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

REPUBLIC OF MOLDOVA

OPINION

ON

**THE DRAFT LAW ON THE STATUS, CONDUCT, AND ETHICS
OF MEMBERS OF PARLIAMENT**

**Adopted by the Venice Commission
at its 148th Plenary Session
(Venice, 9-10 October 2026)**

On the basis of comments by

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I. Introduction

1. By letter of 18 August 2026, Mr Igor Grosu, President of the Parliament of the Republic of Moldova, requested an opinion of the Venice Commission of the Council of Europe on the draft law No. 448 of 6 December 2023 on the status, conduct and ethics of members of Parliament (hereinafter, “the draft Law”) ([CDL-REF\(2026\)042](#)).

2. Mr Rafael Bustos Gisbert, Ms Etilda Gjonaj, and Mr Vladimir Vardanyan acted as Rapporteurs for this opinion.

3. On 17 and 18 September 2026, the rapporteurs, together with Mr Khagani Guliyev and Mr Adrià Rodríguez-Perez from the Secretariat, held online meetings with representatives of the majority and the opposition in Parliament, the Cabinet of the President of the Republic of Moldova, the Ministry of Justice, the European Integration Office within the State Chancellery, the National Integrity Office, the Constitutional Court, the General Prosecutor’s Office and the Anti-Corruption Prosecution Office, the People’s Advocate Office and the Equality Council, as well as with civil society organisations and international partners present in the Republic of Moldova. The Commission is grateful to the authorities of the Republic of Moldova and the Office of the Council of Europe in Chişinău for the excellent organisation of the online meetings.

4. This opinion was prepared in reliance on the English translation of the draft Law. The translation may not accurately reflect the original version on all points.

5. This opinion was drafted on the basis of comments by the Rapporteurs and the results of the online meetings on 17 and 18 September 2026. The draft opinion was examined at the joint meeting of the Sub-Commissions on Democratic Institutions, on Constitutional Justice and on the Rule of Law on 8 October 2026. Following an exchange of views with Mr Igor Talmazan, Secretary of the Legal Committee on Appointments and Immunities, Parliament of the Republic of Moldova, and Ms Ana Calinici, Deputy Chair of the Committee for European Integration, Parliament of the Republic of Moldova, it was adopted by the Venice Commission at its 148th Plenary Session (Venice, 9-10 October 2026).

II. Background and scope of the Opinion

6. In his letter, the President of the Parliament notes that “*Draft Law No. 448/2023 aims to regulate the status of Members of Parliament, the principles governing the exercise of the parliamentary mandate, the rights and obligations of Members of Parliament, incompatibilities, conflicts of interest, parliamentary immunity, standards of conduct and ethics, as well as the accountability mechanisms applicable in the event of their violation. The need to advance the Draft Law stems from the importance of strengthening a clear and predictable legal framework governing the exercise of the parliamentary mandate, with due regard for the representative, free and irrevocable nature of the mandate of a Member of Parliament*”.

7. The draft Law was adopted at the first reading in December 2023 and should replace Law No. 39 of 7 April 1994¹ which currently regulates the status of members of Parliament, their incompatibilities, immunities, rights and obligations. The draft Law was prepared as organic law which requires its adoption by the vote of the majority of the elected members of Parliament, following at least two readings (Article 74 § 1 of the Constitution).

8. The draft Law is closely related to the draft Code on the organisation and functioning of the Parliament (“the draft Code”) on which the President of the Parliament also requested an

¹ Law No. 39 of 7 April 1994 is available in Romanian in the Moldovan national legislative database: www.legis.md/cautare/getResults?doc_id=136152&lang=ro

opinion of the Venice Commission. The draft Code has been examined in a separate but related Opinion ([CDL-AD\(2026\)028](#)). As noted in the related Opinion on the draft Code (paragraphs 13 and 17), during meetings in Chişinău, in the context of the preparation of that Opinion, the Venice Commission delegation was informed that Parliament had planned to merge both instruments at the second reading. However, the draft Code was adopted at the second reading in August, and during the online meetings held in September the delegation understood that there was still a possibility that the merger would not take place.

9. The Opinion is requested on the whole draft Law. Rather than undertaking an article-by-article analysis, the Venice Commission has chosen to examine the draft Law from a thematic and structural perspective, focusing on key issues concerning the status, conduct and ethics of members of Parliament (MP). The absence of comments on certain provisions of the draft Law should not be interpreted as their tacit approval by the Commission.

III. Analysis

A. Relation between the draft Law and the Rules of Procedure of the Parliament

10. From the outset, the Commission observes that Article 1 § 2 of the draft Law states that *“the status, conduct and ethics of the Member of Parliament is regulated by Constitution and this law”*, whereas Article 1 § 3 provides that *“certain norms related to the exercise of the MP mandate can be also established in other normative acts.”* In turn, according to Article 71 § 1, *“this law shall be applied in corroboration with the provisions of the Rules of Procedure of the Parliament adopted by Law No. 797/1996. In case of contradictions between these normative acts, the provisions of this law shall apply.”*

11. The Commission observes that Article 64 § 1 of the Constitution states that *“the structure, organisation and functioning of Parliament is established by internal regulations”* and that, pursuant to Article 72 § 3 (c), an organic law shall govern the organisation and functioning of Parliament.²

12. In view of the considerable overlaps between the two pieces of legislation, and because the draft Code is meant to bring *“together, within a unified system, the most important legal rules of a particular branch of law”* (Article 69 § 1 of Law No. 100/2017 on normative acts, see [CDL-AD\(2026\)028](#), paragraph 31), the Commission recommends that both matters are regulated in a single piece of legislation. Should the authorities not wish to proceed with the merger, the Commission then strongly advises that the subject matter of both pieces of legislation is clearly delimited. As noted in the related Opinion on the draft Code ([CDL-AD\(2026\)028](#), paragraph 48), the draft Law should regulate the substantive aspects related to the status, conducts, and ethics of the members of Parliament, whereas the related procedural dimensions should be left for the Code. The latter include, in particular, requests, time-limits, hearings, reports, voting, reasons, and review, which are currently regulated in the draft Law. At any rate, as the Rules of Procedure will be replaced by the Code, any reference should be made to the Code. The Commission stresses that this delimitation must not result in a regulatory gap. Should the merger not take place, each of the two instruments should contain an express cross-reference to the other, and the procedural guarantees identified in the present Opinion and in the related Opinion on the draft Code must in any event be enacted in one of them.

13. Regardless of whether both pieces of legislation are merged, the Commission stresses that they should abide by the principle of constitutional supremacy. As noted in relation to the draft Code ([CDL-AD\(2026\)028](#), paragraph 43), organic laws should not contain provisions that

² The Constitution also sets out that incompatibilities other than those already provided for by the Constitution shall be established by organic law (Article 70 § 2 of the Constitution).

substantively alter or override the Constitution, as any such measures properly belong to the domain of constitutional amendment. This finding also applies to the draft Law subject to examination in this Opinion.

14. Lastly, the Commission observes that Article 1 § 3 sets out that “*certain norms related to the exercise of the MP mandate can be also established in other normative acts.*” In the Opinion examining the draft Code, the Commission has stressed that the Parliament should not interpret and amend the Code in a way which limits the mandate nor the rights of the parliamentarians, in particular those in the opposition ([CDL-AD\(2026\)028](#), paragraph 38). The Commission is therefore concerned about the possibility to delegate certain aspects related to status, conduct, and ethics to other pieces of legislation. More specifically, it is particularly worried that, in this open-ended form, Article 1 § 3 weakens the on-going legislative efforts and may result in the dilution or even erosion of the safeguards that are instrumental for the work of MPs, particularly those in the opposition. The Commission therefore recommends reconsidering Article 1 § 3 of the draft Law. Should this provision remain, it recommends that a limited list of any such instruments and/or subject matters should be clearly set out in the draft Law. As stressed in the related Opinion ([CDL-AD\(2026\)028](#), paragraphs 39 and 124), normative acts on parliamentary matters adopted pursuant to Article 1 § 3 should not be adopted by a lower majority than that required for this Law, nor should they regulate substantive matters governed by the relevant sectoral legislation.

B. Nature of the parliamentary mandate and principles governing the activity of MPs

15. Article 3 of the draft Law defines the nature of the parliamentary mandate, providing that “*the MP is the people's representative and has a representative mandate*” and that “*any imperative mandate shall be void*”. This provision faithfully reflects the wording of Article 68 of the Constitution³ and the interpretation of Article 68 of the Constitution made by the Moldovan Constitutional Court.⁴ The Venice Commission has repeatedly opposed the imperative mandate qualifying it as contrary to the principle of free and independent mandate⁵ and underlined that a parliamentarian represents the people and the nation as a whole and not just a part, or a specific group of people or a territorial part of the country.⁶ This approach is also in line with the relevant case-law of the European Court of Human Rights (“the Court”).⁷ The Venice Commission welcomes it.

16. Article 3 also establishes the irrevocability of the parliamentary mandate, providing that “*the party, the socio-political organisation or the electoral bloc on the list of which the MP was elected, shall lose the right to revoke them*”. The Venice Commission has clearly stated that the revocation and recall of elected representatives appear at odds with the principle of representation.⁸ The irrevocability of the parliamentary mandate is in compliance with the principle of free and independent mandate which means that an MP may change party

³ Article 68 (representative mandate) of the Constitution reads as follows:

“(1) *In the exercise of their mandate the Members of Parliament are in the service of the people.*

(2) *Any imperative mandate is deemed null and void.*”

⁴ [Constitutional Court of the Republic of Moldova, Judgment on interpretation of Article 68 paragraphs \(1\), \(2\) and Article 69 \(2\) of the Constitution \(complaint No. 8b/2012\) of 19 June 2012.](#)

⁵ Venice Commission, [CDL-AD\(2009\)027](#), Report on the imperative mandate and similar practices, para. 39, and Venice Commission, [CDL-AD\(2017\)026](#), Opinion on the amendments to the Rules of Procedure of the Verkhovna Rada of Ukraine, para. 34.

⁶ Venice Commission, [CDL-AD\(2023\)026](#), 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, para. 34.

⁷ *Tomenko v. Ukraine*, [no. 79340/16](#), § 116, 10 July 2025.

⁸ Venice Commission-OSCE/ODIHR, [CDL-AD\(2021\)007](#), Joint opinion on the draft Constitution of the Kyrgyz Republic, para. 69.

allegiance or become independent without the risk of losing the mandate.⁹ Accordingly, the Venice Commission welcomes the enshrinement of the principle of the irrevocability of the parliamentary mandate in the draft Law. However, it considers that the wording “*shall lose the right to revoke them*” should be reformulated since the political party, the socio-political organisation or the electoral bloc could not have such a right under any circumstances after the election of an MP; parliamentary seats belong to elected MPs and not to their parties.¹⁰

17. Article 2 of the draft Law lists the principles governing the activity of MP. In particular, paragraph c) of this Article refers to “*impartiality and independence, a principle according to which MPs, while exercising their duties, must have an objective attitude, neutral to any political, economic, religious or other interest, exercise the mandate impartially, with no external influence that could impact the exercise of the official duties*”. The Commission considers that the requirement of being “*neutral to any political, economic, religious or other interest*” as a part of the principle of “*impartiality and independence*” is problematic from the point of view of the political nature of the function of MP. In this regard, the Court has previously held that “*members of parliament cannot be politically neutral by definition*”.¹¹ The Venice Commission thus recommends rather providing that the MPs should not receive instructions from anybody in the exercise of their free and independent mandate.

18. Paragraph h) of Article 2 refers to “*equality and non-discrimination, a principle according to which the MP must avoid discrimination on race, nationality, ethnicity, language, religion, gender, opinion, political affiliation, wealth or social origin*”. While the introduction of this provision is commendable, the Venice Commission recommends providing a non-exhaustive list of protected grounds.

19. Paragraph i) of Article 2 provides for “*respect for the image of the Parliament, a principle according to which the MPs do not harm the image of other MPs and the image of the Parliament by their conduct, written or pronounced words*”. In the Commission’s view, this principle is too broad and vague, and is open to subjective interpretation. It should be replaced with the principle of the respect for the rights of other MPs and the orderly conduct of proceedings in Parliament.

C. Validation of the parliamentary mandate and the requirement to take the oath

20. In accordance with Article 69 § 1 (mandate of the Members of Parliament) of the Constitution, “*the Members of Parliament start exercising their mandate under the condition of prior validation*”. In this connection, Article 62 (validation of mandate of the Member of Parliament) of the Constitution provides that “*upon the proposal submitted by the Central Electoral Commission, the Constitutional Court rules either on the validation of the mandate of the Member of Parliament, or on invalidation whenever electoral legislation has been infringed*”.

21. The beginning of the parliamentary mandate is therefore subject to the validation of the mandate of the MP by the Constitutional Court and, accordingly, Article 4 § 1 of the draft Law, provides that “*the mandate of the MP shall start from the date of election provided it is*

⁹ Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, para. 51.

¹⁰ Venice Commission-OSCE/ODIHR, [CDL-AD\(2011\)005](#), Joint opinion on the draft law on altering and amending the law on election of members of Parliament of the Republic of Serbia, para. 42. Venice Commission-OSCE/ODIHR Guidelines on Political Party Regulations provide that “*according to a generally accepted democratic principle, the parliamentary mandate belongs to an individual MP, because he/she receives it from voters via universal suffrage and not from a political party*” (Venice Commission-OSCE/ODIHR, [CDL-AD\(2020\)032](#), Guidelines on Political Party Regulation (second edition), para. 131). See also: *Paunović and Milivojević v. Serbia*, [no. 41683/06](#), § 63, 24 May 2016.

¹¹ *Ždanoka v. Latvia* [GC], [no. 58278/00](#), § 117, ECHR 2006-IV, and *Mugemangango v. Belgium* [GC], [no. 310/15](#), § 98, 10 July 2020.

validated". At the same time, Article 4 seems to set a new condition, namely the obligation to take the oath in front of the plenum of Parliament, providing that *"after the legal constitution of the Parliament, each MP shall take the oath in front of the plenum of the Parliament, convened in solemn sitting, according to the text provided for in Article 79 paragraph (2) of the Constitution of the Republic of Moldova"* and that *"the refusal to take the oath leads to the invalidation of the mandate, a fact taken note of by the plenum of the Parliament"*.

