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

REPUBLIC OF MOLDOVA

JOINT OPINION

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

ON

**AMENDMENTS TO LAWS NO. 65/2023 AND 252/2023
REGARDING APPOINTMENTS TO JUDICIAL AND PROSECUTORIAL
EVALUATION COMMISSIONS**

**Adopted by the Venice Commission
at its 147th Plenary Session
(Venice, 12 – 13 June 2026)**

On the basis of comments by

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I. Introduction

1. By letter of 11 March 2026 the President of the Parliament of the Republic of Moldova requested an opinion of the Venice Commission of the Council of Europe on recent amendments to Laws nos. 65/2023 and 252/2023 concerning the procedure for appointing international members to the judicial and prosecutorial evaluation commissions established under these acts ([CDL-REF\(2026\)006-e](#)).

2. Ms Betetto, Mr Gaspar, Mr Grabenwarter acted as rapporteurs for this opinion on behalf of the Venice Commission. Ms Bachmaier Winter acted as a rapporteur on behalf of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe.

3. On 4 and 5 May 2026, a delegation of the Commission, composed of Ms Betetto, Mr Gaspar and Ms Bachmaier Winter, accompanied by Mr Vahe Demirtshyan and Mr Giacomo Romis from the Secretariat, visited Chişinău and held meetings with representatives of majority and opposition parties of Parliament, the Ministry of Justice, the Superior Council of the Magistracy, the Supreme Court of Justice, the Central Court of Appeal, the Superior Council of Prosecutors, the General Prosecutor's Office, Anti-Corruption Prosecution Office, the Prosecution Office for Combating Organised Crime and Special Cases, the Commission for the Evaluation of Judges, the Commission for the Evaluation of Prosecutors, as well as with civil society organisations and international partners represented in the Republic of Moldova. The Venice Commission and DGI are grateful to the authorities of the Republic of Moldova and the Office of the Council of Europe in Chişinău for the excellent organisation of this visit.

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

5. This opinion was drafted on the basis of comments by the rapporteurs and the results of the meetings on 4 and 5 May 2026. Following an exchange of views with Mr Igor Chiriac, Vice-Chairperson of the Legal Committee on Appointments and Immunities of the Parliament of the Republic of Moldova, it was adopted by the Venice Commission at its 147th Plenary Session (Venice, 12-13 June 2026).

II. Background

A. The Republic of Moldova's Vetting Reform in the Light of the Venice Commission Opinions

6. The vetting reforms in the Republic of Moldova have evolved in a gradual and phased manner. A first reform proposal, advanced in 2019, envisaged the establishment of an ad hoc extra-judicial body mandated to assess the integrity of sitting judges of the Supreme Court of Justice. This draft law was the subject of a joint assessment by the Venice Commission and DGI;¹ however, it was ultimately not adopted. Notwithstanding its non-adoption, the recommendations formulated in that context have retained their relevance for subsequent reform efforts.

7. In 2022, a "pre-vetting" mechanism was introduced with a view to assessing the integrity of candidates for membership in the Superior Council of Magistracy (SCM) and the Superior Council of Prosecutors (SCP). The relevant draft legislation was examined by the Venice Commission and DGI.² Following this assessment, the law establishing an Evaluation

¹ Venice Commission, [CDL-AD\(2019\)020](#), Republic of Moldova - Joint Interim Opinion of the Venice Commission and DGI on the draft law on the reform of the Supreme Court of Justice and the Prosecutor's Office.

² Venice Commission, [CDL-AD\(2021\)046](#), Republic of Moldova - Joint opinion of the Venice Commission and DGI on some measures related to the selection of candidates for administrative positions in bodies of self-administration of judges and prosecutors and the amendment of some normative acts.

Commission mandated to evaluate candidates for positions within the SCM and SCP was adopted. In 2022, the authorities further advanced proposals aimed at vetting sitting judges of the Supreme Court of Justice, as well as candidates for judicial office. These proposals were assessed by the Venice Commission and DGI in two separate opinions, adopted in October and December 2022.³

8. On 3 March 2022, the Republic of Moldova applied for membership in the European Union. Following the recommendation of the European Commission in November 2023, the European Council decided in December 2023 to open accession negotiations with the Republic of Moldova. Within the process of accession to the EU under the Enlargement Procedure one of the related conditions concerns the finalisation of the vetting and appointment of judges, in particular of the Supreme Court of Justice, as well as of specialised bodies of the Superior Council of Magistracy and the Courts of Appeal, and the continuation of the vetting of prosecutors from prosecutorial institutions, including specialised prosecutors' offices.⁴

9. In 2023, a draft law on "full vetting" was prepared, with a view to extending extraordinary integrity assessments to a substantial proportion of sitting judges and prosecutors. This initiative significantly broadened the scope of the reform and called for a comprehensive examination of both the institutional design and the accompanying substantive safeguards. The Venice Commission and DGI adopted several joint opinions in this respect.⁵

10. Throughout its opinions, the Venice Commission and DGI have consistently emphasised that evaluation bodies should operate as fact-finding entities endowed with advisory functions, while decisions affecting the tenure of judges and prosecutors should remain within the competence of the SCM and the SCP, in order to preserve constitutional guarantees of judicial self-governance and independence. At the same time, they have underscored the importance of ensuring robust institutional safeguards within the evaluation bodies themselves, in particular as regards their composition, appointment procedures and decision-making rules, so as to minimise the risk of politicisation and to ensure their effective functioning.⁶

11. As regards composition and appointment procedures, the draft legislation sought to introduce non-political expertise into the process, to limit the influence of the parliamentary majority, and to secure minority representation through special decision-making rules. It provided for a balanced participation of "national" and "international" members, the latter being nominated by "development partners".⁷

12. In their follow-up opinions of June and October 2023, the Venice Commission and DGI took note of a number of legislative improvements, including the introduction of safeguards aimed at preventing the blocking of nominees put forward by the opposition, the provision for the random allocation of cases,⁸ and the requirement that any majority decision include at

³ Venice Commission, [CDL-AD\(2022\)024](#) and [CDL-AD\(2022\)049](#) Republic of Moldova - Joint opinions with DGI on the draft law on the Supreme Court of Justice.

