounced by the Constitutional Court and penalises not a violation of the legislation on the financing of political parties but a violation by the political organisation of the country's constitutional values”. Seen in this light, it should therefore be noted, as a positive development, that the draft law no longer provides for the suspension of the party's activity, that it reduces the list of offences that may be penalised by the dissolution of the party, that it introduces a range of graduated fines, and that it provides penalties both for the party itself and for the individuals responsible. This last point complies with the requirements made by the Venice Commission in other opinions; it is nevertheless recommended that it should go further and make it clear that financial agents or other party officials may also be individually penalised for certain offences such as the submission of incorrect or incomplete data, e.g. in financial reports.”

[CDL-AD\(2018\)025](#) Tunisia - Opinion on the draft institutional law on the organisation of political parties and their funding, §61.

“In general, administrative sanctions or fines, or other sanctions such as the temporary suspension of public funding or of other forms of public support are preferred responses to the improper acquisition or use of funds by parties. Criminal sanctions should only be imposed for serious violations of financial regulations, which undermine public integrity. Sanctions should be proportionate and allow for a certain level of flexibility based on the seriousness of the offence. The imposition of both administrative and criminal sanctions for the same violation of legislation should also be avoided”.

[CDL-AD\(2015\)025](#) Joint Opinion on the draft amendments to some legislative acts concerning prevention and fight against political corruption of Ukraine, §53.

“Sanctions for failure to report before the end of the relevant period, or failure to adhere to rules on form and content of reports, are set at a maximum of EUR 10.000 (Article 31). This

relatively low amount may lead to a situation where parties which have received contributions in contravention of the law may decide not to report at all and to pay the fine instead. The same is true for other provisions of the draft Act, which does not calculate the fine in accordance with the sums involved in violation of the draft Act. At the same time, potentially new political parties should not be discouraged by the threat of fines from participating in the political process. It is recommended to consider introducing proportionate punishment, i.e. punishment that takes into account the gravity of the offence, whether it is a repeated violation, what amount of money is involved, and the long-term implications of the relevant punishment. This could be done by calculating punishment as a percentage of the income of a party, or by reference to the amount involved in the violation for non-compliance with reporting requirements or failure to report.

Regarding the proportionality of punishment, it is laudable that the draft Act contains, in most places, the possibility to adjust the level of punishment to the seriousness of the violation. It is recommended to ensure that all provisions are worded to include the concept of proportional punishment; in particular, it is recommended to add it to Article 41 par 4 (sanctioning cases where inaccurate declarations are made knowingly or out of negligence)."

[CDL-AD\(2014\)035](#) Joint Opinion on the Draft Act to regulate the formation, the inner structures, functioning and financing of political parties and their participation in elections of Malta, §§44-45.

"Previous recommendations of the OSCE/ODIHR and the Venice Commission have emphasised the need for transparency in campaign finance and effective mechanisms for monitoring legal compliance through audits. The draft law makes no improvement in these areas. Nor does the draft law provide effective dissuasive sanctions for failure to comply with campaign finance regulations. As a result, previous recommendations for increased transparency and accountability for campaign finance remain unaddressed."

[CDL-AD\(2014\)019](#) Joint Opinion the Venice Commission and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on the draft Election Law of the Kyrgyz Republic §89.

"Any irregularity in the financing of a political party shall entail sanctions proportionate to the severity of the offence that may consist of the loss of all or part of public financing for the following year.

Any irregularity in the financing of an electoral campaign shall entail, for the party or candidate at fault, sanctions proportionate to the severity of the offence that may consist of the loss or the total or partial reimbursement of the public contribution, the payment of a fine or another financial sanction or the annulment of the election.

The above-mentioned rules including the imposition of sanctions shall be enforced by the election judge (constitutional or other) in accordance with the law."

[CDL-AD\(2008\)002](#) Opinion on the Law on the Financing of political parties of Bosnia and Herzegovina, §19.

[CDL-INF\(2001\)008](#) Guidelines and Report on the Financing of political parties, §§13-15.