22. The Venice Commission observes that Article 56 (faithfulness to the country) of the Constitution provides in a general way that *"citizens entrusted with holding of public offices, as well as military personnel, are accountable for the loyal fulfilment of their duties towards the state, and in cases provided by the law shall take the oath as required by the law"*. However, unlike the President of the Republic and members of the Governments who are required to take the oath under the Constitution of the Republic of Moldova (respectively, Article 79 (validation of the mandate and taking the oath) and Article 98 (investiture) of the Constitution), the Constitution does not provide for such a specific requirement for the exercise of the mandate of MPs.

23. The Venice Commission further observes that the requirement of taking the oath for the MPs is also provided for by Article 18 of the draft Code. However, while Article 4 of the draft Law refers to Article 79 § 2 of the Constitution for the wording of the oath,¹² Article 18 of the draft Code provides for another wording.¹³ Moreover, the two texts use different legal terminology for the consequences of the refusal to take the oath: invalidation of the mandate under Article 4 § 5 of the draft Law and mandate withdrawal under Article 18 § 4 of the draft Code. The Commission observes, moreover, that Article 79 § 2 of the Constitution prescribes the oath of the President of the Republic upon validation of his or her mandate, and cannot therefore supply the wording of the oath of Members of Parliament. The Commission recommends that a single wording of the oath, and a single set of consequences attaching to its refusal, be laid down in one instrument only, to which the other should refer (see also [CDL-AD\(2026\)028](#), paragraph 48).

24. The oath of the MPs has symbolic importance as a visible sign of loyalty to the Constitution¹⁴ and the constitutional principles of democracy.¹⁵ However, the distinction between the constitutional act of election and the subsequent requirement to take an oath is important for determining the nature of the oath and the implications for refusal to take an oath.

25. Although it is for the Constitutional Court of Moldova to examine the compliance of this provision with the Constitution, the Venice Commission cannot overlook the fact that the Constitution does not provide for such a condition for the exercise of the MP mandate after its validation, let alone the automatic invalidation of an MP mandate obtained through elections in the event of a refusal to take the oath. The automatic invalidation of an MP mandate would

¹² Article 79 § 2 (validation of the mandate and taking the oath) of the Constitution reads as follows:

"(2) Within 45 days at the most following the election, the successful candidate whose election has been validated shall take the following oath before Parliament and the Constitutional Court:

"I solemnly swear to devote all my personal strength and abilities to the prosperity of the Republic of Moldova, to abide by the Constitution and the laws of the country, to defend democracy, fundamental human rights and freedoms, the sovereignty, independence, unity and territorial integrity of Moldova".

¹³ Article 18 § 1 (taking the oath) of the draft Code reads as follows:

"(1) After the presentation of the report of the Constitutional Court, the Chair of the session shall invite the MPs to the central rostrum to take the oath, as follows:

I swear to justify the trust placed in me by the people, to participate in good faith in the exercise of state power, to respect the Constitution and the laws of the country, to fulfil the duties that fall to me as an MP, and that the actions I will take will only be for the benefit and well-being of the people."

¹⁴ Venice Commission, [CDL-AD\(2016\)001](#), Opinion on amendments to the Act of 25 June 2015 on the Constitutional Tribunal of Poland, para. 108.

¹⁵ *McGuinness v. the United Kingdom* (dec.), [no. 39511/98](#), ECHR 1999-V.

amount to an interference with the right to free elections under Article 3 of Protocol No. 1 to the Convention which guarantees the individual's right to stand for election and, once elected, to exercise his or her mandate.¹⁶ This measure may also amount to an interference with the right to freedom of expression under Article 10 of the Convention.¹⁷ Although these rights are not absolute and subject to restrictions in pursuit of a legitimate aim, the means employed should not be disproportionate leading to the impairment of the very essence of the protected rights.¹⁸

26. A narrow interpretation of the requirement to take an oath which should not prevent the elected MPs from exercising their mandate after its validation is also supported by the Venice Commission's opinions concerning the taking of the oath by judges of the Constitutional Court.¹⁹ Accordingly, the Venice Commission recommends that the automatic invalidation of the parliamentary mandate for the refusal to take the oath should be reconsidered. The refusal to take the oath should not lead to the automatic invalidation of an MP mandate. The draft Law may consider the possibility of less severe sanctions, such as suspension of certain benefits attached to the MP mandate, until the oath is taken. In any event, the draft Law should provide for a clear procedure and relevant procedural safeguards in the decision-making process concerning any sanction to be taken for refusal to take the oath.

27. Lastly, the Venice Commission observes that neither Article 4 of the draft Law, nor Article 18 of the draft Code addresses situations where an MP may refuse to take the oath on the grounds of religious convictions or conscience. It is therefore recommended to consider providing an alternative form of solemn declaration or affirmation that has an equivalent legal effect.

D. Termination of the parliamentary mandate

28. Article 6 of the draft Law provides as follows:

“(1) The MP mandate shall terminate:

- a) on the date of the legal sitting of the newly elected Parliament;*
- b) in case of resignation;*
- c) in case of the mandate removal;*
- d) in case of incompatibility;*
- e) in case of death.*

(2) In case of resignation, removal of the mandate, incompatibility or death, the vacancy of the MP mandate occurs.

(3) The termination of the MP mandate shall be established by the Parliament through the decision voted by the majority of present MPs declaring the vacancy of the mandate.

(4) In case of the termination of the MP mandate, the documents shall be sent to the Central Electoral Commission for the initiation of the validation of the mandate of the alternate candidate.”

¹⁶ See, *inter alia*, *Lykourazos v. Greece*, [no. 33554/03](#), § 50, ECHR 2006-VIII, and *Georgios Papadopoulos v. Cyprus*, [no. 21454/21](#), § 66, 9 October 2025.

¹⁷ *McGuinness v. the United Kingdom* (dec.), [no. 39511/98](#), ECHR 1999-V.

¹⁸ In this regard, the Court has attached particular weight to the nature and severity of the sanction when assessing the proportionality of the interference and qualified the removal of parliamentary mandate a measure extremely harsh (see *Sadak and Others v. Turkey* (no. 2), [nos. 25144/94, 26149/95 to 26154/95, 27100/95 and 27101/95](#), §§ 38-40, ECHR 2002-IV, and *Sobaci v. Turkey*, [no. 26733/02](#), §§ 31-32, 29 November 2007).

¹⁹ Venice Commission, [CDL-AD\(2025\)005](#), Opinion on the draft law on the Constitutional Court of the Republic of Moldova, para. 44., and Venice Commission, [CDL-AD\(2026\)031](#), Poland - Opinion on the powers of the President in the context of the oath-taking of the judges of the Constitutional Tribunal and of other judicial appointments, para. 72.

29. As no specific issue arises regarding termination of the parliamentary mandate on the date of the legal sitting of the newly elected Parliament and in case of death, this Opinion will focus on the remaining grounds for termination of the parliamentary mandate.

1. Resignation

30. Paragraph 1 of Article 8 provides that *“the resignation shall be a voluntary, unilateral manifestation of the will of the MP to terminate the exercise of the mandate”*. The Venice Commission welcomes this definition of the resignation as a voluntary and unilateral expression of the MP's will to terminate his or her mandate. The Court also emphasised the voluntary nature of the resignation, finding that termination of a parliamentary mandate on the basis of an earlier signed undated resignation letter was in breach of Article 3 of Protocol No. 1 to the Convention.²⁰ However, the draft Law is silent as to the procedure to be followed in the event of a dispute on the validity of a resignation request (see paragraphs 58-61 below).

2. Mandate removal

31. Article 9 § 1 (lifting of the mandate of the Member of Parliament) of the draft Law provides that *“the lifting of the MP mandate represents the forced termination of the exercise of the mandate in the case of a) ineligibility; b) definitive impossibility to exercise the position of the MP for more than four consecutive months; c) groundless absence from any parliamentary activity for more than four months.”*

32. Article 9 § 2 provides as follows:

“The MP becomes ineligible in the following cases:

- a) recognition of the incapacity for work;*
- b) in case of conviction for intent crimes and/or sentencing to prison (deprivation of liberty) by final and irrevocable court decision, regardless of whether the act was committed before or after the validation of the mandate;*
- c) loss of citizenship of the Republic of Moldova;*
- d) establishing, through the final act of ascertainment, of the direct or through a third person conclusion of a legal act, making or participating in the decision-making without solving the actual conflict of interests in accordance with the provisions of the legislation on the settlement of the conflict of interests;*
- e) failure to submit the declaration of wealth and personal interests or refusal to submit it pursuant to Law no.132/2016 on the declaration of wealth and personal interests;*
- f) disposition by the court, through an irrevocable decision, of the confiscation of unjustified assets;*
- g) refusal to take the oath.”*

33. In particular, paragraph a) of Article 9 § 2 indicates that an MP becomes ineligible in the event of *“recognition of the incapacity for work”*. Article 9 § 1 also identifies *“definitive impossibility to exercise the position of the MP for more than four consecutive months”* as a ground for the mandate removal. However, the wording of *“incapacity for work”* is not clear and should be reconsidered since it can exclude persons with disabilities, raising an issue with the non-discrimination on the grounds of disability.²¹ In their written comments on this Opinion,

²⁰ See: *Gaulieder v Slovakia*, [no. 36909/97](#), Commission's report of 10 September 1999, §§ 39-45, and *Paunović and Miličević v. Serbia*, [no. 41683/06](#), §§ 61-66, 24 May 2016.

²¹ In this connection, the UN Committee on the Rights of Persons with Disabilities observed in its general comment No. 1 (2014) on Article 12 (equal recognition before the law) that *“States parties have an obligation to protect and promote the right of persons with disabilities to access the support of their choice in voting by secret ballot, and to participate in all elections and referendums without discrimination. The Committee further recommends that States parties guarantee the right of persons with disabilities to stand for election, to hold office effectively and to perform all public functions at all levels of government, with reasonable accommodation and support, where desired, in the*

the Moldovan authorities submitted that this expression is formulated as “lack of legal capacity to act” in the original Romanian text. In any event, the Commission considers that this ground should not result in the loss of mandate of the persons with disability. This provision also seems to overlap with the case of the definitive impossibility to exercise the position of the MP for more than four consecutive months and a possible merger of these provisions can be considered.

34. Paragraph b) of Article 9 § 2 establishes that an MP becomes ineligible “*in case of conviction for intent crimes and/or sentencing to prison (deprivation of liberty) by final and irrevocable court decision, regardless of whether the act was committed before or after the validation of the mandate*”. During the discussions with interlocutors, the Venice Commission delegation was informed that this provision aims to reflect the decision of the Constitutional Court of Moldova of 20 January 2015.²²

35. The Venice Commission has previously assessed the question of the loss of parliamentary mandate on account of a criminal conviction in its report on exclusion of offenders from Parliament. In particular, it observed that in case the conviction enters into force after the elections and the person has already assumed office, those who voted were not necessarily aware of the pending of the proceedings and of the nature of the offences, in particular if those offences were committed or the criminal proceedings started after the elections. The democratic nature of the elections is therefore not hampered if the mandate is terminated, even if the effects of the restriction are more severe for a member of an elected body than for a person standing for election. This could make the termination of a mandate following a criminal conviction more easily admissible than the ineligibility to be elected.²³ The Commission subsequently noted that statutory disqualification should take into account such factors as the gravity and nature of the offence committed and the conduct of the offender. Disqualification should therefore only be provided in connection with certain types of offences or with particularly long sentences.²⁴

36. The use of the conjunction “and/or” in paragraph b) of Article 9 § 2 suggests that the conditions are not cumulative but represent two alternative cases under which the MP concerned would lose his or her mandate. However, it is not clear from the wording of this provision which kind of criminal offences are covered by the notion of “intent crime”.

37. The Commission also notes that in case of deprivation of liberty, an MP loses his or her mandate regardless of the duration of the sentence. In other words, a sentence to a very short period of deprivation of liberty, such as five or ten days, on account of the commission of a minor offence may lead to the termination of parliamentary mandate, which appears disproportionate.

exercise of their legal capacity” ([UN Committee on the Rights of Persons with Disabilities, general comment No. 1 \(2014\) on Article 12 \(equal recognition before the law\), para. 49](#)).

²² The relevant operative part of this decision of the Constitutional Court reads as follows:

“3. In the meaning of Articles 1 para. (3), 38 para. (2), 69 para. (1) and 70 para. (2) of the Constitution, in case of conviction for crimes committed intentionally and/or imprisonment (deprivation of freedom) by final and irrevocable judgment, irrespective of the fact if it occurred before or after the validation of the mandate, the member of the Parliament is not eligible for the position of the MP, being incompatible with the capacity of member of Parliament. 4. In the meaning of Articles 1 para. (3), 38 para. (2), 69 and 70 para. (2) of the Constitution, persons whose ineligibility is proved after the validation of elections results and expiry of appeal period, or which during the mandate faces one of the ineligibility cases stipulated in the Election Code shall be incompatible with the capacity of member of Parliament, his/her mandate being terminated *de jure*.” ([Constitutional Court of Moldova, Judgment on the interpretation of Article 1 paragraph \(3\) combined with Articles 69 and 70 of the Constitution of the Republic of Moldova \(immunity and termination of mandate of the Member of Parliament\) \(Complaint no. 6b/2014\) of 20 January 2015](#)).

²³ Venice Commission, [CDL-AD\(2015\)036cor](#), Report on exclusion of offenders from Parliament, para. 162.

²⁴ Venice Commission, [CDL-AD\(2017\)025](#), *Amicus curiae* brief for the European Court of Human Rights in the case of Berlusconi v. Italy on the minimum procedural guarantees which a State must provide in the framework of a procedure of a procedure of disqualification from holding an elective office, para. 33.

38. Accordingly, the Venice Commission recommends amending the wording of paragraph b) of Article 9 § 2, limiting the loss of parliamentary mandate to a certain type of serious criminal offences or with particularly long sentences.

39. The Venice Commission observes that while the refusal to take the oath is defined as a ground for invalidation of a parliamentary mandate under Article 4 of the draft Law (see paragraph 21 above), paragraph g) of Article 9 § 2 also lists it as a ground for ineligibility for the removal of the mandate. This inconsistency should be clarified.

40. Article 9 § 3 indicates that *“in the cases provided for under paragraphs a)-d) the mandate of the MP shall cease by operation of law”* and Article 9 § 4 indicates that *“in the cases provided for under paragraphs d)-f), the Parliament shall decide, at the request of the National Integrity Authority, on the removal of the MP mandate”*. However, the case of d) which concerns the situation of the conflicts of interest is referred to in both situations and it is not clear whether the loss of mandate in this case will be decided by operation of law or by the Parliament. The Commission further observes that the ground set out in paragraph g) of Article 9 § 2, namely the refusal to take the oath, appears to be covered neither by Article 9 § 3 nor by Article 9 § 4, so that the draft Law does not indicate by whom, and according to which procedure, the mandate is to be removed on that ground.