⁴ See Commission Staff Working Document Republic of Moldova 2025 Report, accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. 2025 Communication on EU Enlargement Policy, Brussels, 4.11.2025 SWD(2025) 758 final, page 6.

⁵ Venice Commission, [CDL-AD\(2023\)005](#), Republic of Moldova - Joint opinion with DGI on the draft Law on the external assessment of Judges and Prosecutors; Venice Commission, [CDL-AD\(2023\)023](#), Republic of Moldova - Joint Follow-up opinion with DGI to the opinion on the draft Law on the external assessment of Judges and Prosecutors; Venice Commission, [CDL-AD\(2023\)035](#), Republic of Moldova - Joint follow-up opinion with DGI to the joint opinion on the draft Law on the external assessment of Judges and Prosecutors.

⁶ Venice Commission, [CDL-AD\(2023\)005](#), Republic of Moldova - Joint opinion with DGI on the draft Law on the external assessment of Judges and Prosecutors, paras. 13, 26 and 110.

⁷ Ibid, paras. 33-35.

⁸ Venice Commission, [CDL-AD\(2023\)023](#), Republic of Moldova - Joint Follow-up opinion with DGI to the opinion on the draft Law on the external assessment of Judges and Prosecutors, para. 11 and 13.

least two votes cast by international members, thereby ensuring their effective participation in the decision-making process.⁹

13. Beyond composition, the Venice Commission and DGI set out a series of key recommendations on the broader vetting architecture. For instance, the follow-up opinions welcomed that the revised text of the law bound vetting bodies to final judgments, but they also called for re-insertion of an explicit non-retroactivity clause in the adopted law. Moreover, the follow-up opinions welcomed that several procedural guarantees were introduced and noted that the recommendations to strengthen the right to a non-public hearing upon request, revisit the financial-integrity thresholds, provide a plurality of tailored sanctions, and reinforce judicial oversight had been implemented.¹⁰

B. The Legislative Framework on Anti-Deadlock Mechanisms for the Appointment of International Members of Evaluation Commissions and New Anti-Deadlock Clauses

14. Under the existing framework, the Evaluation Commission for judges and candidates for the position of judge of the Supreme Court of Justice,¹¹ as well as each evaluation commission for judges and prosecutors is composed of nine members, with four national members proposed by parliamentary groups and five international members proposed by international partners.¹² For all evaluation commissions, the international partners submit a joint list of eligible candidates to Parliament.¹³

15. Prior to the amendments, the Legal Committee on Appointments and Immunities selected the nominees for plenary appointment by a three-fifth majority of elected MPs.¹⁴ According to the newly added anti-deadlock clause in Article 6(5¹) of Laws nos. 65/2023 and 252/2023, the Legal Committee on Appointments and Immunities, in the same session of the unsuccessful vote by three-fifths majority, shall re-examine the proposed candidates and select those *with the highest number of votes*. If the same candidates are selected again, the Committee shall prepare a draft parliamentary decision accompanied by a report, to be debated in plenary and adopted by a majority of the elected MPs (i.e., absolute majority). According to the authorities, the aim of these amendments is to prevent prolonged vacancies among the international members of the Evaluation Commissions where the three-fifth parliamentary majority cannot be reached.

16. The amendments were adopted on 5 March 2026 and entered into force on 6 March 2026. These amendments clarify their temporal application, specifying that the new procedure applies to selection processes ongoing at the time the new law entered into force. In fact, the mechanism was immediately used on 6 March 2026 to elect two international members of the Evaluation Commission responsible for the external evaluation of prosecutors. Currently, all positions (international and national) on all Evaluation Commissions are filled. At the same time the circle of the subjects of evaluation was extended to include judges (and candidates) specialised in anti-corruption matters.¹⁵ The deadline for the ongoing evaluations is 31 December 2026.

⁹ Venice Commission, [CDL-AD\(2023\)035](#), Republic of Moldova - Joint follow-up opinion with DGI to the joint opinion on the draft Law on the external assessment of Judges and Prosecutors, para 8.

¹⁰ Venice Commission, [CDL-AD\(2023\)023](#), Republic of Moldova - Joint Follow-up opinion with DGI to the opinion on the draft Law on the external assessment of Judges and Prosecutors; [CDL-AD\(2023\)035](#), Joint follow-up opinion with DGI to the joint opinion on the draft Law on the external assessment of Judges and Prosecutors.

¹¹ Law 65/2023, Article 6(1).

¹² Law 252/2023, Article 6(1).

¹³ Law 65/2023, Article 6(5); Law 252/2023, Article 6(5).

¹⁴ The same three-fifths majority applies to both national and international members.

¹⁵ See Article 3 (1) (a¹) of Law no. 252/2023.