"It would seem desirable to consider other measures such as (a) putting an upper limit on the amount of donations (b) making public the names of donors and amounts above a certain level (c) prohibiting donors from receiving state contracts within a certain period of the donation (d) applying severe sanctions for breach of the legislation".

[CDL-AD\(2004\)025](#) Opinion on the Law on political parties of the Republic of Azerbaijan, §22.

C. Effective remedies

1. Safeguards

“Finally, the Commission would like to reiterate its previous opinion that the general rulings on due process and fair trial should apply to the cases of judicial proceedings involving political parties. This has been confirmed in the case “Political Party “Patria” and others v. the Republic of Moldova” where the ECtHR found, inter alia, that the domestic courts had not afforded the applicant party sufficient guarantees against arbitrariness in the proceedings leading to its disqualification from participating in the elections. [...]

Lastly, in earlier opinions the Commission has observed that the role of the judiciary is essential in safeguarding that the prohibition or dissolution of political parties takes place in a procedure offering all guarantees of due process, openness and fair trial.” This implies that the requirements of a public hearing and other guarantees of Article 6 of the ECHR should be respected.”

[CDL-AD\(2022\)051](#) Republic of Moldova - *Amicus curiae* brief on declaring a political party unconstitutional, §31 and 45.

“The Draft Law provides the possibility to appeal the decisions of the GEC regarding the inactivity of a political party (Articles 22.5-22.6). Otherwise, the Draft Law is silent regarding the effective remedies for potential violations of the fundamental rights of freedom of association and expression pertaining to the registration and operation/activities of a political party. As emphasized in the 2020 Joint Guidelines, state legislation should provide an effective remedy for any violation of the fundamental rights of political parties and their members, in particular the right to freedom of association and expression. These remedies should be provided expeditiously by a competent administrative, legislative or judicial authority. The Venice Commission and OSCE/ODIHR take the view, that, because of the fundamental importance of political parties as instruments of the freedom of association and the democratic process, any restriction on political parties, including decisions on their registration, must be capable of being submitted to an independent court, at least in final instance. Legislation should thus define reasonable deadlines by which applications should be filed and decisions granted, with due respect to any special considerations arising from the substantive nature of the decision.”

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, § 111.

Particular safeguards for the dissolution of a political party

“Pursuant to the Law on Political Parties, and with the exception of the direct procedures under Article 21(3¹), a limitation remains preceded by a prior request to the party to address any irregularities within up to 30 days (Article 21(2)), with the application by the Ministry to the court to be filed within 5 days after expiry (Article 21(3)). The decision to limit the activity of a political party or to dissolve it is made by the Central Court of Appeal. The Court of Appeal decides within two months (Articles 21(3), 22(2²)). Pursuant to Articles 21(4) and 22(2²) of the Law on Political Parties, the court decision is immediately enforceable, although it may be appealed within 10 days. Decisions on limitation of the activity must be notified within 24 hours to parties and enforcement authorities, who must report back (Article 21(5²)). [...]

Therefore, the provisions under examination contain procedural guarantees which appear capable of preventing arbitrariness, insofar as they are applied in a manner that respects the threshold of seriousness as described in paras 51-52 above and take into account the limited availability of effective ex post remedies in the electoral context. The deadlines prescribed are

also consistent with the recommendation of the Venice Commission that judicial procedures concerning electoral matters should be simple, free from excessive formalism, and subject to short time limits, typically between three and five days.

Notwithstanding these guarantees, several important issues remain. For example, it is not clear why the applicant's right to a hearing involving both parties is only expressly foreseen for the procedure for precautionary measures. Likewise, it is not fully clear how the burden of proof is allocated, nor what standard or type of evidence is required to demonstrate a "substantial connection" or similarity between a party declared unconstitutional and an alleged successor party. The absence of a clear standard poses the risk of inconsistent or overly discretionary application. Furthermore, it is not clear whether appeals against such measures have suspensive effect. The Venice Commission therefore recommends that equivalent procedural safeguards should be foreseen for all procedures related to the limitation of a political party's activity or its suspension as well as on precautionary measures. Specific safeguards should be foreseen as concerns burden of proof, and appeals should not have suspensive effect only in duly justified cases."