41. The draft Law also provides for the loss of mandate due to the groundless absence from any parliamentary activity for more than four months. The purpose of this provision seems to combat absenteeism in Parliament and to establish the accountability of the MPs. However, the Venice Commission has already expressed its doubts about the loss of parliamentary mandate on this ground. It observed that “political action may follow various paths, and attendance at sittings is not the sole form of action. It would nevertheless be conceivable for the Constitution to lay down a rule of attendance and indicate penalties on defaulting members, ranging from partial or complete withdrawal of indemnity to withdrawal of the right to vote, but without providing for the loss of the mandate.”²⁵

42. In this connection, the Venice Commission does not lose sight of the fact that Article 68 of the draft Law already provides for the loss of salary rights, benefits and compensations for unjustified absence of the MPs during one month from the sittings of the Parliament or/and from the sittings of the Parliament’s working bodies of which they are members.

43. In any event, as mentioned above, any interference with the right to stand for election and to serve as an elected representative must be proportionate. The Venice Commission noted that a very high attendance requirement with very limited grounds for exemptions may easily fall short of a proportionality test and that its proportionality would also depend on the functioning of a parliament, such as its working-methods, the frequency of the sessions, and so on.²⁶ In this regard, the Commission considers that this provision should be reconsidered.

²⁵ Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, para. 60. See also: Venice Commission, [CDL-AD\(2002\)012](#), Opinion on the draft revision of the Romanian Constitution, paras. 27 and 29.

²⁶ Venice Commission, [CDL-AD\(2019\)029](#), Amicus Curiae Brief for the Constitutional Court of Ukraine on draft law 1027 on the early termination of a deputy’s mandate, para. 33.

44. In addition, this provision should be read in conjunction with Article 31²⁷ and Article 32²⁸ of the draft Law regulating justified and unjustified absences. The provision in question refers to “any parliamentary activity” without defining the latter notion. It is not clear whether the notion of “parliamentary activity” covers only “*the sittings of the Parliament's plenum, working bodies and working groups*” as provided for by Article 32 of the draft Law or all the possible activities that an MP may have. Furthermore, although paragraph e) of Article 31 § 2 addresses the issues of the absence of an MP in protest as justified absence, it limits the protest solely to an item on the agenda announced in the sitting.

45. Lastly, Article 9 § 6 provides that “*in case of the groundless absence from any parliamentary activity for more than four consecutive months, the lead standing Committee shall, upon the notification from the President of the Parliament, evaluate the activity of the MP and propose to the Parliament the lifting of the MP mandate*”. However, this Article does not identify the lead standing Committee empowered to evaluate the activity of the MP and to propose to the Parliament to remove the MP's mandate. The draft Law also does not set out procedural rules relating to the examination of this issue before the lead standing Committee and the Parliament, as well as due process guarantees (see paragraphs 58-61 below).

46. Accordingly, the Venice Commission considers that the loss of mandate due to the groundless absence from any parliamentary activity for more than four months should be reconsidered and, in principle, a disciplinary sanction should suffice in this regard. In any event, the draft Law should clarify the notion of the parliamentary activity, the scope of the absence of an MP for protest and the competent lead standing Committee and the procedure.

3. Incompatibilities

47. Article 70 §§ 1 and 2 of the Constitution provides, respectively, that “*the office of the Member of Parliament is incompatible with the holding of any other remunerated position, except for didactic and scientific activities*” and that “*other incompatibilities shall be established by organic law*”. Articles 10, 11 and 12 of the draft Law regulate the incompatibilities, their declaration and the procedure of removal of incompatibilities.

48. In particular, Article 10 § 3 provides a list of positions incompatible with the function of MP.²⁹ In this regard, the Venice Commission reiterates that the principle of separation of state

²⁷ Article 31 (justified absence) reads as follows:

“(1) No MP may miss the sittings of the Parliament, of its working bodies of which they are part of except for well-founded reasons.

(2) A well-founded reason for the absence of the MP from the sittings of the Parliament or of its working bodies is considered:

a) accomplishing a task assigned by the President of the Parliament, the Standing Bureau, the parliamentary committee or the parliamentary faction of which they are part, which makes it impossible for them to attend the sitting;

b) official trips abroad;

c) sick leave;

d) personal interest leave;

e) non-participation in sign of protest against an item on the Agenda of the day, announced in the sitting;

f) enforcement of the sanction of the Parliament regarding the non-participation in plenary sittings”.

²⁸ Article 32 (unjustified absence) reads as follows:

“Any absence of the MP from the sittings of the Parliament's plenum, working bodies and working groups of which they are part of, for other reasons than those specified in Article 31 shall be considered unjustified absence”.

²⁹ Article 10 § 3 reads as follows:

“(3) The mandate of the MP shall be incompatible with:

a) the position of the President of the Republic of Moldova, except the case of exercising the interim position, as well as the membership of the Supreme Security Council;

b) any position of public responsibility or public office;

c) the position of local or district councillor, MP in the People's Assembly in the TAU of Gagauzia, ambassador, assistant in the Cabinet of persons holding positions of public responsibility;

powers imposes that certain offices (functions, mandates) cannot be held by one person at the same time, thus ensuring the integrity and proper functioning of each power (legislative, executive or judiciary).³⁰ The primary purpose of incompatibility has been to ensure that parliamentarians' public or private occupations do not influence their role as representatives of the nation.³¹ Normally, when a person is found to have two functions which are incompatible with each other, this situation can be repaired by the person – usually by her or him choosing one of the offices and ending the other. However, in cases where the situation is not repaired, the usual consequence is that the person concerned loses her or his mandate.³²

49. The Commission has previously observed that constitutional practice is quite diverse when it comes to this latter issue, often combining rules on incompatibility of functions with some form of obligation to disclose all sources of income, employment and/or assets. On the other hand, private occupations are in principle compatible with parliamentary mandates. They are also viewed as a means for preventing such a mandate from becoming a fully-fledged profession and for enabling different professional groups to be represented in parliament; however, certain countries have also in certain cases introduced incompatibilities with private functions to prevent collusion between public and business interests.³³

50. The Venice Commission observes that the regime of incompatibility provided for by Article 10 § 3 of the draft Law, albeit very strict, reflects and completes Article 70 of the Constitution and does not appear at variance with the practice of other countries.³⁴

51. As regards the procedural aspects of the incompatibility regime, the Venice Commission notes that in accordance with Article 10 § 2, *“the incompatibility shall start from the moment of the mandate validation and taking the oath and involve a period of 30 days during which the MP is requested to choose between the MP mandate and the position generating the incompatibility”*. However, in order to avoid any ambiguity, this provision should clearly state when the period of 30 days begins since the mandate validation would, in principle, take place before the oath is taken.

52. Furthermore, under Article 12 of the draft Law, if the term for removing the state of incompatibility has expired and the incompatibility persists, the MP's mandate shall be terminated by operation of law and that the Commission on Parliamentary Ethics and Conduct shall inform the President of the Parliament about the termination by law of the MP mandate. However, the draft Law does not provide for any procedure to be followed in the event of a dispute on the existence or persistence of an incompatibility (see paragraphs 58-61 below).

4. Conflicts of interest

53. During the online meetings, the Venice Commission delegation was informed that the MPs are subject to a declaration of wealth and personal interests under Law No. 133/2016 as any person holding public office, and that there are currently no provisions regulating lobbying activities or the MPs' contacts with interest groups in the Republic of Moldova. The delegation

d) any position granted by a foreign state or international organisation, except for the positions provided by international treaties to which the Republic of Moldova is part, as well as the positions obtained following the activity in the standing parliamentary delegations;

e) exercising of any other paid position, except for the teaching and scientific activity, carried out outside the program established by this law.”

³⁰ Venice Commission, [CDL-AD\(2024\)040](#), Albania – Opinion on the implementation by Parliament of Constitutional Court decisions, para. 25.

³¹ Venice Commission, [CDL-AD\(2012\)027rev](#), Report on democracy, limitation of mandates and incompatibility of political functions, para. 76.

³² Venice Commission, [CDL-AD\(2024\)040](#), Albania – Opinion on the implementation by Parliament of Constitutional Court decisions, para. 27.

³³ Venice Commission-OSCE/ODIHR, [CDL-AD\(2016\)025](#), Kyrgyz Republic - Joint opinion on the draft law on introduction of amendments and changes to the Constitution, para. 94.

³⁴ *Ibid.*, paras. 93 and 94.

was also informed that a set of amendments to the draft Law relating to the MPs' contacts with interest groups is under preparation.

54. Article 13 of the draft Law sets out the rules relating to the conflict of interest. Its paragraph 1 provides that *"the conflict of interests represents the situation in which the MP has a personal interest that influences or could influence the impartial and objective exercise of their obligations and responsibilities according to the law."* The Venice Commission has already observed that the Council of Europe standards require that the conflict of interest be defined broadly, as involving (a) actual conflict of interest, (b) a potential one, and (c) situations which look like a conflict of interest, since even an appearance of such a conflict may undermine public trust.³⁵ However, the definition in question seems to cover actual and potential conflicts but does not mention "appearance" of a conflict of interest. Accordingly, the Venice Commission considers that the notion of the conflict of interest should be reformulated in such a way as covering also "appearance" of a conflict of interest.

55. Article 13 § 2 of the draft Law provides that *"in order to avoid the conflict of interests and ensure the impartiality of the MP, due to family ties, close personal relationships or other circumstances that may cast doubt on the impartiality of the exercise of the mandate, the MP is obliged to declare the personal interest and refrain from undertaking any actions on the given cause"*. While the Venice Commission is satisfied with the establishment of a clear duty for the MP to declare a conflict of interest, the definition of the scope of "personal relationship" appears problematic since it requires a "close" personal relationship in order to create an obligation of declaration of the conflict of interest, which is unduly reductive. The word "close" should be removed.³⁶

56. Furthermore, Article 13 § 3 provides that *"personal interests of MPs, other than those provided for in Article 2 of Law No.133/2016 on the declaration of wealth and personal interests, are notified to the Commission on Parliamentary Ethics and Conduct, which will make the appropriate entries in the Register of Interests according to Attachment no. 1"*. However, the draft Law does not define the scope of the personal interests which are not covered by Article 2 of Law No.133/2016.

57. Accordingly, the Venice Commission welcomes the preparation of the amendments relating to the MPs' contacts with interest groups which was also recommended by GRECO.³⁷ The Venice Commission also recommends rewording Article 13 in such a way as covering the "appearance" of a conflict of interest, removing the requirement for a "close" personal relationship, and defining the personal interests which are not covered by Article 2 of Law No. 133/2016.

³⁵ Venice Commission, [CDL-AD\(2021\)024](#), Opinion on the draft law on the prevention of conflict of interest in the institutions of Bosnia and Herzegovina, para. 26.

³⁶ *Ibid.*, para. 28.

³⁷ In its fourth evaluation report concerning the Republic of Moldova, GRECO recommended *"introducing rules for parliamentarians on how to interact with third parties seeking to influence the legislative process"* (GRECO, Fourth evaluation report on corruption prevention in respect of members of Parliament, judges and prosecutors, [GrecoEval4Rep\(2016\)6-rev](#), July 2016, paras. 54 and 189). GRECO found in its third interim compliance report concerning the Republic of Moldova that the recommendation in question remains not implemented (GRECO, Third interim compliance report, [GrecoRC4\(2024\)013](#), November 2024, para. 23). In addition, GRECO considered that *"the draft law would further benefit from introducing provisions regulating matters such as interaction with, and disclosure of, contacts with third parties/lobbyists, post-employment restrictions and practical guidance on its content, particularly on conflicts of interest, as well as the conduct of trainings or provision of confidential counselling"* (*Ibid.* para. 17).

5. Procedural guarantees concerning the termination of the parliamentary mandate

58. The Venice Commission notes that while Articles 6-13 deal with the termination of the parliamentary mandate on various grounds, the draft Law does not set out a comprehensive and clear procedure in the termination of the parliamentary mandate, providing due safeguards.

59. In particular, the draft Law should clearly identify the parliamentary committees empowered to assess the case and to take a decision and define the situation in which the termination of the mandate is operated by law or by a decision of the Parliament. The draft Law should also provide the relevant procedural safeguards for the MPs in the decision-making process.³⁸

60. The Venice Commission observes that the draft Law requires a simple majority of the MPs present for the adoption of a decision on termination of the parliamentary mandate and it does not appear that it is possible to have a judicial review of this decision ([CDL-AD\(2026\)028](#), paragraph 49). The Commission previously drew attention to the risk that the rule of a simple majority may be used abusively against parliamentarians belonging to the minority³⁹ and noted that a combination of two mechanisms (approval by Parliament and review decision by a judicial body, preferably a Constitutional Court) gives better protection to opposition MPs.⁴⁰ At the same time, in the absence of a judicial review, sufficient safeguards can also be afforded within a parliamentary body mandated to perform *ex ante* scrutiny or *ex post* review.⁴¹ The Commission further recalls that, as noted in the related Opinion on the draft Code, the delegation was informed in Chişinău that the Constitutional Court has no jurisdiction over breaches of parliamentarians' rights and that, while some interlocutors suggested that such breaches could be examined by the administrative courts, this possibility does not appear to have been explored. In the Commission's view, the pluralistic and proportional composition of the relevant competent parliamentary committees comprising the opposition parliamentarians and the introduction of a qualified majority voting requirement can also be considered as guarantees against possible abuse by the parliamentary majority.⁴²

61. Accordingly, the Venice Commission recommends introducing clear rules for the procedure of termination of the parliamentary mandate. In addition, having regard to the absence of a clear judicial review of the decision on termination of parliamentary mandate, the Commission recommends reconsidering the rule of the simple majority of the MPs present for adoption of such a decision, as well as the composition of the relevant competent parliamentary committees and the voting procedure within these committees against possible abuse by the parliamentary majority.

E. Parliamentary immunity

62. The Venice Commission has observed that the concept of parliamentary immunity is an integral part of the European constitutional tradition, as demonstrated by the fact that all

³⁸ Venice Commission, [CDL-AD\(2023\)026](#), 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, para. 36. The relevant case-law of the Court also requires relevant procedural safeguards (see *G.K. v. Belgium*, [no. 58302/10](#), §§ 59-64, 21 May 2019, and *Galan v. Italy* (dec.), [no. 63772/16](#), §§ 128-135, 18 May 2021).