C. Scope of the Opinion

17. In this Opinion, the Venice Commission and DGI will assess the law amending Laws nos. 65/2023 and 252/2023 (hereinafter referred to as Amended Laws) in light of its previous opinions as well as of international standards and best practices, particularly those concerning the law-making process, qualified majorities and anti-deadlock mechanisms, rule of law, separation of powers, checks and balances, legal certainty, legality, independence of the judiciary and other relevant principles. The Venice Commission underlines that the fact that this Opinion does not explicitly address some aspects of the Amended Laws should not be interpreted as an endorsement by the Venice Commission or as indicating that these aspects will not be raised in the future.

III. Analysis

A. Law-making process

18. As mentioned above, the amendments concerning the procedure for appointing international members to the Evaluation Commissions were adopted on 5 March 2026 and entered into force on 6 March 2026.

19. The draft law initially concerned amendments to the Contravention Code and the Criminal Code aimed at strengthening the protection and security guarantees of judges and prosecutors (law no. 28 of 18 February 2026). The amendment relating to the voting procedure for the appointment of international members of the vetting commissions was introduced only at second reading, at the final stage of the legislative process. This amendment, which was only remotely related to the original subject matter of the draft law no. 28, was submitted to Parliament for adoption on 5 March 2026 within the framework of the second reading procedure, without having been examined during the first reading or forming part of the initial object of the bill. The draft law was subsequently promulgated as Law no. 26/2026 on 5 March 2026 and published on the same day in the Official Gazette of the Republic of Moldova.

20. Criticism was raised by several interlocutors and civil society organisations that the opposition and the civil society were not afforded a genuine opportunity to present their views and to have them duly considered in the course of the legislative deliberations.

21. The Venice Commission and DGI recall that under the Updated Rule of Law Checklist, the process for making law must be “efficient, transparent, inclusive and democratic”.¹⁶ To satisfy this requirement, the public should have access to draft legislation, at least when submitted to Parliament, and should have a meaningful opportunity to provide input.¹⁷ This includes the opportunity to participate in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organise themselves.¹⁸ Moreover, the proposed legislation shall be debated publicly by parliament and adequately justified (e.g. by explanatory reports).¹⁹

22. The Venice Commission and DGI remind that the legislature must follow the standard legislative procedure and avoid frequently resorting to fast-track procedures for the adoption of normative acts. Legislative procedures must recognise the role of the opposition and allow for transparent and well-targeted consultations with stakeholders affected by the draft law, as well as with civil society, think-tanks and the general public, where appropriate. A real public

¹⁶ Venice Commission, [CDL-AD\(2025\)002-e](#), Updated Rule of Law Checklist, para 34.

¹⁷ Ibid., para 34.

¹⁸ UN Human Rights Committee, General Comment No. 25 (1996), Article 25 (Participation in Public Affairs and the Right to Vote), para 8.

¹⁹ Venice Commission, [CDL-AD\(2025\)002-e](#), Updated Rule of Law Checklist, Benchmark 6 (iii).

debate, which gives the public the opportunity to participate in the management of public affairs and to influence their outcome, is an essential element of a democratic society. Proposals for draft laws must be accessible to the public before they are presented to the legislature or, at the latest, at the time of their presentation, in order to allow for a public debate and contributions from society.²⁰

23. Furthermore, the Venice Commission and DGI emphasise that an inclusive law-making process is not solely a procedural exercise. Meaningful consultations with both the opposition and the civil society as well as with other stakeholders, are crucial. Hence, the opposition shall have powers to offer political alternatives, to articulate and promote the interests of their voters (constituents), to offer alternatives to the decisions proposed by the government and the majority representatives, to improve parliamentary decision-making procedures by ensuring debate, reflection and contradiction, to scrutinise the legislative and budgetary proposals of the government, to supervise and oversee the government and the administration, and to enhance stability, legitimacy, accountability and transparency in the political processes.²¹

24. Moreover, as the Venice Commission has stressed in numerous opinions hasty law-making without proper consultation and impact assessments can also lead to badly written laws, inconsistencies, and lacunae which may have a negative impact on the public trust towards the institutions concerned.²²

25. In their opinion request, the authorities emphasised that “the Law did not cover the situation where the required number of votes was not obtained, and such a legislative gap could seriously affect the process of external evaluation, particularly in view of the applicable time constraints, given that the deadline is 31 December 2026.” On this basis, the authorities argued that the adoption of the amendments was a matter of urgency. They further pointed out that the extension of the scope of persons subject to evaluation has significantly increased the workload of the Evaluation Commissions, thereby making it all the more necessary to ensure the appointment of their members within the shortest possible time frame.

26. Moreover, the Venice Commission and DGI note that Article 60(5) of the Rules of Procedure provides that, at the request of the Chairperson of the sitting or of a parliamentary faction, and subject to approval by a majority of elected deputies, certain draft laws may be debated and adopted under an emergency procedure. It appears, however, that the Rules of Procedure do not contain further detailed regulation concerning the scope, conditions or modalities of such procedures. In any event, no emergency procedure was formally applied in the present case.²³

27. The Venice Commission and DGI take due note of the authorities’ explanations regarding the urgency underlying the adoption of the amendments. They consider nonetheless that recourse to an expedited procedure of this nature may be regarded as acceptable only in very exceptional cases. The use of accelerated procedures should be clearly provided for by law,

²⁰ Ibid para 34.

²¹ Venice Commission, [CDL-AD\(2010\)025](#), Report on the role of the opposition in the democratic parliament, para 25.