[CDL-AD\(2026\)006](#) 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, §§56 and 68-59.

"It is welcome that Articles 22.5 and 22.6 provide for the possibility to appeal the decision on inactivity before the Supreme Court, which shall pronounce itself within 30 days. However, it is not clear whether the Supreme Court will have full adjudication powers or will be limited to the review of questions of law and procedure. [...]

It is unclear from the wording of the Draft Law whether the dissolution would amount to a decision made by the Supreme Court acting as an administrative body rather than a judicial decision, following a procedure where the party's right to a fair trial will be fully respected, with a real opportunity for the party's representatives to defend themselves and oppose the dissolution before the Supreme Court. If the Supreme Court does not examine the merits of the case and considers itself bound by the decision of the GEC, the review by the Supreme Court cannot be considered an effective remedy, which would thereby be contrary to Principle 7 of the 2020 Joint Guidelines."

[CDL-AD\(2022\)013](#) Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties, §§69 and 77.

"Under Article 11 par 1 of the draft Act, political parties may be dissolved by a "decision, democratically adopted, carrying a two-thirds majority of the members of the political party". Such provision would appear to be somewhat over-regulatory, as essentially, it should be up to the individual political parties themselves to decide in which way, and with what kind of majority they may dissolve themselves. Moreover, a two-thirds majority may at times be difficult to achieve and could then lead to a deadlock within a party, if there is no procedure in place that would deal with such eventuality. It is thus recommended to amend this provision, by removing the requirement of the two-thirds majority.

Article 11 par 2 of the draft Act refers to the possible dissolution of a political party by a decision of the First Hall, Civil Court, when "it is ascertained that the political party persistently and as one of its many purposes propagates xenophobia, homophobia or racism", provided that such a measure is "necessary in a democratic society". It is welcome that this provision includes the democratic society test, as Article 11 of the European Convention on Human Rights should be taken into consideration. As the European Court has stated, dissolution of a political party must be the very last resort; it is "of the essence of democracy to allow diverse political programmes to be proposed and debated, (...) provided that they do not harm democracy

itself". The Venice Commission Guidelines on prohibition and dissolution of political parties were followed in Resolution 1308 (2002) of the Parliamentary Assembly of the Council of Europe, on "Restrictions on political parties in the Council of Europe's member states", which states that, "[r]estrictions or dissolution of political parties should be regarded as exceptional measures to be applied in cases where the party concerned uses violence or threatens civil peace and the democratic constitutional order of the country." "The fact alone that a party advocates a peaceful change of the constitutional order is not sufficient to justify its prohibition or dissolution." Consideration may thus be given to distinguishing accordingly in Article 11 par 2 between violent and non-violent behaviour, and to specify that the dissolution of a political party shall be a measure of last resort, and shall be applied only in extreme cases."

[CDL-AD\(2014\)035](#) Joint Opinion on the Draft Act to regulate the formation, the inner structures, functioning and financing of political parties and their participation in elections of Malta, §§16-17.

"When assessing what restrictions apply to political parties, the procedural aspect is as important as the material one. It is the procedural rules that determine how and to what extent the substantial rules may actually be applied.

It is a common principle in all democratic states that cases of potential party prohibition must be heard and decided by impartial courts of law. [...]

Most important from a procedural perspective is the question of which institution is given the competence to *initiate* a prohibition procedure against a political party. Unlike in criminal cases, this power is very seldom entrusted solely to the prosecuting authorities. The reason is the political nature of such cases, and the fact that initiating a procedure for prohibition or dissolution may in itself have grave negative impact on the political situation in the country. Therefore, initiating the procedure for the closure of a political party should not be the automatic legal consequence of the fulfilment of certain legal criteria. It should rather be a discretionary decision, which has to be based on an assessment of the risk posed by this party to the functioning of democracy and which has to take into account, in addition to the legal criteria, the political consequences of an eventual closure.

For this reason, the states with rules on party prohibition have established special procedures for bringing such cases before the competent court. [...]"