³⁹ Venice Commission, [CDL-AD\(2016\)029](#), Azerbaijan - Opinion on the draft modifications to the Constitution submitted to the referendum of 26 September 2016, para. 75.

⁴⁰ Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, para. 58.

⁴¹ See, *mutatis mutandis*, *Grande Oriente d'Italia v. Italy* [GC], [no. 29550/17](#), § 198, 7 July 2026.

⁴² Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, para. 89.

European countries have some form of rules on this, which often date back a long time in history.⁴³ The existence of rules on parliamentary immunity is first and foremost based on the need to protect the principle of representative democracy. Such immunity can be justified to the extent that it is suitable and necessary in order to ensure that the elected representatives of the people are effectively able to fulfil their democratic functions, without fear of harassment or undue interference from the executive, the courts and political opponents. This is particularly important with regard to the parliamentary opposition and political minorities.⁴⁴

63. The Venice Commission is also aware of the recent changes in the perception of parliamentary immunity in the society and, in some circumstances, its association with impunity.⁴⁵ Moreover, possible conflicts may arise between the freedom of expression granted to the MPs in the exercise of their parliamentary mandate and other rights guaranteed under Articles 6 and 8 of the Convention such as the right of access to a court or the right of respect for private life. However, as a recent comparative law survey carried out by the Court on the operation of parliamentary immunity in the legal systems of forty-one of the forty-six member States of the Council of Europe showed, a rule of parliamentary immunity is consistent with and reflects generally recognised rules within member States of the Council of Europe.⁴⁶

64. The Venice Commission has made a clear distinction between two forms of parliamentary immunity, namely non-liability and inviolability. While non-liability of parliamentarians involves immunity from prosecution for opinions, remarks and the outcomes of votes in the exercise of their mandate, inviolability provides special legal protection against some coercive measures for parliamentarians accused of breaking the law. Non-liability and inviolability are also distinct in nature, scope and duration: non-liability should be absolute, permanent, and not subject to lifting; while inviolability should be procedural, temporary, subject to the consent of Parliament.

65. However, the draft Law does not make clear distinction between the two forms of parliamentary immunity and deals with non-liability in Article 16 (using the terminology of independence of opinions) and with inviolability in Articles 14 and 15 (using the terminology of parliamentary immunity).

1. Non-liability

66. Article 71 (independence of opinion) of the Constitution establishes non-liability of MPs for votes and opinion expressed in the exercise of their mandate. It states that *“Members of Parliament may not be prosecuted or held legally liable for their votes or opinions expressed in the exercise of their mandate”*.

67. Article 16 § 1 of the draft Law faithfully reproduces this constitutional provision, providing that *“the MP cannot be prosecuted or held legally responsible for the votes or for the opinions expressed in the exercise of the mandate”*. Article 16 § 2 defines the scope of non-liability, providing that *“the independence of the MP opinions shall only refer to the activity of an MP carried out in the exclusive exercise of the mandate and shall include: declarations made in the Parliament and within the working bodies; public speeches and remarks; questions, interpellations and motions; submission of draft normative acts or formulation of amendments and proposals; their opinion expressed in the voting process and laid down in the Parliament’s documents; other actions, which fall under the status of the MP”*.

⁴³ Venice Commission, [CDL-AD\(2014\)011](#), Report on the scope and lifting of parliamentary immunities, para. 7.

⁴⁴ *Ibid.*, para. 36.

⁴⁵ Venice Commission, [CDL-AD\(2026\)025](#), Updated report on the relationship between political and criminal ministerial responsibility, para. 86.

⁴⁶ *Green v. the United Kingdom*, [no. 22077/19](#), §§ 43-50, 8 April 2025. See also *Kiguradze v. Georgia*, [no. 25784/23](#), 23 June 2026.

68. It appears from Article 16 § 2 of the draft Law that non-liability is attached to “*the activity of an MP carried out in the exclusive exercise of the mandate*” and it covers a range of actions related to votes and opinion expressed in the Parliament. The Venice Commission welcomes the inclusion of actions related to votes and opinion of the MPs expressed in the Parliament in the exercise of their mandate.⁴⁷ However, it should explicitly be provided that the notion of “*public speeches and remarks*” also covers the activity of the MPs carried out outside of parliament, such as opinions expressed in the media and in public meetings and debates, in the exercise of their mandate. In this regard, the Venice Commission recalls that freedom of expression of Members of Parliament is an essential part of democracy, and has to be a wide one and should be protected also when they speak outside Parliament.⁴⁸ In addition, the notion of “*other actions, which fall under the status of the MP*” needs to be clarified.

69. Article 16 § 3 of the draft Law provides that “*public calls to rebellion, violence, separatism, which, according to the legislation, involve criminal liability, do not fall under the scope of the legal guarantee of the freedom of expression of MPs for their opinions*”.

70. While the exclusion of public calls to rebellion, violence or hate speech does not raise any particular issue, the exclusion of speech relating to separatism without any call for violence may raise issue as regards the protection of freedom of expression under Article 10 of the Convention. In this connection, the Venice Commission noted that “*the non-violent pursuit of non-violent political goals such as regional autonomy cannot be the subject of criminal prosecution. Expression that annoys (speech directed against the President, public officials, the Nation, the Republic etc.) must be tolerated in general but especially when it is uttered by Members of Parliament. Restrictions of the freedom of expression have to be narrowly construed. Only speech that calls for violence or directly supports the perpetrators of violence can lead to criminal prosecution.*”⁴⁹

71. The Court has also underlined the special nature of the freedom of expression of MPs⁵⁰, finding that “*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*”.⁵¹ In this context, the exclusion of separatist speech which does not call for violence or supports violent actions can hardly be compatible with Article 10 of the Convention. Accordingly, the Venice Commission recommends removing the reference to separatism.

⁴⁷ In this regard, the Court recently held that “*for the Court to find that a speech in Parliament, by a member of parliament, fell outside the scope of his or her parliamentary activity would be unprecedented, and would run counter to the operation of parliamentary privilege in the majority of member States*” (see *Green v. the United Kingdom*, no. 22077/19, § 89, 8 April 2025).

⁴⁸ Venice Commission, [CDL-AD\(2016\)027](#), Turkey – Opinion on the suspension of the second paragraph of Article 83 of the Constitution (parliamentary inviolability), para. 79.

⁴⁹ *Idem*. In this connection, the Parliamentary Assembly of the Council of Europe as held as follows:

“4. Everyone, politicians in particular, has the right to make proposals whose implementation would require changes to the constitution, provided the means advocated are peaceful and legal and the objectives do not run contrary to the fundamental principles of democracy and human rights.

5. This includes calls to change a centralist constitution into a federal or confederal one, or vice versa, or to change the legal status and powers of territorial (local and regional) entities, including to grant them a high degree of autonomy or even independence” (PACE, [Resolution 2381\(2021\)](#), Should politicians be prosecuted for statements made in the exercise of their mandate?).

⁵⁰ The Court held that “*while freedom of expression is important for everybody, it is especially so for an elected representative of the people. He represents his electorate, draws attention to their preoccupations and defends their interests. Accordingly, interferences with the freedom of expression of an opposition member of parliament ... call for the closest scrutiny on the part of the Court*” (see, among other authorities, *Karácsony and Others v. Hungary* [GC], [nos. 42461/13 and 44357/13](#), § 137, 17 May 2016, and *Selahattin Demirtaş v. Turkey* (no. 2) [GC], [no. 14305/17](#), § 242, 22 December 2020).

⁵¹ *Costa I Rossello and Others v. Spain* (dec.), [nos. 29780/20, 33702/20, 48537/20 and 42224/22](#), § 135, 11 February 2025.

72. Lastly, Article 16 of the draft Law does not contain any provision concerning the temporal scope of non-liability. Non-liability should by its nature not be limited in time, but remain in place after the parliamentarian has left office.⁵² It is therefore recommended that the draft Law explicitly provides that non-liability is permanent extending beyond the MPs' mandate, in order for them not to be limited in their voting or exercise of freedom of expression, by fear of persecution of repercussions of lawsuits against them following departure from office.⁵³

2. Inviolability

73. Article 70 § 3 of the Constitution prescribes inviolability of MPs and provides that *"the Member of Parliament may not be apprehended, arrested, searched, except for the cases of flagrant misdemeanour, or sued at law without the prior consent of the Parliament and upon hearing of the member in question"*.

74. Articles 14 and 15 of the draft Law deals with inviolability under the notion of parliamentary immunity. Article 15 § 1 specifically provides that *"the MP cannot be detained, arrested, searched or sent to court for the commission of crimes without the consent of the Parliament, after their hearing"*. In addition, Article 15 § 3 clarifies that *"the parliamentary immunity shall not be applied for the actions of prosecution not involving detainment, arrest, searches or bringing to justice"*. This approach is also in line with the interpretation of Article 70 § 3 of the Constitution made by the Moldovan Constitutional Court.⁵⁴

75. However, unlike the text of Article 70 § 3 of the Constitution and its interpretation by the Constitutional Court, Article 15 of the draft Law does not state that inviolability is not applicable in case of *flagrante delicto*. In their written comments on this Opinion, the Moldovan authorities submitted that the original Romanian text of the draft Law already provides for non-applicability of inviolability in case of *flagrante delicto*. The Venice Commission takes note of these submissions of the Moldovan authorities.

76. Article 14 § 3 of the draft Law provides that *"parliamentary immunity ... cannot be waived"*. Although it is not required under Article 6 of the Convention,⁵⁵ the Venice Commission considered that it was preferable from a best model perspective to give the MP concerned the possibility to waive inviolability and to have the allegations examined by the judicial system.⁵⁶

77. Article 14 § 7⁵⁷ lists the cases on which inviolability has no incidence, which seems to reflect the interpretation of Article 70 § 3 of the Constitution made by the Moldovan Constitutional Court. However, it should contain the word *"final"* court decision.

⁵² Venice Commission, [CDL-AD\(2014\)011](#), Report on the scope and lifting of parliamentary immunities, para. 181.

⁵³ Venice Commission-OSCE/ODIHR, [CDL-AD\(2021\)007](#), Joint opinion on the draft Constitution of the Kyrgyz Republic, para. 70.

⁵⁴ The relevant part of the Constitutional Court's decision reads as follows:

"69. Thus, the protection of the inviolability operates only for certain procedural measures which are restrictive and exhaustively enumerated in the Constitution: detention, arrest, and search. There is an exception in the case of "flagrant offence".

70. Thereby, only under these reservations, the criminal prosecution of the MP can be launched and exercised with no need to lift the immunity.

71. At the same time, at the end of criminal prosecution, sending the case to trial by the prosecutor who concluded the indictment may be done only after the immunity is lifted under the conditions laid down in the Rules of the Parliament." [Constitutional Court of Moldova, Judgment on the interpretation of Article 1 paragraph \(3\) combined with Articles 69 and 70 of the Constitution of the Republic of Moldova \(immunity and termination of mandate of the Member of Parliament\) \(Complaint no. 6b/2014\) of 20 January 2015](#)

⁵⁵ *Kart v. Turkey* [GC], [no. 8917/05](#), ECHR 2009 (extracts). In this regard, the Court has reiterated that *"parliamentary immunity is a privilege granted not to members of parliament on an individual basis but to the institution of Parliament, to guarantee its smooth operation"* (*Selahattin Demirtaş v. Turkey* (no. 2) [GC], [no. 14305/17](#), § 394, 22 December 2020).

⁵⁶ Venice Commission, [CDL-AD\(2014\)011](#), Report on the scope and lifting of parliamentary immunities, para. 164.

⁵⁷ Article 14 § 7 reads as follows:

3. Procedure for lifting inviolability

78. The Venice Commission reiterates that it should always be possible to lift parliamentary inviolability. The wider the scope of inviolability, the greater the need for this. Under no circumstances should there be absolute and unconditional parliamentary inviolability for all kinds of criminal offences. Rules on inviolability should always be subject to exemptions, and there should always be the possibility of lifting, following clear and impartial procedures. The Venice Commission in general considers that there should be a basic presumption that inviolability *should be lifted* in all cases in which there is no reason to suspect that the charges against the member concerned has been politically motivated.⁵⁸

79. The Venice Commission takes the view that the parliamentary *procedures for lifting* of immunity should in any case always be regulated in some detail, and that they should respect basic procedural principles, such as clarity, transparency, predictability, objectivity, non-arbitrariness and rights of both parties to be heard. As for transparency, the decision should be publicly available, and it should indicate the grounds on which it is based, while at the same time respecting the confidentiality of the criminal investigations and the persons concerned.⁵⁹

80. There should also be procedural safeguards which protect members of the minority from politicised prosecutions, without making criminal prosecution impossible. Several legal mechanisms can be devised: the requirement of a qualified majority in Parliament to lift immunity (which is, however, not a universal rule), involvement of an external judicial authority or involvement of an internal parliamentary committee composed on the representatives of the majority and opposition in equal parts.⁶⁰ In addition, as good practice, the Venice Commission has recommended a model where the prosecuting authorities would be obliged to inform Parliament about the measure taken against an MP, in which case a minority of the MPs (maybe one-third of its members) would then be entitled to complain against this measure to the Constitutional Court within a given deadline.⁶¹

81. Articles 17-20 of the draft Law regulate the procedure for lifting inviolability. Article 17 § 1 provides that *“if the MP has committed a felony or misdemeanour, the General Prosecutor may request the Parliament to lift the immunity of an MP in order to carry out procedural measures of detention, search, arrest or referral to court on criminal or contravention grounds”*. It also provides additional safeguard, indicating that the criminal action against an MP can only be initiated by the Prosecutor General.

82. In accordance with the procedure provided for by the draft Law, a special request from the Prosecutor General is addressed to the President of the Parliament who should inform the MP concerned and send the request to the lead standing Committee. The latter examines it no later than 15 days after it has been brought to the attention of the MP concerned and shall determine the existence or non-existence of some fundamental reasons for the request acceptance or rejection. The draft Law allows the MP concerned to participate in the

“(7) Parliamentary immunity shall not have incidence on:

a) the MP who was sent to court for a criminal offence, before the day of their election, and for MPs whose mandates were validated after the legal establishment of the newly elected Parliament, before the day of mandates validation;
b) the MP convicted by a court decision;
c) the MP in the procedure of recognition by the national courts of a final conviction decision ruled by the courts of a foreign state.”

⁵⁸ Venice Commission, [CDL-AD\(2014\)011](#), Report on the scope and lifting of parliamentary immunities, paras. 161-162. See also *Selahattin Demirtaş v. Turkey (no. 2)* [GC], [no. 14305/17](#), 22 December 2020.