²² Venice Commission, [CDL-AD\(2011\)001](#), Hungary – Opinion on three legal questions arising in the process of drafting the New Constitution of Hungary, paras 16-19; [CDL-AD\(2012\)026](#), Romania – Opinion on the compatibility with Constitutional principles and the Rule of Law of actions taken by the Government and the Parliament of Romania in respect of other State institutions and on the Government emergency ordinance on amendment to the Law N° 47/1992 regarding the organization and functioning of the Constitutional Court and on the Government emergency ordinance on amending and completing the Law N° 3/2000 regarding the organisation of a referendum of Romania, para 74.

²³ Furthermore, Article 44 of the Rules of Procedure of Parliament formally provides for an urgent procedure applicable to the examination of draft legislative acts requested by the Government, however this provision is not applicable to the present case as the draft amendments were not requested by the Government.

comply with the requirements of the rule of law, and be applied in a manner consistent with those standards. The legislative process should be conducted in full respect of the principles of transparency, accountability, inclusiveness and democratic deliberation, which must be ensured in a consistent and rigorous manner.

28. During its visit to Chişinău, the delegation of the Venice Commission and DGI was informed that, on 6 March 2026, a group of deputies of the Parliament of the Republic of Moldova lodged an application before the Constitutional Court seeking a declaration of unconstitutionality of the provisions introduced by the Amended Laws. Furthermore, on 9 March 2026, a member of Parliament challenged before the Constitutional Court Decision no. 63/2026 of the Parliament of the Republic of Moldova concerning the appointment of members to the Commission for the External Evaluation of the Ethical and Financial Integrity of Prosecutors, which had been adopted pursuant to the newly amended procedure.

29. The Venice Commission and DGI underline in this respect that it falls within the exclusive competence of the Constitutional Court of the Republic of Moldova to assess the constitutionality of the legislative procedure and the substantive compatibility of the Amended Laws with the Constitution. The Commission may only offer its perspective based on international standards and comparative analysis.

B. New Anti-deadlock Mechanism

1. Parliamentary Involvement in the Appointment of the Members of the Evaluation Commissions

30. The involvement of Parliament in the appointment of the international members of the Evaluation Commissions does not stem from a requirement of the constitutional order of the Republic of Moldova but rather reflects a legislative policy choice. The Venice Commission and DGI underline that, in the absence of a constitutional obligation, the designation of the appointing authority, as well as the determination of the applicable majority threshold, fall within the State's margin of appreciation.

31. In this respect, the Venice Commission and DGI recall that the Venice Commission has not previously required parliamentary involvement for the appointment of the international members of advisory bodies; in the case of Ukraine, for example, the choice of the international members made by the international partners is simply formally ratified by the competent national authority.²⁴ At the same time, the Venice Commission and DGI acknowledge that, in systems where international members are involved in vetting or evaluation mechanisms with a view to reinforcing the integrity and independence of the judiciary, the direct involvement of parliament may serve to enhance the legitimacy and institutional anchoring of such bodies. It therefore remains within the discretion of the national legislator to determine the competent authority for such appointments.

32. The Moldovan legislator has opted to entrust this competence to Parliament and has provided an anti-deadlock mechanism entailing the reduction of the majority threshold required to approve the nomination. The Commission and DGI recall that this procedure should comply with the relevant standards which it has identified.

²⁴ Venice Commission, [CDL-AD\(2022\)054](#), Ukraine – Opinion on the draft law “On Amendments to Certain Legislative Acts of Ukraine on improving the procedure for the selection of candidates for the position of judge of the Constitutional Court of Ukraine on a Competitive Basis” para 41.

2. The Qualified Majority Requirement for International Members and Decreasing Absolute Majority Vote

33. According to the Amended Law;

“(5). For the purpose of appointing the members referred to in para. (1)(b), the development partners shall submit to the Parliament, by a letter signed jointly, a list of not more than 10 eligible persons. The Committee on Legal Affairs, Appointments and Immunities shall examine the proposed candidates and elect 5 persons who obtained the highest number of votes in the meeting of that Committee. They are then presented to Parliament’s plenary for appointment as members of the Evaluation Commission. The Committee on Legal Affairs, Appointments and Immunities shall draw up a draft decision of Parliament, accompanied by a report, which shall be debated in Parliament’s plenary and adopted by majority (3/5 majority) vote provided for in para. (1).

(5¹) In case the draft decision of the Parliament on the appointment of the members indicated in para. (1) b) has not gathered the necessary number of votes provided for in para. (1), the Legal Committee on Appointments and Immunities shall, in the same session, examine repeatedly the proposed candidates and shall select the candidates with the highest number of votes. If the same candidates are elected repeatedly, the Legal Committee on Appointments and Immunities shall draw up the draft decision of the Parliament, together with a report, which shall be debated in the plenary of the Parliament and be adopted with the vote of the majority of the elected MPs”.

34. In the opinion request, the adoption of these amendments was justified “by proportionality, continuity of work, and the prevention of abuse by the minority. Such a mechanism preserves the primacy of broad consensus while, at the same time, preventing permanent blockage. Otherwise, the minority would have the possibility to block the appointment process indefinitely, thereby potentially compromising the work of the vetting commissions. In conclusion, the introduction of an anti-deadlock mechanism does not suppress the requirement of a qualified majority but complements it through a subsidiary and proportionate mechanism necessary to ensure the effective functioning of the commissions.” Reference was also made to the absence of any provision regulating situations in which it is impossible to obtain a three-fifth majority for the appointment of international members of the Evaluation Commissions, as well as to the fact that the deadline for the external evaluation process is 31 December 2026.