[CDL-AD\(2009\)006](#) Opinion on the Constitutional and Legal Provisions Relevant to the Prohibition of political parties in Türkiye, §31-34.

For individuals connected to prohibited political parties

"Additionally, Article 3(1³) [for the determination of the status of a successor political party of a political party declared unconstitutional] also prescribes time limits. In this regard, the previous provisions shall apply only five and four years from the date of the Constitutional Court's decision declaring the political party unconstitutional when they are based, respectively, on the political party leadership's role or active participation in the actions or in the decision-making that led to the declaration of unconstitutionality of the respective political party or on the absence of a public dissociation from those respective decisions or acts. For the reminder of circumstances (i.e., for personal close ties and repeated collaboration with the political party declared unconstitutional, the promotion of its ideology, statutes, structures, the image of joint activity, etc.) the time limit is set at three years from the commission of the act or the occurrence of the respective circumstances."

[CDL-AD\(2026\)006](#) 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, §25.

“The amendments under review aim to address the lack of effective remedy pointed out in the previous Joint Opinion by providing for the respective mechanisms by, among others, envisaging a possibility for affected persons to appeal the respective decisions of the electoral bodies to the court. The amendments also provide for the submission of evidence to prove that, before the declaration of the unconstitutionality of the political party, the individual tried to determine the party to quit the actions that led to its being declared unconstitutional or they have dissociated publicly from these actions (new Article 16 (23)). The Venice Commission and ODIHR welcome that, in the context of verifying the evidence presented by the candidate, the Central Electoral Commission shall carry out a hearing in satisfaction of the fundamental principle of *audi alteram partem* and that the person shall be entitled to the presence of legal counsel (Article 68(51)). [...]

In light of the foregoing, it may be acceptable to introduce a mechanism of disqualification to stand for election whereby the competent authorities or courts will merely *verify whether a particular individual belongs to the category or group* fulfilling the conditions of Article 16(2)(f), providing that the said individual is genuinely able to challenge the existence of such conditions in the first place. This may be preferable to empowering the authorities to investigate if these individuals had tried to determine the party to quit the actions that led it to be declared unconstitutional or they had dissociated publicly from these actions, which could be very intrusive.”

[CDL-AD\(2023\)049](#) Republic of Moldova - Joint *amicus curiae* brief of the Venice Commission and ODIHR on the ineligibility of persons connected to political parties declared unconstitutional, §§42 and 45.

See also: [CDL-AD\(2023\)048](#) Republic of Moldova - Joint Follow-up Opinion of the Venice Commission and ODIHR to the Joint Opinion on amendments to the Electoral Code and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, §§44 and 47.

“Moreover, the European Court of Human Rights has stressed the need to afford sufficient procedural safeguards against arbitrariness in the framework of the process of the domestic authorities making such individual assessments. This includes the right to be heard, the right to present evidence, the right to be represented by a lawyer, the right to defence, the right to a sufficiently reasoned decision, and the possibility to contest the decision to an independent judicial body. Since the ineligibility to be elected applies *ex lege*, it is not possible to legally challenge the exclusion of the right to stand for election on its merits, contrary to the principle of access to justice, one of the pillars of the Rule of Law. As there is no individual assessment of each case, the person concerned will not be heard nor be provided with a reasoned decision that would be subject to judicial review nor have access to an effective remedy for the violation of the right to stand for election.”

[CDL-AD\(2023\)031](#) Republic of Moldova - Joint Opinion of the Venice Commission and ODIHR on amendments to the Electoral Code and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, §52.

“Moreover, the European Court of Human Rights has stressed the need to afford sufficient procedural safeguards against arbitrariness in the framework of the process of the domestic authorities making such individual assessments. This includes the right to be heard, the right to present evidence, the right to be represented by a lawyer, the right to defence, the right to a sufficiently reasoned decision, and the possibility to contest the decision to an independent judicial body. As there is no individual assessment of each case, the person concerned will

not be heard nor be provided with a reasoned decision that would be subject to judicial review nor have access to an effective remedy for the violation of the right to stand for election. In short, the restriction on the right to be elected must be assessed with adequate procedural safeguards, including the possibility to challenge the decision.