⁵⁹ Venice Commission, [CDL-AD\(2014\)011](#), Report on the scope and lifting of parliamentary immunities, para. 167.

⁶⁰ Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, para. 151.

⁶¹ Venice Commission-OSCE/ODIHR, [CDL-AD\(2015\)014](#), Joint opinion on the draft law on introduction of changes and amendments to the Constitution of the Kyrgyz Republic, para. 44.

examination, assisted by a lawyer, and to take the floor during the examination of the request before the Parliament which should decide, by open vote of the majority of MPs present, to approve or reject the Prosecutor General's request. In addition, Article 15 § 2 provides that *"the consent of the Parliament represents decisions of political, not legal, nature."*

83. In this connection, the Venice Commission reiterates that the parliamentary body handling a request to lift inviolability should not make a legal examination of the case as such and, in particular, it should not pronounce itself on the guilt of the member of Parliament concerned, or on whether there is justification for criminal prosecution. The decision should be based on the facts and merits of the case as submitted by the authorities and the member concerned, and not on other political and outside considerations.⁶² As stated above, there should be a basic presumption that inviolability *should be lifted* in all cases in which there is no reason to suspect that the charges against the MP concerned has been politically motivated.

84. The Venice Commission considers that this basic presumption requires that a decision on lifting inviolability must be reasoned as to the risks of obstruction of the exercise of the mandate, including indications of *fumus persecutionis*.

85. In addition, the Commission refers to the above observations concerning the need for procedural safeguards (see paragraph 80 above). The Venice Commission welcomes the existence of judicial review as a possibility for challenging Parliament's decision on lifting immunity before the Constitutional Court⁶³, confirmed by the Moldovan authorities' submissions. In this regard, the Commission considers that the pluralistic and proportional composition of the relevant competent parliamentary committee comprising the opposition parliamentarians and the introduction of a qualified majority voting requirement within this committee, could also be considered as safeguards to protect the parliamentary minority from any possible abuse.

86. Accordingly, the Venice Commission recommends that any decision to lift inviolability should be reasoned and demonstrate that the proceedings are not intended to obstruct the exercise of MP mandate, particularly distinguishing offences related to parliamentary functions from those concerning private life. It also recommends examining the possibility of introducing additional procedural safeguards in the decision-making process, ensuring that the relevant competent parliamentary committee is composed in a pluralistic and proportionate manner and introducing a qualified majority voting requirement within this committee.

87. Lastly, the Commission observes that Article 20 § 1 of the draft Law provides that *"the Prosecutor General shall inform on a monthly basis the lead standing Committee on the progress of the investigation."* However, the requirement of a monthly reporting on an ongoing criminal case may affect the separation of powers and the confidentiality of criminal investigations ([CDL-AD\(2026\)028](#), paragraphs 126-127). Therefore, this requirement should be limited to informing the Parliament of the outcome of the proceedings, as set out by Article 20 § 2.

F. Conduct and ethics

1. Rights of the MP, parliamentary factions and the parliamentary opposition

88. Chapter IV of the draft Law deals with the conduct, ethics, rights and obligations of the Member of Parliament. From the outset, the Commission observes that the rights of factions

⁶² Venice Commission, [CDL-AD\(2014\)011](#), Report on the scope and lifting of parliamentary immunities, para. 168.

⁶³ [Constitutional Court of the Republic of Moldova, Judgment on constitutional review of the Parliament Decision No. 172 of 15 October 2015 on approval the lifting parliamentary immunity of the Member of Parliament, Vladimir Filat \(Complaint No. 39a/2015\).](#)

and opposition MPs are also regulated in the draft Code (see [CDL-AD\(2026\)028](#), paragraphs 46 and 54). In the draft Law, the rights of the MP are provided for in Article 22, whereas the draft Code sets out the rights of parliamentary factions (Article 24) as well as those of the parliamentary opposition (Article 30). In the past, the Commission acknowledged that the subjects or beneficiaries of rights can be the individual MP, the political party groups represented in parliament (factions), and the “opposition” as such.⁶⁴ The Commission then recalled that “the rights attached to the individual MPs constitute an important part of the legal basis and protection of the parliamentary opposition” and “supported the principle of formal recognition and empowerment of the individual MP as a cornerstone of democratic parliamentary procedures.”⁶⁵ : “a basic principle of parliamentary procedure, which is seldom explicitly stated in the national constitutions, but which is nevertheless often to be found by way of interpretation, is that of equality of the representatives. As stated, a parliament is an institution consisting of the elected representatives, with the representative as a main legal entity, based on the idea that they should in principle all have the same rights and obligation, whether belonging to the governing party or the opposition. This principle of equality is stated in Resolution 1601 (2008) of the Parliamentary Assembly: “equal treatment of Members of Parliaments, both as individual members and as members of a political group, has to be ensured in every aspect of the exercise of their mandate and of the operations of parliament”. The Venice Commission for its part has also in its Code of Good Practice in the field of Political Parties recalled the necessity to respect the principle of equality.”⁶⁶ In addition, the Commission highlights that rights of MPs have an “institutional” foundation, rather than a “personal” one, stemming from the need to safeguard the Parliament’s independence and autonomy. Thus, the autonomy and independence of Parliament are intrinsically linked to the rights of parliamentarians and the exercise of the representative function. The Commission thus welcomes that a list of rights for all MPs is provided for in the draft Law but is concerned that the parallel regulation of these rights can create uncertainty, particularly in view of the importance of the individual rights of MP for those parliamentarians in the opposition. In this connection, the Commission recalls that, in the related Opinion on the draft Code, it recommended that unaffiliated and independent parliamentarians retain the functional rights attached to the mandate. It therefore considers that the rights listed in Article 22 of the draft Law should be guaranteed to all Members of Parliament, irrespective of their membership of a parliamentary faction.

89. As concerns the substance of these rights, the Commission has noted in the past that a set of basic rights for all parliamentarians typically include the right to vote (on legislation, budgets, etc.), the right to table bills and motions, the right to speak in debates, the right to ask oral or written questions of the government, the right to participate in committee work, the right to receive information and documents presented to parliament; parliamentary immunities, freedom of political opinion, and the right to initiative cases before the Constitutional Court.⁶⁷ In turn, in its resolution in Resolution 1601 (2008), the Parliamentary Assembly laid down an extensive and detailed list of procedural rights that should be guaranteed for opposition members. The main categories include participation in the “supervision, scrutiny and control” function, through a number of specified procedural rights (2.2.1 to 2.2.9); participation in the organization of legislative work (2.3.1 and 2.3.2); participation in the legislative procedures (2.4.1 to 2.4.4); participation in parliamentary committees’ work (2.5.1 to 2.5.5); participation in political decisions (2.6); and participation in the constitutional review of laws (2.7). These rights were at a later stage endorsed by the Commission when it called on all national parties in the member States of the Council of Europe to implement them.⁶⁸ In its 2024 Resolution 2537, the PACE stressed that “opposition rights are considered as an institutionalised power

⁶⁴ Venice Commission, [CDL-AD\(2010\)025](#), Report on the role of the opposition in a democratic Parliament, para. 51. The 2010 Report also examined the rights granted to a qualified minority of MPs, see para. 67 *et seq.*

⁶⁵ *Ibid*, para. 60.

⁶⁶ *Ibid*, paras 110 and 111.

⁶⁷ *Ibid*, para. 56.

⁶⁸ *Ibid*, para. 155. See also para. 114.

possessed by the opposition in parliament, which encompasses and goes beyond the rights of individual legislators to speak and vote against government bills. Enshrining and clearly defining rights and guarantees in law is an effective tool for the functioning of the parliamentary opposition. Institutional procedures, recognition, legitimisation and institutionalisation of the parliamentary opposition are central to the very idea of constitutional democracy and an integral part of the political culture.”⁶⁹ In the Report related to the Resolution, the PACE notes that “the independence of parliamentarians is important not only in the face of the executive branch but also inside of parliament as it relates to their interactions with political parties and other MPs. It is essential that rights of parliamentary opposition – freedoms of association, expression and assembly – are guaranteed by the constitution, by the country’s legislation and by the rules of procedure of parliament, and they should not be undermined by the code of conduct. MPs in the opposition should not be criminalised, harassed or disadvantaged in any way.”⁷⁰ The Commission thus welcomes that the opposition is granted additional rights to those that all MPs enjoy. At the same time, it observes that several of these guarantees overlap with rights already granted to individual MPs and parliamentary factions, and the framework does not yet set out the full range of detailed procedural rights contemplated by the Venice Commission and the PACE. The Commission therefore recommends reviewing, streamlining and ensuring the complementarity of the rights granted to all MPs, to the parliamentary factions, and to the parliamentary opposition.

90. Article 22 § 1, letter m) enshrines the right to “*participate in collective open and free discussions, being requested to respect the diversity of opinions, conflict prevention, looking for ways to overcome divergences through discussions between members, so as to avoid the obstruction of Parliament’s activity or the exercise of the rights of other MPs.*” in its 2010 Report, the Commission acknowledged that “not all MPs enjoy all of these rights and competences, and not all of them are absolute. Some are basic, such as the right to vote. Others are more relative, and there are often exemptions, usually for the sake of efficiency. Thus, the right to speak in debates is usually strictly regulated and in many countries allocated only to the party groups, not to the individual MPs. And though there may in many countries be a right to participate in committee work, there is seldom or ever the right for the MP to choose the committee. Some rights may not necessarily correspond to obligations for others – for example an MP may have the right to ask questions to the minister, but this does not mean that the minister is necessarily obliged to answer.” Furthermore, as noted in the related Opinion, a balance must be struck between efficiency and pluralism (see [CDL-AD\(2026\)028](#), paragraph 28). The Commission thus understands (as it has already been noted above and will be discussed further below) that the right to participate in collective open and free discussions is not absolute. Nevertheless, in its current formulation, Article 22 § 1, letter m) can be read as prescribing an obligation rather than enshrining a right. In this regard, the Commission recommends simplifying the provision, so the focus is placed on the MP’s right, rather than on its restrictions.

91. Furthermore, Article 22 § 1, letter g) grants the MP the right to “*rule on procedural issues.*” The Commission considers that it is within the remit of the governing bodies of Parliament to decide on procedural issues, unless the matter concerns the constitutionality of normative and it is therefore within the jurisdiction of the Constitutional Court. The Commission thus fails to understand how the right in Article 22 § 1, letter g) should be interpreted and exercised, as the possibility to rule on procedural issues should not pertain to the individual MP. The Commission thus recommends that this right should be further developed or clarified.

⁶⁹ PACE, [Resolution 2537 \(2024\)](#), Relationship between the parliamentary majority and the opposition in a democracy, para. 8.

⁷⁰ PACE, [Report | Doc. 15946 | 21 March 2024](#), Relationship between the parliamentary majority and the opposition in a democracy, para. 92.

92. Lastly, the Commission observes that, pursuant to Article 21 § 2, “*the rights can be exercised individually or collectively*”, whereas Article 22 § 2 states that “*the MPs exercise their rights through the working bodies of the Parliament or collectively with other MPs.*” The Commission is concerned that the wording of Article 22 § 2 may preclude the individual exercise of the MPs’ rights if they are not exercised through the working bodies of Parliament. It thus recommends removing Article 22 § 2. If the scope of Article 22 § 2 is meant to differ from Article 21 § 2, it should be rewritten to make clear that MPs can always exercise their rights individually. The Commission therefore recommends that Parliament either reconsiders Article 22 § 2 or details its scope more clearly so as to ensure that this provision is not misused to curtail the individual exercise the rights of the MPs.

2. Conduct, ethics and grounds for disciplinary liability

a. General overview and overarching principles of the disciplinary regime

93. The norms of parliamentary conduct of the MPs, their obligations, and restrictions are set out, respectively, in Article 23 of the draft Law (Obligations of the Member of Parliament); in Section 2, Articles 24 to 28, on conduct; whereas Section 3, Articles 29-33, on restrictions on the conduct during sittings, gifts, and provisions related to absences.

94. From the outset, the Venice Commission recalls that in the past, it observed that “most parliaments have internal rules of procedure or codes of conduct (house rules) under which the members can be silenced or disciplinary sanctioned for certain forms of remarks or behaviour, although the nature of such sanctions vary greatly, from a call to order or curtailment of speaking time to reduction of remuneration, temporary exclusion, or in a few cases even stricter sanctions of a more penal nature.”⁷¹ It has therefore accepted that “even if members of parliament are protected from external legal action for their opinions and remarks, they may still be subject to internal disciplinary sanctions by parliament itself. This is so in most national parliaments, and it is illegitimate as long as the sanctions are relevant and proportional and not misused by the parliamentary majority to infringe the rights and liberties of political opponents.”⁷²

95. The Commission has not had the opportunity to examine specific provisions on parliamentary disciplinary regimes in country-specific Opinions, but it has adopted a wealth of documents on disciplinary proceedings against other public positions, *inter alia* on judges and judges of Constitutional Courts. In these Opinions, the Commission has stressed that grounds for disciplinary liability require clear, precise, and foreseeable definitions, complying with the rule of law requirements, and warned against the dangers of vague and incoherent provisions.⁷³ For this reason, the Venice Commission has expressed a strong preference for enumerating specific and detailed descriptions of grounds for disciplinary liability in an exhaustive list.⁷⁴ These requirements are also set out in the Updated Rule of Law Checklist, which requires that the law be accessible, precise and foreseeable in its application. The

⁷¹ Venice Commission, [CDL-AD\(2014\)011](#), Report on the scope and lifting of parliamentary immunities, para. 55. See also Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, para. 154.

⁷² Venice Commission, [CDL-AD\(2014\)011](#), Report on the scope and lifting of parliamentary immunities, para. 100. See also Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, para. 153; as well as Venice commission, [CDL-AD\(2010\)025](#), Report on the role of the opposition in a democratic Parliament, para. 147, where the Commission concluded that “*most parliaments also have disciplinary internal sanctions for party groups and MPs breaking the rules of procedure, and this is appropriate as long as they are legitimately justified and proportionate.*”

⁷³ See, more recently, Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe, [CDL-AD\(2025\)044](#), Ukraine - Joint Opinion on draft amendments on disciplinary procedures against judges, declarations of integrity, and other procedures, para. 38.

⁷⁴ *Ibid.*

Commission therefore considers that these requirements should also apply to the disciplinary regime against parliamentarians.