35. The Venice Commission and DGI note that, in the current composition of the Parliament of the Republic of Moldova, the governing majority holds 55 out of 101 seats. In this configuration, a three-fifth majority requires 61 votes, whereas an absolute majority requires 51 votes. Consequently, while the ruling majority is not in a position to secure appointments requiring a qualified majority acting alone, it is nevertheless capable of ensuring such appointments where the applicable threshold is reduced to an absolute majority.

36. Through its analysis and interventions in various opinions addressing different constitutional situations, the Venice Commission has progressively developed a coherent approach and a well-established doctrine concerning anti-deadlock mechanisms. This doctrine has evolved around two fundamental considerations: on the one hand, the need to ensure that decisions on matters of institutional importance can ultimately be taken and, on the other hand, the necessity to avoid solutions which, through the lowering of voting thresholds or the absence of any decision-making safeguards, would disproportionately favour the majority and deprive minorities of effective participation in the process.

37. The Venice Commission thus has repeatedly stressed the importance of providing for anti-deadlock mechanisms in order to ensure the functioning of the state institutions.²⁵ Qualified majorities aim to ensure that a broad agreement is found in parliament, as they require the majority to seek a compromise with the minority. For this reason, qualified majorities are normally required in the most sensitive areas, notably in the elections of office-holders in state institutions. However, there is a risk that the requirement to reach a qualified majority may lead to a stalemate, which, if not addressed adequately and in time, may lead to a paralysis of the relevant institutions. An anti-deadlock mechanism aims to avoid such stalemate.²⁶

38. The primary function of the anti-deadlock mechanism is precisely that of making the original procedure work, by pushing both the majority and the minority to find a compromise ("genuine consensus") in order to avoid the triggering of the anti-deadlock mechanism. Indeed, qualified majorities strengthen the position of the parliamentary minority, while anti-deadlock mechanisms correct the balance back. Obviously, such mechanisms should not act as a disincentive to reaching agreement on the basis of a qualified majority in the first instance. It may assist the process of encouraging agreement if the anti-deadlock mechanism is one which is unattractive both to the majority and the minority.²⁷ It should be noted that anti-deadlock mechanisms are expressly provided only in limited situations within the Moldovan constitutional framework, notably in relation to the appointment of the non-judicial members of the Superior Council of Magistracy (Article 122 of the Constitution).²⁸

39. In this context, the Venice Commission and DGI consider it necessary to examine, first, the rationale underlying the requirement of a qualified parliamentary majority for the appointment of the international members of the Evaluation Commissions. In its previous opinions concerning the Republic of Moldova, the Venice Commission and DGI welcomed the involvement of the opposition in the appointment of members proposed by development partners, considering that such participation, while not entirely excluding the risk of politicisation, contributes to greater inclusiveness and broader cross-party support for the evaluation process.²⁹ Moreover, the Venice Commission and DGI mentioned that one should not assume that "international" members would be independent *per definitionem*; the nomination process by the development partners should ensure their impartiality and independent status, having due regard to their qualifications and previous professional experience.³⁰

40. The Venice Commission and DGI further underline that qualified majority requirements generally pursue the legitimate aim of fostering consensus and preventing the domination of the majority over the minority in politically sensitive appointments. At the same time, it should be underlined that the appointment of international members is, by its nature, detached from domestic political competition and is not intended to mirror the political balance within

²⁵ Venice Commission, [CDL-AD\(2013\)013](#), Georgia – Joint Opinion on the draft law on the temporary state commission on miscarriages of justice of Georgia, para 47; [CDL-AD\(2012\)008](#), Hungary – Opinion on Act CLXIII of 2011 on the prosecution service and Act CLXIV of 2011 on the status of the prosecutor general, prosecutors and other prosecution employees and the prosecution career of Hungary, para 58; [CDL-AD\(2012\)024](#), Montenegro – Opinion on two sets of draft amendments to the constitutional provisions relating to the judiciary of Montenegro, para 41; [CDL-AD\(2013\)007](#), Georgia – Opinion on the draft law on the courts of ordinary jurisdiction of Georgia, para 52.

²⁶ Venice Commission, [CDL-AD\(2013\)028](#), Montenegro – Opinion on the Draft Amendments to three Constitutional Provisions relating to the Constitutional Court, the Supreme State Prosecutor and the Judicial Council of Montenegro, para 7.

²⁷ Ibid.

²⁸ [Constitution of the Republic of Moldova](#).

²⁹ Venice Commission, [CDL-AD\(2021\)046](#), Republic of Moldova – Joint Opinion on the draft law "on Some Measures related to the Selection of Candidates for Administrative Positions in Bodies of Self-Administration of Judges and Prosecutors and the Amendment of some Normative Acts", para 18.

³⁰ Venice Commission, [CDL-AD\(2023\)005](#), Republic of Moldova – Opinion on the draft Law on external assessment of judges and prosecutors of the Republic of Moldova, para 35.

Parliament. Nevertheless, a certain degree of political involvement cannot be entirely excluded, in particular at the level of the Parliamentary commission responsible for the pre-selection of candidates, where domestic political considerations may still influence the process. Against this background, the mitigation of a qualified majority requirement does not, as such, raise concerns from the perspective of democratic pluralism.