There should be clear and effective mechanisms in place, including judicial oversight and an effective legal redress in case an individual wants to appeal the CEC decision to include them on the list. Strong procedural guarantees would be necessary, as provided in international treaties and by OSCE Commitments and standards, to ensure everyone's right to "*effective means of redress against administrative decisions so as to guarantee respect for fundamental rights and ensure legal integrity*". This commitment also grants an "*effective means of redress against administrative regulations for individuals affected thereby*" and by providing "*the possibility for judicial review of such regulations and decisions*". To ensure effective legal redress, the rules regarding the inclusion on the list should foresee appeal venues and any restriction on political rights be finally determined by a Court."

[CDL-AD\(2023\)025](#) Ukraine - Joint opinion of the Venice Commission and ODIHR on the draft law amending certain legislative acts of Ukraine which restrict the participation in the state power of persons associated with political parties whose activities are prohibited by law, §§51 and 53.

2. Precautionary measures

"In the opinion of the Venice Commission, the possibility of limiting the activity of a political party as a precautionary measure, solely on the basis that it is considered a potential successor of a party that has been declared unconstitutional, and which consequently prevents its members from standing for election, creates an excessively high risk that no effective remedy will be available if the party is ultimately not regarded as falling within that category. In such circumstances, the absence of any effective ex post remedy is practically inevitable, since once elections have taken place, their outcome cannot realistically be undone except by re-running them. Such a situation could amount to a breach of Article 3 of Protocol 1 to the ECHR, insofar as no effective remedies could be afforded to the affected parties and/or to their candidates. The fact that, pursuant to Article 21(8) of the Law on Political Parties, the activity of a party may not be limited for minor violations nor during an electoral campaign in which it participates, except in cases where the limitation of the activity results from serious violations of the law, as provided for in Articles 3 and 21(3¹), reflects a legislative recognition that such measures must be used only in cases of particular gravity. This is consistent with the proportional approach required where ex post remedies would be practically incapable of redressing the effects of an exclusion from an electoral process. The Venice Commission therefore finds that the limitation of a political party's activity as a precautionary measure should only be foreseen either in dissolution proceedings or in proceedings seeking the limitation of a political party's activities, as long as they are confined to narrowly defined and truly exceptional circumstances. It is for the courts to decide if those circumstances are met in each particular case. As noted above, any court decisions imposing precautionary measures must be supported by adequate, reasoned justification demonstrating that the circumstances of the case warrant such a measure. [...]

With regard to the procedure for precautionary measures, Article 21(3³) of the Law on Political Parties provides for the principle of *audiatur et altera pars*. Article 21(3⁴) provides for a separate right of appeal against precautionary measures to the Supreme Court, which shall examine such appeals within five days."

[CDL-AD\(2026\)006](#) 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, §§53 and 57.

VII. Reference documents

CDL-AD(2026)015 Albania - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft law "On the Financing of Political Parties", approved by the Council for Democratic Elections at its 87th meeting (Venice, 11 June 2026) and adopted by the Venice Commission at its 147th Plenary Session (Venice, 12-13 June 2026)

CDL-AD(2026)007 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)

CDL-AD(2026)006 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, adopted by the Venice Commission at its 146th Plenary Session (Venice, 6-7 March 2026)

CDL-AD(2025)034 Georgia - Opinion on the Law on the Registration of Foreign Agents, the amendments to the Law on Grants and other Laws relating to "foreign influence", adopted by the Venice Commission at its 144th Plenary Session (Venice, 9-10 October 2025)

CDL-AD(2025)032 *Amicus curiae* brief for the Inter-American Court of Human Rights on democracy as a human right, as a means for social, political and economic development and the effective exercise of human rights, or as both, adopted by the Venice Commission at its 143rd Plenary Session (online, 13 – 14 June 2025)