96. The Commission observes that, pursuant to Article 44 of the draft Law, *“the breach by the MP of the provisions of this law during the sittings of the Parliament and its working bodies of which they are members, as well as during official trips on the territory of the Republic of Moldova and abroad, shall attract [...] sanctions.”* In this regard, the Commission does not oppose in principle to the adoption of ethical standards for the MP but is concerned that Article 44 may be interpreted as granting the status of disciplinary grounds to any Article of the draft Law, at odds with the principle of legal certainty. In view of the broad scope of Article 44, the Commission observes, in particular, that several provisions in the draft Law contains vague wording and expressions, such as *“contribute through personal example to the fulfilment of civic obligations, respecting human rights, the legislation, ethical and moral norms”* (Article 23 § 3), *“respect the professional and moral values, the principles and norms of conduct in the process of exercising their duties, contribute to increasing the credibility and good reputation of the Parliament”* (Article 24), *“have a conduct that does not prejudice the image of the country”* (Article 25 § 3), and *“harming the honour, dignity and professional reputation of the MP”* (Article 29, letter g)), which may be misused. Furthermore, in addition to the provisions in articles 23 to 33, the Commission observes that there are additional grounds for disciplinary liability sparse in the draft Law. For example, Article 56 § 1 sets as a ground for disciplinary liability *“the failure of the Member to execute the obligations of confidentiality of the information protected by law”*, whereas Article 57 § 1 introduces a new ground of disciplinary liability which consists in interfering *“with the activity of the Commission on Parliamentary Ethics and Conduct, intentionally disregarding its notifications and recommendations, as well as hindering in any manner its activity.”* The Commission is thus particularly worried that, as it stands, Article 44 can be interpreted against the rights of the parliamentarians, and particularly those in the opposition.

97. It is the view of the Commission that a clear distinction should be drawn between aspirational standards (for example, those in Articles 23 to 32), which describe the best practices in the exercise of the representative mandate and are not enforceable, and enforceable rules of conduct (for example, Article 33), which must be defined with sufficient precision and alone attract the sanctions provided for in Chapter IV. This concern is particularly relevant in relation to Articles 27 (conduct of Members of Parliament towards citizens) and 28 (conduct of Members of Parliament towards media representatives). In the Commission's view, a lack of engagement by an MP with citizens or media should not be subject to disciplinary measures, but rather be judged by the electorate through the mechanism of political accountability and their potential of re-election. The Commission therefore recommends setting an exhaustive list of grounds for parliamentarians' disciplinary liability in the draft Law. These grounds for disciplinary liability should be limited to enforceable rules of conduct and be based on clear, precise, and foreseeable definitions.

98. Another option would be to enumerate in the draft Law only those grounds which may trigger disciplinary liability and complement the adoption of the Law with a code of conduct listing the aspirational standards.⁷⁵ This code of conduct would therefore complement the statutory provisions by means of more detailed rules concerning the practical application of parliamentary ethical standards, interpretative guidance, or even examples, and henceforth also support the mandate of bodies responsible for ethics, thus contributing to ensuring legal certainty. Should the authorities wish to pursue this option, the Commission recommends that

⁷⁵ In the past, such Codes have been considered a possibility, for example by the PACE in the Report related to Resolution 2537 (2024). The PACE considered this option and stressed that Code should be developed in an inclusive way, that is *“with the assurance that the code was not solely developed by a few parliamentarians or by the majority party. This would lead to increased concerns about the possible weaponisation of the code of conduct to target minority members or to restrict the independence of legislators.”* See PACE, [Report | Doc. 15946 | 21 March 2024](#), Relationship between the parliamentary majority and the opposition in a democracy, para. 95.

the procedure to adopt the code of conduct be inclusive, transparent, and consultative. In particular, the members of the opposition should be involved in the process of developing the code of conduct from the beginning.

b. Examination of specific grounds

99. As noted above, the freedom of expression of Members of Parliament is an essential part of democracy, and should be protected also when they speak outside Parliament.⁷⁶ The Venice Commission has however considered that “the use of clearly obscene language or personal verbal (and a fortiori physical) attacks on fellow MPs and guests in Parliament may and must be discouraged by a variety of sanctions.”⁷⁷ In any case, it has argued that “it belongs, in the first place, to Parliament itself or to its designated bodies to decide what speech or behaviour are inadmissible within Parliament. A lot would depend on the predominant political culture, which may be more expressive in some countries and more tempered in others.” Nevertheless, it has argued that “since not everything can be clearly regulated in the codes of behaviour, it is important to ensure foreseeability of any sanction imposed and show respect to the tradition and the precedent.”⁷⁸

100. In this context, the Commission observes that several provisions in the draft Law constitute restrictions to the freedom of expression of MPs. These include, but are not limited to, Articles 24, 25 § 2, 25 § 3, 25 § 5, 27, and 28 of the draft Law. In the past, the Court has made an important distinction between the substance of a parliamentary speech (where limitations are almost never justified) and, on the other hand, the time, place and manner in which political message is conveyed.⁷⁹ The Commission is therefore concerned that even abstract provisions on a dress code, as they are framed in Article 23 (g), can also curtail a parliamentary freedom of expression, particularly if the dress code prevents them from wearing political, cultural, religious, ethnic or other symbols that are not banned by law, at odds with the case-law of the Court on Article 10 of the Convention. The Commission therefore recommends re-examining the grounds of disciplinary liability which may be at odds with the right to freedom of expression in line with international standards and the case-law of the Court.

101. In this regard, the Commission also observes that Article 25 § 2 prescribes that “*in the cases in which the Parliament has expressed its opinion on a certain subject, by means of a decision or other means, the MPs who participate in the meetings of regional parliamentary assemblies or of international organisations as part of an official delegation of the Parliament shall be obliged to represent adequately the opinion of the Parliament on the given subjects.*” The Commission understands that the participation of parliamentarians in regional parliamentary assemblies or of international organisations can sometimes be done in representation of the Parliament, in which case this provision would ensure that the said parliamentarians do not use their position in a governing body of parliament to their own advantage. Nevertheless, in most cases parliamentarians take part in these initiatives in their individual capacity, and the Commission finds that preventing them in these circumstances from expressing their own opinions and views is at odds with the right to freedom of expression. Therefore, the Commission recommends that the scope of the restrictions in Article 25 § 2 is either reconsidered or at least narrowed down to specific circumstances in which parliamentarians represent the Parliament.

⁷⁶ Venice Commission, [CDL-AD\(2016\)027](#), Turkey – Opinion on the suspension of the second paragraph of Article 83 of the Constitution (parliamentary inviolability), para. 79.

⁷⁷ Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, para. 157.

⁷⁸ *Ibid*, para. 158.

⁷⁹ *Karácsony and Others v. Hungary* [GC], [nos. 42461/13 and 44357/13](#), § 140, 17 May 2016.

102. Articles 31 to 33 introduce a regime of (un)justified absences. In the past, the Commission has argued that “political action may follow various paths, and attendance at sittings is not the sole form of action. It would nevertheless be conceivable for the Constitution to lay down a rule of attendance and indicate penalties on defaulting members, ranging from partial or complete withdrawal of indemnity to withdrawal of the right to vote, but without providing for the loss of the mandate [...] Some constitutions, however, provide for the automatic loss of mandate. As to an organised and prolonged mass boycott of the work of Parliament by the opposition, it cannot entirely be ruled out as a legitimate form of political behaviour, but it is permissible only in rare and very extreme circumstances where the legitimacy of Parliament is in doubt due to the actions of the majority. Disagreements about current politics, even major ones, cannot justify boycott.”⁸⁰ The Commission thus welcomes that Article 31 § 2, letter e) treats not participation as justified, but limits this provision to an agenda item. However, the Commission is concerned that prescribing an exhaustive list of circumstances in which absences are justified may prevent Parliament or its governing bodies to accommodate unforeseen cases. The Commission therefore recommends including in the draft Law a provision allowing the Parliament or its governing bodies to address circumstances not expressly foreseen in the draft Law.

103. The Commission also observes that Article 31 § 3 sets out that *“the absence of the MP from the sittings of the Parliament or the working bodies, to accomplish a task assigned by the standing committee or the political faction of which they are part shall be coordinated beforehand with the President of the Parliament.”* The Commission cannot ignore that the President of Parliament belongs to the majority, and is therefore concerned about the obligation to coordinate with them an absence to accomplish a task assigned by the standing committee or the political faction of which they are part, particularly for parliamentarians belonging to factions in the opposition. The Commission thus recommends that this provision be reconsidered. One option would be to set that parliaments must inform, but not necessarily coordinate, with the President of the Parliament.

104. Pursuant to Article 30 § 2, *“the interdiction specified in para. (1) shall not apply to gifts received on the occasion of protocol events and the value of which does not overcome the limits established by the Government. The way of declaration, evaluation, record keeping, storage, use and repayment of these gifts is regulated by the Government.”* While Parliament may borrow gift value limits set by other institutions, it should retain the autonomy to set its own limits. Delegating this power entirely to the Government undermines parliamentary autonomy. The Commission therefore recommends revising this provision, so Parliament retains its autonomy when regulating gifts.

105. Certain provisions on obligations, conduct, and restriction may overlap. Some overlap, for example between *“avoid any conflict of interests, and in case of a conflict of interests, is obliged to notify the Commission on Parliamentary Ethics and Conduct”* (Article 23, letter c)) and *“disclose any personal interest that would encroach upon the objective performance of the public duties and take measures for the solving of a potential conflict of interests to the benefit of general interest”* (letter r)), in addition to similar requirements on conflicts of interest found elsewhere in the draft Law (see paragraphs 53-57 above). The Commission therefore recommends that the provisions on obligations, conduct, and restrictions be reviewed to eliminate duplication, both within these articles and the draft Law as a whole.

106. The Commission also observes that the draft Law lacks provisions on sexism, other forms of harassment, and discrimination. In its 2019 Recommendation on Preventing and Combating Sexism, the Committee of Ministers of the Council of Europe found that “women working in the public sector, including those elected or members of decision-making bodies, at all levels,

⁸⁰ Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, para. 60.

frequently face challenges to their dignity, legitimacy and authority owing to sexism and sexist behaviour.”⁸¹ It thus recommended “including provisions against sexism and sexist behaviour and language in internal codes of conduct and regulations, with appropriate sanctions for those working in the public sector, including elected assemblies” as well as “promoting the strengthening and implementation of internal disciplinary measures for sexism in the public sector and in all decision-making and political bodies, for instance through cutting or suspending responsibilities and funds, or through financial penalties.”⁸² More recently, PACE has also called on the member and observer States of the Council of Europe, and States whose parliaments enjoy observer or partner for democracy status with the Assembly, to “raise awareness of the impact of sexism and gender-based violence on political life, including on the level of participation of women parliamentarians” and to “adopt, review and/or update, as appropriate, codes of conduct for parliamentarians and staff members to address violence, sexual and psychological harassment, sexism and discriminatory behaviour, and introduce reporting procedures and sanctions in case of breach”.⁸³ In this context, the Venice Commission recommends that the Law include explicit disciplinary grounds prohibiting sexism, sexual and psychological harassment, as well as other forms of discriminatory behaviour by the Parliamentarians, together with effective reporting procedures and appropriate sanctions, in line with Council of Europe standards.

3. Sanctions

107. The list of possible sanctions for “the breach by the MP of the provisions of this law” is set in Article 44 of the draft Law and include the following:

“Article 44. Sanctions

The breach by the MP of the provisions of this law during the sittings of the Parliament and its working bodies of which they are members, as well as during official trips on the territory of the Republic of Moldova and abroad, shall attract the following sanctions:

- a) warning;*
- b) call to order;*
- c) withdrawal of the right to speak;*
- d) withdrawal of the right to speak and denial of the right to speak for the whole duration of the sitting;*
- e) denial of the right to speak for up to 5 sittings;*
- f) prohibition to participate in the plenary sittings for up to 10 sittings; g) removal from the sitting hall;*
- h) financial sanctions;*
- i) exclusion from standing parliamentary delegations to the international organisations;*
- j) limitation of the right of access to confidential information.”*

108. In *Karácsony and Others v. Hungary*, the Court carried out a comparative-law survey of the disciplinary measures applicable to members of parliament for disorderly conduct in Parliament and, despite the significant differences in the nature and extent of such measures, it grouped them in (a) a call to order and/or warning; (b) the denial or revocation of the right to speak; and (c) the temporary exclusion of the MP, which can range from exclusion from the remainder of the sitting or session to exclusion from a number of parliamentary sittings or

⁸¹ Committee of Ministers of the Council of Europe, [Recommendation CM/Rec\(2019\)1 on Preventing and Combating Sexism](#), Guidelines for preventing and combating sexism: measures for implementation, II.E.

⁸² *Ibid*, recommendations I.E.1 and II.E.6.

⁸³ PACE, Promoting inclusive participation in parliamentary life: gender equality, accessibility and inclusive policies, [Resolution 2615 \(2025\)](#), Promoting inclusive participation in parliamentary life: gender equality, accessibility and inclusive policies, 10.1.5 and 10.3.6. See also PACE, [Resolution 2274 \(2019\)](#), Promoting parliaments free of sexism and sexual harassment.

sessions.⁸⁴ The Court also identified various forms of pecuniary sanctions applicable to MPs for disorderly conduct, either as a penalty or a reduction in salary for a specified period. The Commission therefore finds that the list of sanctions provided for in the draft Law is largely consistent with the findings of the Court on comparative practice.

109. The sanctions consisting in exclusion from standing parliamentary delegations to the international organisations (Article 44, letter i)) and limitation of the right of access to confidential information (Article 44, letter j)) deserve a more detailed examination. These sanctions are subsequently described in Articles 54⁸⁵ and 56⁸⁶ of the draft Law.

110. In the past, the Commission has recommended that “disciplinary measures imposed [...] do not affect the essence of the parliamentary mandate of the MP.”⁸⁷ The Commission questions how an MP can fulfil their duties if barred from parliamentary delegations or denied access to confidential information, and urges careful consideration of these sanctions. However, the Commission observes, on the one hand, that the sanction of limiting the right of access to confidential information is linked to the behaviour of an MP who fails to observe the obligations of confidentiality of the information (linked to Article 28 § 2 of the draft Law). The Commission finds that such restriction may be a necessary measure provided the breach has been ascertained and abides with the procedural safeguards and general principles recommended in this Opinion.