41. The Venice Commission and DGI have consistently underlined that the participation of international members constitutes an important safeguard, ensuring both the integrity of the evaluation process and public confidence in its impartiality.³¹ The very purpose of involving international experts is to introduce independent and objective perspectives, insulated from domestic political dynamics.³² By contrast, under the law, national members are appointed by the parliamentary factions on the basis of proportional representation, reflecting the respective composition of the parliamentary majority and the opposition.³³

42. By way of comparison, the Venice Commission has previously considered, in the context of the appointment of lay members to judicial councils, that entrusting Parliament with their appointment by a three-fifth majority constitutes an appropriate solution, as it contributes to preventing both undue politicisation and the risk of corporatist, self-perpetuating governance within the judiciary.³⁴ The situation is, however, different with regard to international members of the Evaluation Commissions. In this context, the risk of corporatism is absent, whereas the application of a qualified majority requirement without any accompanying mechanism to overcome potential stalemate may still expose the process to elements of political influence.

43. In this light, while the Venice Commission and DGI fully understand the intention of the legislature to ensure broad political consensus through the requirement of a qualified parliamentary majority, they consider that, in the specific case of international members, the objectives of independence, impartiality and institutional legitimacy may likewise be effectively safeguarded through less stringent appointment arrangements, including by lowering the majority threshold at a subsequent stage of the procedure in order to prevent institutional deadlock.

44. Strictly speaking, in other circumstances, having regard to the nature and purpose of the participation of the International Partners, the most effective anti-deadlock solution could have consisted in entrusting the appointment competence directly to the International Partners themselves, thereby insulating the process from domestic political controversies capable of affecting both the efficiency and the underlying purpose of the mechanism. At the same time, the Venice Commission and DGI acknowledge that the solution ultimately chosen by the authorities falls within their margin of appreciation in designing the institutional framework governing the appointment procedure. Moreover, the direct involvement of parliament may serve to enhance the legitimacy of involving international members, as has been pointed out above in the general context of commissions with a view to reinforcing the integrity and independence of the judiciary. The Commission and DGI further recognise that the present case is characterised by particular urgency and by the existence of legally established deadlines for the completion of the evaluation process, considerations which may justify the adoption of mechanisms aimed at ensuring the timely constitution of the

³¹ Venice Commission, [CDL-AD\(2021\)018](#), Ukraine - Urgent joint opinion of the Venice Commission and DGI on the draft law on amendments to certain legislative acts concerning the procedure for electing (appointing) members of the High Council of Justice (HCJ) and the activities of disciplinary inspectors of the HCJ (Draft law no. 5068)

³² Venice Commission, [CDL-AD\(2022\)054](#), Ukraine – Opinion on the draft law “On Amendments to Certain Legislative Acts of Ukraine on improving the procedure for the selection of candidates for the position of judge of the Constitutional Court of Ukraine on a Competitive Basis” para 30.

³³ Article 6 (1)(a) of Law No. 252/2023 and Law No. 65/2023.

³⁴ Venice Commission, [CDL-AD\(2013\)028](#), Montenegro – Opinion on the Draft Amendments to three Constitutional Provisions relating to the Constitutional Court, the Supreme State Prosecutor and the Judicial Council of Montenegro, para 12.

Evaluation Commissions and, ultimately, facilitating the effective continuation of the overall vetting process.

45. During the visit to Chişinău, the delegation of the Venice Commission and DGI was informed that, to date, less than half of the persons subject to vetting have undergone the evaluation process. The delegation was further informed that not only the understaffing of the Evaluation Commissions themselves, but also shortages within their secretariats and, in certain instances, insufficient financial resources, may cause delays in the work of the Commissions. According to the information received, the evaluation of a single person may take on average, between six months and one year. Against this background, the Venice Commission and DGI consider the deadline of 31 December 2026 — which has already been extended several times — to be particularly challenging to meet.

46. Against this background, the fact that the legislature opted initially for a qualified majority requirement and subsequently provided for its reduction to an absolute majority in the event of deadlock does not appear problematic *per se*. In this respect, and with a view to the specific current situation in the Republic of Moldova, the Commission recalls its previous findings according to which the requirement of an absolute majority, as opposed to a simple majority, remains acceptable, constituting the lowest threshold of qualified majority.³⁵

47. Consequently, while recalling their above-mentioned observations concerning the forthcoming examination of the matter by the Constitutional Court of the Republic of Moldova, the Venice Commission and DGI consider that the choice of the authorities to retain the qualified majority requirement of three fifth for the appointment of international members of the Evaluation Commissions, while complementing it with an anti-deadlock mechanism based on the reduction of such threshold to the absolute majority, does not appear to run counter to applicable international standards and may be regarded as an acceptable solution. This approach appears particularly justified in light of the temporary nature of the legal provisions at issue, the urgency underpinning the reform process, and the need to prevent undue delays in its implementation.

C. Procedural aspects of the anti-deadlock mechanism

1. Distinct Approaches in the Appointment of National and International Members of the Evaluation Commissions

48. As mentioned above, the national members of the Evaluation Commissions are appointed by the parliamentary factions on the basis of proportional representation, reflecting the respective composition of the parliamentary majority and the opposition. The rules governing the appointment of national members of the Evaluation Commissions are set out as follows.