CDL-AD(2024)042 Haiti - Final Opinion on possible constitutional and legislative solutions to conduct future electoral processes in Haiti, approved by the Council for Democratic Elections at its 81st meeting (Venice, 5 December 2024) and adopted by the Venice Commission at its 141st Plenary Session (Venice, 6-7 December 2024)

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CDL-AD(2023)031 Republic of Moldova - Joint Opinion of the Venice Commission and ODIHR on amendments to the Electoral Code of the Republic of Moldova and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, approved by the Council for Democratic Elections at its 78th meeting (Venice, 5 October 2023) and adopted by the Venice Commission at its 136th Plenary Session (Venice, 6-7 October 2023)

CDL-AD(2023)026 Ukraine - Opinion on the draft law on Amendments to Article 51 of the Rules of Procedure of the Verkhovna Rada on political liability of Members of Parliament associated with political parties whose activities have been suspended, adopted by the Venice Commission at its 136th Plenary Session (Venice, 6-7 October 2023)

CDL-AD(2023)025 Ukraine - Joint Opinion of the Venice Commission and ODIHR on the draft law amending certain legislative acts of Ukraine which restrict the participation in the state power of persons associated with political parties whose activities are prohibited by law, approved by the Council for Democratic Elections at its 78th meeting (Venice, 5 October 2023) and adopted by the Venice Commission at its 136th Plenary Session (Venice, 6-7 October 2023)

CDL-AD(2023)007 Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on Political Parties, approved by the Council for Democratic Elections at its 76th meeting (Venice, 9 March 2023) and adopted by the Venice Commission at its 134th Plenary Session (Venice, 10-11 March 2023)

CDL-AD(2022)051 Republic of Moldova - *Amicus curiae* brief on declaring a political party unconstitutional, approved by the Council for Democratic Elections at its 75th meeting (15 December 2022) and adopted by the Venice Commission at its 133rd Plenary Session (Venice, 16-17 December 2022)

CDL-AD(2022)013 Mongolia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Law on Political Parties adopted by the Venice Commission at its 131st Plenary Session (Venice 17-18 June 2022)

CDL-AD(2021)008 Georgia - Joint Opinion of the Venice Commission and the OSCE/ODIHR on amendments to the Election Code, the Law on Political Associations of Citizens and the Rules of Procedure of the Parliament, approved by the Council for Democratic Elections at its 71st meeting (online, 18 March 2021) and adopted by the Venice Commission at its 126th Plenary Session (online, 19-20 March 2021)

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CDL-AD(2020)032 Joint Guidelines of the Venice Commission and OSCE/ODIHR on Political Party Regulation, adopted by the Venice Commission at its 125th Plenary online session (11-12 December 2020)

CDL-AD(2020)004 Armenia - Joint opinion of the Venice Commission and OSCE/ODIHR on draft amendments to the legislation concerning political parties, adopted by the Venice Commission on 20 March 2020 by a written procedure replacing the 122nd Plenary Session

CDL-AD(2018)025 Tunisia - Opinion on the draft institutional law on the organisation of political parties and their funding, adopted by the Venice Commission at its 116th Plenary Session (Venice, 19-20 October 2018)

CDL-AD(2018)016 Kosovo – Opinion on the “draft law on amending and supplementing the law no. 03/I-174 on the financing of political entities (amended and supplemented by the law no. 04/I-058 and the law no. 04/I-122) and the law no. 003/I-073 on general elections (amended and supplemented by the law no. 03/I-256) adopted by the Venice Commission at its 115th Plenary Session (Venice, 22-23 June 2018)

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CDL-AD(2016)038 Armenia - Joint Opinion on the Draft Constitutional Law on Political Parties, adopted by the Council for Democratic Elections at its 57th meeting (Venice, 8 December 2016) and by the Venice Commission at its 109th Plenary Session (Venice, 9-10 December 2016)

CDL-AD(2016)018 Ukraine - Opinion on the Amendments to the Law on elections regarding the exclusion of candidates from party lists adopted by the Council of Democratic Elections at its 55th meeting (Venice, 9 June 2016) and by the Venice Commission at its 107th Plenary session (Venice, 10-11 June 2016)

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