111. On the other hand, and as concerns the sanction of exclusion from the standing parliamentary delegations to international organisations, the Commission understands that it can be the result for the MP not respecting the laws of the host state as well as the norms and regulations of the organisation that has invited them (which echoes the conduct prescribed in Article 25 § 1). However, it also observes that this sanction can be triggered as well when “*the Member displays conduct that damages the image and reputation of the Republic of Moldova*” and for the “*conduct that does not comply with the protocol norms, or more broadly by any behaviour that breaches the provisions of the draft Law.*” The Commission is thus concerned that an MP can be excluded from the standing parliamentary delegations to international organisations on vague grounds which do not satisfy the principle of legal certainty (see paragraph 95 above). In this context, it recommends that the sanction is either reconsidered or that the grounds triggering it are narrowed and limited to those already provided for in Article 25 § 1 of the draft Law. As argued above, Article 25 § 2 should also be limited to those activities that an MP undertakes when representing the Parliament as an institution, and not on its individual capacity, thus precluding the application of this sanction in the expression of its personal opinions on any given subject.

112. Furthermore, the Commission observes that there is again some degree of parallel regulation between the draft Law and the draft Code. In particular, Article 96 § 5 of the draft

⁸⁴ *Karácsony and Others v. Hungary* [GC], [nos. 42461/13 and 44357/13](#), § 57, 17 May 2016.

⁸⁵ “Article 54. Exclusion from the standing parliamentary delegations to international organisations
The Member may be excluded from the standing parliamentary delegations to international organisations, interparliamentary delegations, interparliamentary conferences or any interinstitutional forum, for a period of up to one year, in the following cases:

- if during the official trip abroad, the Member displays conduct that damages the image and reputation of the Republic of Moldova;
- if they display conduct that does not comply with the protocol norms;
- if they do not respect the laws of the host state, the norms and regulations of the organisation that has invited them and the provisions of this law.”

⁸⁶ “Article 56. Application of the sanction of limiting the right of access to confidential information

(1) The failure of the Member to execute the obligations of confidentiality of the information protected by law, shall be penalised with the limitation of the Member's right to confidential information, for a period of up to one year.

(2) The sanction shall be applied by the President of the Parliament on the proposal of the Commission on Parliamentary Ethics and Conduct.”

⁸⁷ Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, para. 155.

Code sets out that “[t]he chair of the sitting shall order the interruption of the speech of an MP by switching off the microphone in the case when the MP exceeds the time allocated for the speech or does not refer exclusively to the subject for which they have registered to take the floor” and, according to Article 97 § 5, “[t]he MPs who have been given the floor are obliged to refer exclusively to the subject for the discussion of which they have requested to take the floor, except for political declarations, which are made in the time interval allocated thereto, in accordance with the schedule. Otherwise, the chair of the plenary sitting shall warn them through an admonition, and in case of non-compliance, shall withdraw the floor from them by switching off the microphone.” The Commission therefore underscores the overlap between both pieces of legislation and recalls its previous recommendation that, for the sake of legal certainty, they should be merged.

113. The sanctions are then detailed in subsequent provisions. From the outset, the Commission observes with appreciation that the provisions on sanctions foresee their individualised and gradual application of the sanctions in proportion to the behaviour of the MP. For example, the withdrawal of the right to speak in Article 49 can only be applied “after the warning or call to order” (§ 1, letter a)). Furthermore, an MP may have their right to speak denied for the whole sitting if they “continue to disturb the order of the sitting,” “continue their address over the given time and do not respect the instructions of the chair of the sitting to end the address,” or “deviate from the subject and do not take into consideration the warning of the chair of the sitting to speak to the point” (§ 1, letters a), b), and c)). According to Article 49 § 3, “the chair of the sitting may deny the Member the right to speak for the whole duration of the plenary sitting if they, after their right to speak has been withdrawn, in the same sitting, commit breaches provided for in para (1) of this article.” Article 49 § 4 further states that if the Member, after being denied the right to speak for the whole sitting, “continues to defy the authority of the Chair or refuses to obey the measures imposed by the Chair of the sitting, the Parliament, on the proposal of the Commission on Parliamentary Ethics and Conduct, may deny the Member the right to speak for a period of up to 5 sittings,” with Article 49 § 5 allowing this sanction to be doubled for repeated breaches. Similar escalation applies to removal from the sitting hall under Article 50, financial sanctions under Article 51 §§ 1–2, and the prohibition to participate in plenary sittings according to Article 52 § 1. The Commission considers that these provisions largely comply with the standard that disciplinary measures imposed are proportionate.

114. Notwithstanding the foregoing, the Commission observes that financial penalties under Articles 44(h) and 55 are not limited. In particular, Article 55 reads as follows:

“Article 55. Application of financial sanctions

(1) For the failure to execute the demand of the chair of the sitting to leave the sitting hall, the sanction shall be carried out in accordance with art.51 of this law.

(2) The Member who is penalised with the interdiction to participate in plenary sittings shall not receive salary, benefits and compensations for the whole period of the sanction, from the day of the sanctioning on.”

115. Furthermore, additional pecuniary sanctions can be applied pursuant to Articles 51 (Execution of the sanctions of removal from the sitting hall or the prohibition to attend the sittings of the Parliament)⁸⁸, 57 (Interference with the activity of the Commission on

⁸⁸ “Article 51. Execution of the sanctions of removal from the sitting hall or the prohibition to attend the sittings of the Parliament

(1) The failure to execute the demand of the chair of the sitting to leave the sitting hall shall be penalised with the loss of 25% of the monthly salary and other benefits and compensations.

(2) The failure to execute the repeated demand of the chair of the sitting to leave the sitting hall shall be penalised with the loss of 50% of the monthly salary and other benefits and compensations.

(3) Sanctions laid down in paras (1) and (2) shall be applied by the President of the Parliament.

Parliamentary Ethics and Conduct)⁸⁹ and 68 (The loss of salary rights, benefits and compensations)⁹⁰.

116. These provisions read together allow the loss of 25% of the monthly salary for failure to comply with a request to leave the sitting hall, rising to 50% in the event of repetition; the loss of the entirety of salary, benefits and compensations for the whole duration of a prohibition to participate in up to ten plenary sittings; a further 25% for interference with the activity of the Commission; and between 50% and 75% for unjustified absences. Therefore, cumulatively, an MP may be deprived of the whole of their remuneration for a significant period. It is the Commission's view that sanctions of this severity, imposed under substantive rules which are framed broadly, require particular attention and must be applied proportionally. The Commission therefore recommends setting a statutory ceiling, excluding or limiting the cumulation of financial sanctions to a defined proportion of monthly remuneration, and setting out more clearly the criteria governing their imposition.

117. Lastly, the Commission observes that Article 53 empowers the President to take immediate measures (and, *mutatis mutandis*, paragraph (3) does so for the chair of the sitting):

"Article 53. Immediate measures

(1) If agitation stirs up and it compromises the continuation of debates, the President may decide, with a view to re-establishing the order, to interrupt the live broadcast of the sitting in case an MP resorts to calumnious, racist or xenophobic language or behaviour.

(2) In case the situation is not remedied, the President shall suspend the sitting for a certain period of time or close it. If the President cannot make themselves heard, they shall leave the Chair's seat, and this shall bring about the suspension of the sitting. The sitting is resumed on the convocation of the President.

(3) The competences laid down in paras. (1)-(2) are attributed, mutatis mutandis, to the chair of the sitting of the working bodies of the Parliament."

118. The Commission does not contest the power of the President nor the Chair of the sitting to suspend the sitting and, in certain circumstances, even to interrupt its live broadcast.

(4) Sanctions laid down in paras (1) and (2) shall be applied by the President of If, even after the application of the sanction laid down in para (2), the Member does not leave voluntarily the sitting hall, the chair of the sitting shall announce a break. In this case, the sanctioned Member is considered removed from the sitting hall for the whole duration of the sitting."

⁸⁹ "Article 57. Interference with the activity of the Commission on Parliamentary Ethics and Conduct

(1) Interference with the activity of the Commission on Parliamentary Ethics and Conduct, intentionally disregarding its notifications and recommendations, as well as hindering in any manner its activity, shall be penalised with the loss of 25% of the monthly salary and of other benefits and compensations.

(2) The sanction shall be applied by the President of the Parliament on the proposal of the Commission on Parliamentary Ethics and Conduct."

⁹⁰ "Article 68. The loss of salary rights, benefits and compensations

(1) The unjustified absence of the MP during one month from the sittings of the Parliament or/and from the sittings of the Parliament's working bodies of which they are a member shall be penalised with the loss of 50% – for 3 absences, or 75% – for 4 and more absences, of the monthly salary, as well as with the loss of 50% or 75% of the non-taxable monthly benefit for transport for the next month or with the suspension of the right to office transport.

(2) In case of unjustified absence from any parliamentary activity during at least one month consecutively, the Standing lead committee shall, on the notification of the President of the Parliament, evaluate the activity of the Member and may propose to the President of the Parliament to issue an order for the non-payment of salary, benefits and compensations for the whole duration of the unjustified absence.

(3) The MP's remand in custody or home arrest shall lead to the de jure suspension of salary, benefit and compensation rights.

(4) The payment of salary, benefits and compensations shall be resumed from the date of the participation of the MP in the plenary sitting or sitting of the committee of which they are part, or, as the case may be, of the termination or revocation of the custody or home arrest.

(5) In case the MP is discharged from criminal prosecution or is acquitted by final court decision, they will be compensated all salary, benefit and compensation rights suspended de jure."

Nevertheless, these actions are not sanctions and should therefore better be regulated in the draft Code, which concerns the functioning of the Parliament. In any event, the interruption of the live broadcast, as it affects the publicity of the sessions, should be limited to certain circumstances and comply with the provisions of the debates and sessions held in camera (see [CDL-AD\(2026\)028](#), paragraph 105).

4. Disciplinary bodies, procedures and resolution of disputes

119. Pursuant to Article 45 § 2, sanctions consisting in a warning, call to order, withdrawal of the right to speak, and withdrawal of the right to speak and denial of the right to speak for the whole duration of the sitting are applied by the chair of the sitting. By contrast, the denial of the right to speak for up to 5 sittings; the prohibition to participate in the plenary sittings for up to 10 sittings; the removal from the sitting hall; and the exclusion from standing parliamentary delegations to the international organisations are applied by the Parliament on the proposal of the Commission on Parliamentary Ethics and Conduct (Article 45 § 3). Lastly, financial sanctions and the limitation of the right of access to confidential information be applied by the President of the Parliament on the proposal of the Commission on Parliamentary Ethics and Conduct (Article 45 § 7⁹¹).

120. In its comparative overview, the Court found that the authority to impose disciplinary measures falls first and foremost on the Speaker of Parliament, while in some member States the disciplinary powers are shared between the Speaker and Parliament or another parliamentary body (for example, the Bureau or a relevant committee).⁹² The Commission therefore welcomes that not all sanctions are imposed by the Speaker of Parliament or the chair of the sitting. Nevertheless, and whereas it notes that the Speaker of Parliament can only apply sanctions on the proposal of the Commission on Parliamentary Ethics and Conduct, it recommends that the most serious sanctions (namely those of pecuniary nature and the limitation of the right of access to confidential information) are also decided by the Parliament and not by a single person.

121. The Commission observes that Article 58 § 1 provides that *“with a view to maintaining the order during the sittings of the working bodies of the Parliament, their Chairs shall be entitled to the same rights as those of the Chair of the plenary sitting and may apply sanctions laid down in art. 44 in accordance with the provisions of their activity rules.”* The Commission considers that this provision erodes the safeguards provided for in Article 45. It therefore recommends aligning this provision with the powers of the Chairs of the working bodies under Article 45 § 2. In the view of the Commission, as the latter already refers to “the chair of the sitting” as the authority applying these sanctions, consideration can be given to repealing Article 58 § 1.

122. The Commission on Parliamentary Ethics and Conduct is established pursuant to Article 34 § 1 of the draft Law, which sets out that it *“shall be instituted by the Parliament in order to examine cases concerning the breach of parliamentary ethics and conduct norms, during the mandate of the Parliament.”* Article 35 then sets that *“the Commission on Parliamentary Ethics and Conduct is made up of 11 members appointed as follows: a) 4 members, MPs – on the proposal of the factions of the parliamentary majority; b) 4 members, MPs – on the proposal of the factions of the opposition; c) 3 members proposed by the organisations of the civil*

⁹¹ This provision reads that “(7) The sanctions provided for in art. 44 letters h) and k) shall be applied by the President of the Parliament on the proposal of the Commission on Parliamentary Ethics and Conduct.” However, the list of Sanctions in Article 44 does not include a letter k) (see paragraph XX of this Opinion), while the provisions in Article 45 do not specify who applies the sanction in Article 44 (j). Furthermore, Article 56 § 2 sets that the sanction of limiting the right of access to confidential information shall be applied by the President of the Parliament on the proposal of the Commission on Parliamentary Ethics and Conduct. The Commission therefore understands that this is an editorial mistake and reads Article 45 § 7 as referring to letters h) and j).

⁹² *Karácsony and Others v. Hungary* [GC], [nos. 42461/13 and 44357/13](#), § 60, 17 May 2016.

society, with a consultative voting right.” Article 36 then lists the tasks of the Commission on Parliamentary Ethics and Conduct, while Article 37 does so for the tasks of the Chair of the Commission, Article 38 enshrines their rights, and Article 39 sets their obligations.

123. During the online meetings, the delegation was informed that the Parliament is considering shifting the mandate of the Ethics Commission to the Standing Committee on Legal Affairs, Appointments, and Immunities. From the outset, the Venice Commission observes that the composition and functioning of Standing Committees, including the one on Legal Affairs, Appointments, and Immunities, is not described in the draft Law but in the draft Code. As noted in the related Opinion on the draft Code ([CDL-AD\(2026\)028](#), paragraphs 67 and 68), the draft Code states that the membership of the Committees is to be decided taking into account the proposal of the parliamentary factions, according to their proportional representation in Parliament (Article 42 § 2), and that the opposition shall lead standing committees in proportion to the number of mandates obtained, but not less than two of them (Article 42 § 3).