49. According to Articles (6 (2)) of Laws nos. 65/2023 and 252/2023,
*“The candidate proposed by the opposition may be rejected only in the event of failure to meet the requirements laid down in Article (7) para. (1).”*³⁶

³⁵ Venice Commission [CDL-AD\(2025\)015](#), Kosovo – Opinion on the draft Law on Amending and Supplementing the Law on the Kosovo Judicial Council, para 44; see also [CDL-AD\(2015\)022](#), Bulgaria – Opinion on the Draft Act to Amend and Supplement the Constitution of the Republic of Bulgaria, para 51.

³⁶ This provision establishes the following eligibility criteria: possession of a higher education diploma; an impeccable reputation; at least 10 years of professional experience in one or more of the following fields: law, economics, taxation or finance; no holding of the office of Member of Parliament or member of the Government during the preceding three years; no membership in a political party during the preceding three years; no service as a judge or prosecutor in the Republic of Moldova during the preceding three years; and sufficient knowledge of English to perform the duties of the Evaluation Commission.

Moreover, according to the same provision,

“The Committee on Legal Affairs, Appointments and Immunities shall examine the proposed candidates and approve, by a majority vote, reports on each candidate. Draft Parliament decisions shall be drawn up by the Committee on Legal Affairs, Appointments and Immunities separately for each candidate and shall be submitted to the Parliament’s plenary for debate and adoption by the majority vote provided for in para. (1) of this Article (3/5 majority)”.

50. Part 4 of the same Article further provides that

*“(4) If one of the parliamentary factions fails to nominate a candidate, or if the proposed candidate is not approved by the required number of votes, the Evaluation Commission shall be set up and operate with the number of members confirmed by Parliament’s decision in accordance with para. (7)”.*³⁷

51. It stems from the above-mentioned provisions that where a proposed national member fails to obtain the required majority, the seat remains vacant, and the Evaluation Commission is constituted and operates with a reduced number of members. In practice, this may result in the non-appointment of candidates who do not command the support of the parliamentary majority. Whereas for international members, the legislation provides for the appointment to be effected through the adoption of a single “draft decision” for the whole list of vacant international positions, potentially on the basis of a single round of voting. In practice, the anti-deadlock mechanism may thus be triggered for the appointment of all the vacant positions even where only one candidate has failed to secure the required majority, and this after only one unsuccessful round of voting, with the consequence that the appointment of all the international members may proceed under less stringent conditions.

52. The resulting framework is therefore asymmetrical: while vacancies may persist in respect of national members, the procedure for international members is designed to ensure their appointment with a list including all candidates.

53. The Venice Commission and DGI acknowledge that this asymmetry in parliamentary appointments may be explained by the specific context, notably the role of international partners in nominating candidates, the need to ensure a minimum number of international members for the effective functioning of the Evaluation Commissions,³⁸ and the temporal constraints linked to the deadline of 31 December 2026.

54. At the same time, in order to reduce the risk of potential stalemate at the initial voting stage in the future and to increase the possibility of securing the required three-fifth majority already in the first round, the Venice Commission and DGI recommend extending to international members the “one-by-one” approval approach currently provided only for national members. Such an approach could facilitate the appointment of at least some international candidates by qualified majority within a reasonable timeframe, thereby limiting the need to resort to the anti-deadlock mechanism.

³⁷ Paragraph 7 of the laws envisage that “The nominal composition of the Evaluation Commission shall be confirmed by Parliament’s decision”.

³⁸ According to Article 14(2) of Law no. 65/2023 and Article 13(2) of Law no. 252/2023, “the Evaluation Commission meetings shall be attended by at least 5 members”. As regards the decision making pursuant to Article 16(2) of Law no. 65/2023 (Supreme Court Judges evaluation), “the evaluation report shall be approved by the Evaluation Commission by a majority vote of the present members.” Pursuant to Article 17(3) Law no. 252/2023 (Evaluation of judges and prosecutors), “if the members of the evaluation panel do not vote unanimously, the evaluation report shall be examined by the evaluation commission. Within 30 business days of receipt, the evaluation report shall be approved by a majority vote of the members of the evaluation commission—three of whom shall belong to the category referred to in Article 6(1)(b) (development partners)—and shall be signed by the commission chair. The members of the evaluation commission may not abstain from voting.”

2. Voting

55. According to Article 6 of Amended Law,

“(5¹) In case the draft decision of the Parliament on the appointment of the members indicated in para. (1) b) has not gathered the necessary number of votes provided for in para. (1), the Legal Committee on Appointments and Immunities shall, in the same session, examine repeatedly the proposed candidates and shall select the candidates with the highest number of votes. If the same candidates are elected repeatedly, the Legal Committee on Appointments and Immunities shall draw up the draft decision of the Parliament, together with a report, which shall be debated in the plenary of the Parliament and be adopted with the vote of the majority of the elected MPs”.

56. The new mechanism thus reduces the required majority from a three-fifth majority to an absolute majority following a single unsuccessful vote, without any mandatory interval between the two rounds and without requiring further consultation or negotiation before proceeding to the second vote. In the opinion of the Venice Commission and DGI, such a mechanism does not sufficiently encourage the negotiating parties to seek a consensual solution, as it enables the parliamentary majority to forego genuine efforts to achieve the qualified majority and to move rapidly to a vote by absolute majority. As adopted, the mechanism therefore permits the reduced majority threshold to be applied immediately after a single unsuccessful vote, within the same parliamentary session and without any intervening period for negotiation, consultation, or renewed attempts to build broader political consensus.