124. In the past, the Commission has argued that “strong presence of the opposition is a fortiori more important in those structures of Parliament which have the competence to set internal procedures and rules or to resolve disputes – like the Bureau, the Ethics Commission etc. – and which, consequently, may affect the rights and the privileges of the opposition itself. Here the proportionate representation principle may be supplemented by additional mechanisms, such as a qualified majority voting, or giving the opposition a blocking power in respect of certain most important procedural decisions.”⁹³ It has also stated that “it is necessary that the opposition has a very strong presence in the composition of such bodies, that the procedures before them satisfy basic requirements of due process, and that disciplinary measures imposed are proportionate and do not affect the essence of the parliamentary mandate of the MP.”⁹⁴ In a similar way, it has not precluded that “resolution of disputes related to the internal organisation of Parliament and its working procedures may be left to Parliament itself and to its internal bodies, provided that the opposition is adequately represented in such bodies, or that they are formed on the basis of the cross-party consensus.”⁹⁵ Echoing the Venice Commission’s Parameters, in its Report related to Resolution 2537 (2024), PACE warned that “it is important to take into account that internal bodies dealing with disciplinary and other procedural matters should not become a tool of political manipulations in the hands of the majority.”⁹⁶ Furthermore, PACE argued that “the composition of parliamentary ethics committees should be representative of parliament in terms of political party balance and gender and ethnic balance, while their members should be appointed in a transparent and fair manner. Such committees are often chaired by a member of the opposition, although this can be controversial in societies with a highly adversarial political culture or divided political elite.”⁹⁷ In view of the composition of the Standing Committee on Legal Affairs, Appointments, and Immunities, and despite the fact that this Standing Committee could in principle be led by an MP from the opposition, the Venice Commission recommends that the disciplinary regime of the Parliament is entrusted to the Commission on Parliamentary Ethics and Conduct where the opposition is more adequately represented.

125. The Commission observes that pursuant to Article 34 § 3, the “Chair and the members of the Commission on Parliamentary Ethics and Conduct shall be approved by Parliament’s decision, on the proposal of the Standing Bureau.” In the related Opinion on the draft Code,

⁹³ Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, para. 89.

⁹⁴ *Ibid*, para. 155.

⁹⁵ *Ibid*, para. 156.

⁹⁶ PACE, [Report | Doc. 15946 | 21 March 2024](#), Relationship between the parliamentary majority and the opposition in a democracy para. 92.

⁹⁷ *Ibid*, para. 96.

the Commission has concluded that the Standing Bureau is a body structurally controlled by the majority ([CDL-AD\(2026\)028](#), paragraphs 64, 65, 105, 128, 130 and 132). The Commission is thus concerned that the composition of the Ethics Commission, as well as its Chair, are decided by the parliamentary majority. It therefore recommends that the factions in the majority and the opposition directly nominate and appoint the members of the Committee.

126. The Commission also observes that the draft Law does not contain provisions on the election of the members proposed by the organisations of the civil society. As noted in the related Opinion on the draft Code ([CDL-AD\(2026\)028](#), paragraph 120), Article 183 § 5 of the draft Code sets the default threshold for appointments by Parliament at a majority of those present. The Commission reiterates its previous recommendation, also from previous Opinions on the Republic of Moldova, that appointments by Parliament should be made by a qualified majority, with an adequate anti-deadlock mechanism.⁹⁸ It recalls that appointments by a simple majority create a risk of politicisation.⁹⁹ This is particularly important because the body responsible for disciplinary matters should not be under the effective control of the parliamentary majority. Furthermore, the Commission observes that the draft Law grants the three members proposed by civil society organisations a “consultative voting right” (Article 35 § 5). The nature of this voting right is not defined in the draft Law itself and should therefore be clarified.

127. The Commission is therefore concerned that, under the current appointment requirements, the majority could easily secure seven out of the 11 seats on the Commission on Parliamentary Ethics and Conduct, thereby weakening even those safeguards that a qualified majority voting system within the Commission could provide. The Venice Commission therefore recommends that the draft Law include explicit provisions governing the appointment of the three members proposed by civil society organisations, and in particular that their selection is subject to a qualified majority.

128. As concerns the draft Law, there are no provisions on how decisions are made in the Commission on Parliamentary Ethics and Conduct, but the draft Code sets that decision in standing committees are based on a simple majority.¹⁰⁰ In the above-mentioned standards,

⁹⁸ See, in particular, Venice Commission and Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe, [CDL-AD\(2026\)014](#), Republic of Moldova - Joint Opinion on Amendments to Laws no. 65/2023 and 252/2023 regarding appointments to judicial and prosecutorial evaluation commissions, para. 47; Venice Commission, [CDL-AD\(2025\)027](#), Republic of Moldova - Opinion on the legislative reforms on mass media regulation: the draft law on mass media, the draft law amending the audiovisual media services code, and the draft law amending the law on advertising, para. 81; Venice Commission and Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe, [CDL-AD\(2020\)007](#), Republic of Moldova, Joint Opinion on the revised draft provisions on amending and supplementing the Constitution, with respect to the Superior Council of Magistracy, paras. 26-28; and Venice Commission, [CDL-AD\(2022\)019](#), Republic of Moldova - Opinion on the draft law on amending some normative acts (Judiciary), paras. 26-28.

⁹⁹ See, for example, Venice Commission and Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe, [CDL-AD\(2026\)014](#), Republic of Moldova - Joint Opinion on Amendments to Laws no. 65/2023 and 252/2023 regarding appointments to judicial and prosecutorial evaluation commissions, paras. 37-38; Venice Commission, [CDL-AD\(2022\)054](#), Opinion on the draft law “on amending some legislative acts of Ukraine regarding improving procedure for selecting candidate judges of the Constitutional Court of Ukraine on a competitive basis”, para. 67; and Venice Commission, [CDL-AD\(2013\)028](#), Opinion on the draft amendments to three constitutional provisions relating to the Constitutional Court, the Supreme State Prosecutor and the Judicial Council of Montenegro, paras. 6-8.

¹⁰⁰ “Article 80. Voting procedure in the standing committees

(1) The sittings of the standing committee are deliberative with the participation of the majority of its members.

(2) The decisions of the standing committee shall be adopted as follows:

a) decisions on the approval of the report, co-report regarding a draft normative act, for which the committee has been selected as a lead committee, regarding the organisation of parliamentary control, the appointments and revocations from office, the withdrawal of the MP's immunity, the organising of contests and the establishing of sub-committees shall be adopted by the votes of the majority of its members;

b) decisions on the organising of the public consultations/hearings, the approval of opinions on draft normative acts and of consultative opinions, including on the initiation or conclusion of international treaties, shall be adopted by the vote of the majority of the attending members.”

the Venice Commission and the PACE recommend that decisions are made by qualified majority, and even that a blocking power is granted to the opposition in respect of certain most important procedural decisions. Therefore, the Venice Commission recommends that the Commission on Parliamentary Ethics and Conduct makes its decisions by qualified majority voting, or an alternative mechanism giving the opposition a blocking power in respect of certain most important procedural decisions, thus ensuring that decisions are formed on the basis of the cross-party consensus.

129. Section 5 (Articles 40 to 43) prescribes the procedure for the settlement of notifications. The Venice Commission recalls that the Court has stressed the importance of the procedural safeguards which must accompany the imposition of a sanction and which must include (for the *ex-post* sanctions, i.e. those which are not imposed immediately to discontinue a disorderly behaviour) the right to be heard, and the obligation to hold a debate and give reasons for any decision.”¹⁰¹ In the past, the Commission has also highlighted that parliamentary disciplinary proceedings must “satisfy basic requirements of due process.”¹⁰² Referring to its previous observations concerning the necessity of procedural safeguards in the Parliament’s decision-making process (see paragraphs 58-61 above), the Venice Commission is concerned that the current draft does not contain sufficiently procedural safeguards in the context of disciplinary proceedings.

130. In this regard, the Venice Commission also notes that, for the application of the sanctions decided by the chair of the sitting pursuant to Article 45 § 2, namely withdrawal of the right to speak as well as withdrawal of the right to speak and denial of the right to speak for the whole duration of the sitting, due process safeguards may be difficult to observe. In its case-law, the Court has found that “immediate sanctions [...] are imposed in the case of a grave disturbance of parliamentary order and in terms of procedural safeguards they would require a warning. However, it may also be envisaged that in extreme cases no warning will be required. In this context, the justification would be that clearly abusive speech or conduct of an MP nullifies the protection of his or her right to freedom of expression or may be considered an abuse of the right.”¹⁰³ In the past, the Commission has also stressed the need for some form of review of sanctions. For example, it has argued that whereas “there should be a possibility for the Speaker to regulate speaking rights of the individual MPs, within margins set by the agenda, to limit irrelevant or too lengthy speeches, abusive language etc. [...] this power may be easily abused by a Speaker affiliated with the majority, in order to silence legitimate criticism expressed by the opposition MPs. Hence, there should be the possibility to appeal the Speaker’s decisions (relating to the speaking time and, more general, to the conduct of the procedures in Parliament) to a collective body where the opposition is adequately represented (for instance, a council composed by committee presidents, provided that the presidencies have been allocated in proportionate manner).”¹⁰⁴ In view that the withdrawal of the right to speak in Article 49 can only be applied “*after the warning or call to order*” (§ 1, letter a)), the Commission considers that the procedural safeguards applicable to such sanctions may suffice. However, the Commission also recalls that immediate sanctions imposed by the Chair are not preceded by a warning or a call to order, and their application would therefore benefit from some sort of review within Parliament. In any case, any restriction on an individual MP’s ability to speak (or attend a sitting and/or vote) should comply with the applicable procedure and be proportionate. This is particularly important because a sanction on an individual MP

¹⁰¹ *Karácsony and Others v. Hungary* [GC], [nos. 42461/13 and 44357/13](#), § 60, 17 May 2016, and *Szanyi v. Hungary*, [no. 35493/13](#), § 43, 8 November 2016; see also Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, para. 157.

¹⁰² Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, para. 155.

¹⁰³ *Karácsony and Others v. Hungary* [GC], [nos. 42461/13 and 44357/13](#), § 155, 17 May 2016. See also *Szél and Others v. Hungary*, [no. 5078/16](#), § 31 et seq, 2 December 2021.

¹⁰⁴ Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, para. 103.

should not result in weakening the ability of the MP's parliamentary faction, if not potentially of the opposition as a whole, to participate effectively in the activities of the Parliament.

IV. Conclusion

131. By letter of 18 August 2026, Mr Igor Grosu, President of the Parliament of the Republic of Moldova, requested an opinion of the Venice Commission on the draft law No. 448 of 6 December 2023 on the status, conduct and ethics of members of Parliament.

132. This Opinion does not carry out an article-by-article analysis of the draft Law and focuses on key issues concerning the status, conduct and ethics of the MPs. Having regard to the fact that this draft Law is closely linked to the draft Code on the organisation and functioning of the Parliament ("the draft Code") on which the President of the Parliament also requested an opinion of the Venice Commission ([CDL-AD\(2026\)028](#)), this Opinion should be read in the light of the Opinion on the draft Code of the Venice Commission.

133. The Venice Commission welcomes the Moldovan authorities' intention to strengthen the legal basis of the status, conduct and ethics of the MPs and reiterates its recommendation concerning the merger of the draft Law with the draft Code ([CDL-AD\(2026\)028](#), paragraph 141). Should the authorities not wish to proceed with the merger, the Commission then strongly advises that the subject matter of both pieces of legislation is clearly delimited. Article 1 § 3 of the draft Law, which allows certain aspects of the status, conduct and ethics of Members of Parliament to be regulated in other normative acts should be reconsidered. Should the provision be retained, a limited list of the instruments and subject-matters concerned should be set out in the draft Law and any normative acts adopted pursuant to Article 1 § 3 should not be adopted by a lower majority than that required for this Law, nor should they regulate substantive matters governed by the relevant sectoral legislation.

134. Based on the examination of the draft Law, the Venice Commission makes the following key recommendations:

As regards termination of the parliamentary mandate:

- Reconsidering the automatic invalidation of the parliamentary mandate for the refusal to take the oath, considering the possibility of less severe sanctions, such as suspension of certain benefits attached to the MP mandate, until the oath is taken. In any event, the draft Law should provide for a clear procedure and relevant procedural safeguards in the decision-making process;
- Reconsidering the wording of paragraph b) of Article 9 § 2 of the draft Law, limiting the loss of parliamentary mandate due to a criminal conviction to a certain type of serious criminal offences or with particularly long sentences;
- Reconsidering the loss of mandate due to the groundless absence from any parliamentary activity for more than four months, considering only a disciplinary sanction instead of the loss of mandate on this ground. In any event, the draft Law should clarify the notion of the parliamentary activity, the scope of the absence of an MP for protest and the competent parliamentary Committee;
- Introducing clear rules for termination of the parliamentary mandate and providing the relevant procedural safeguards for the MPs in the decision-making process. In particular, the rule requiring a majority of MPs present for adoption of a decision on termination of the parliamentary mandate, as well as the composition of the relevant competent parliamentary committees and the voting procedure within these committees, should be reconsidered.

As concerns parliamentary immunity:

- Clarifying the scope of the actions covered by non-liability and clearly establishing that the temporal scope of non-liability is not limited in time and is permanent;
- Considering the possibility of introducing additional procedural safeguards in the decision-making process concerning the lifting of inviolability, such as ensuring that the relevant competent parliamentary committee is composed in a pluralistic and proportionate manner and introducing a qualified majority voting requirement within this committee.

As concerns disciplinary liability:

- Setting an exhaustive list of grounds for parliamentarians' disciplinary liability in the draft Law. These grounds for disciplinary liability should be limited to enforceable rules of conduct and be based on clear, precise, and foreseeable definitions, and meet international standards on freedom of expression and the case-law of the Court;
- Entrusting the disciplinary regime of the Parliament to the Commission on Parliamentary Ethics and Conduct where the opposition is more adequately represented. Their members should be appointed directly by the factions, and those proposed by the civil society organisations elected by a qualified majority. The Commission on Parliamentary Ethics and Conduct should make its decisions by qualified majority voting, or an alternative mechanism giving the opposition a blocking power in respect of certain most important procedural decisions, thus ensuring that decisions are formed on the basis of the cross-party consensus. The nature of the "consultative voting right" of the members proposed by the civil society organisations should be clarified.

135. As concerns other recommendations:

- Providing expressly that non-liability covers opinions expressed by Members of Parliament outside Parliament in the exercise of their mandate, and removing the reference to separatism in Article 16 § 3;
- Reconsidering Article 15 § 2 of the draft Law, under which the consent of the Parliament to the lifting of inviolability is of a political and not of a legal nature, so that it does not dispense the Parliament from stating reasons;
- Including explicit disciplinary grounds prohibiting sexism, sexual and psychological harassment and other forms of discriminatory behaviour, together with effective reporting procedures and appropriate sanctions;
- Setting a statutory ceiling on financial sanctions, excluding or limiting their cumulation to a defined proportion of monthly remuneration, and setting out more clearly the criteria governing their imposition;

136. Other recommendations for further improvement are made in the analysis section of the Opinion.

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