57. The Venice Commission has consistently expressed reservations regarding mechanisms that reduce the required majority threshold too rapidly. In its previous opinion concerning the Republic of Moldova, the Commission and DGI notably observed that even the introduction of a reduced majority following a fifteen-day interval did not constitute a sufficiently strong incentive for political actors to reach agreement on the basis of a qualified majority during the first round.³⁹ The mechanism under examination goes considerably further, as it does not foresee even a minimal time lapse.

58. The Venice Commission and DGI further underline that an anti-deadlock mechanism triggered after a single unsuccessful vote within the same parliamentary session without any mandatory interval does not primarily prevent minority abuse; rather, it risks removing the incentive for the majority to genuinely seek broad consensus. As previously observed by the Venice Commission, anti-deadlock mechanisms should discourage irresponsible conduct by the opposition without at the same time creating opportunities for the majority to artificially precipitate a deadlock and subsequently proceed on its own terms.⁴⁰

59. The Venice Commission and DGI thus reiterate that, although the choice of the body responsible for selecting the members of the Evaluation Commissions, the applicable selection procedure, and the mechanism intended to overcome potential deadlocks all fall within the margin of discretion of the State concerned, once such a mechanism is adopted it must nevertheless remain compatible with the principles of the Rule of Law and democratic governance. In this respect, the Commission and DGI underline that the mechanism under examination does not appear to be proportionate or capable of preserving the primacy of broad

³⁹ Venice Commission, [CDL-AD\(2020\)007](#), Republic of Moldova – Joint opinion on the revised draft law on amending and supplementing the Constitution of the Republic of Moldova with respect to the Superior Council of Magistracy, para 31; [CDL-AD\(2022\)019](#), Republic of Moldova – Joint opinion on the draft Law “on Amending Some Normative Acts” (Judiciary), para 28.

⁴⁰ Venice Commission, [CDL-AD\(2018\)015](#), Montenegro – Opinion on the Draft Law on the Judicial Council and judges, para 15.

political consensus. Furthermore, continuity of work and the prevention of minority abuse — the grounds invoked in support of the mechanism in the request — do not appear to constitute sufficient justification for the introduction of such a rigid approach. Nor should considerations related to expediency or time constraints serve, in themselves, as adequate justification for its adoption.

60. Consequently, the Venice Commission and DGI recommend introducing, within the procedure for the selection of the international members of the Evaluation Commissions, a sufficiently meaningful interval between the first vote requiring a qualified majority and the second vote requiring an absolute majority, thereby providing the majority and the opposition with a genuine opportunity to engage in negotiations and seek a possible consensus.

3. Application to pending procedures

61. The Amended Laws provide that the newly introduced paragraph (5¹) shall also apply to appointment procedures that are ongoing at the date of the entry into force of the amendments. The new antideadlock procedure was indeed applied to the pending procedure of appointment of two international members, without repeating the first round of voting.

62. The Venice Commission and DGI recall that the principle of legitimate expectations forms an integral part of the broader principle of legal certainty. At the same time, it should be emphasised that this principle is not absolute and may not apply in all circumstances, in particular where unforeseen situations arise or overriding public interests are at stake. Moreover, certain categories of legal relationships are by their nature subject to legislative evolution, such as matters relating to social benefits or taxation policies. The Commission and DGI further recall that the principles of legal certainty and the protection of legitimate expectations also imply, save in exceptional circumstances, an obligation on the legislature to provide for a reasonable period between the official publication of a law and its entry into force (*vacatio legis*).⁴¹

63. The Venice Commission and DGI take note of the explanations that the introduction of the new anti-deadlock mechanism in respect of ongoing selection procedures was motivated, inter alia, by the need to ensure the functioning of the Evaluation Commissions before the deadline of 31 December 2026. Nevertheless, given that this issue is currently pending before the Constitutional Court, the Venice Commission and DGI, in line with the principle of judicial restraint in matters *sub judice*, refrain from expressing any further views on this specific aspect.

IV. Conclusion

64. By letter of 11 March 2026 the President of the Parliament of the Republic of Moldova requested an opinion of the Venice Commission of the Council of Europe on recent amendments to Laws nos. 65/2023 and 252/2023 concerning the procedure for appointment of the international members of the judicial and prosecutorial evaluation commissions established under these acts.

65. The Venice Commission reiterates that the vetting of judges and prosecutors should remain an exceptional and one-off measure, strictly limited in time, proportionate in nature, and accompanied by stringent safeguards against possible abuse. In the Republic of Moldova, this process has been ongoing since 2021, with the procedure for the selection of the members of the Evaluation Commissions constituting an integral component of the overall vetting framework.

⁴¹ Venice Commission, [CDL-AD\(2025\)002](#), Updated Rule of Law Checklist, paras 56 and 57.

66. In this respect, the proper functioning and credibility of the selection procedure are of particular importance in ensuring that the vetting process is conducted smoothly and in compliance with international standards. Indeed, the selection of the individuals entrusted with assessing the integrity of judges and prosecutors is of crucial significance for the overall legitimacy, effectiveness and public credibility of the vetting process as a whole.

67. As regards the legislative process, the Venice Commission and DGI reiterate the importance of an inclusive, transparent and democratic law-making process, which constitutes an essential element of the rule of law. They underline that any urgency invoked to justify recourse to expedited legislative procedures departing from these standards should be clearly provided for by law, limited in time, and accepted only in truly exceptional circumstances.

68. As regards the anti-deadlock mechanism, the Venice Commission and DGI note the temporary nature of the legal provisions at issue, the urgency underpinning the reform process, and the need to prevent undue delays in its implementation. Against this background, they consider that the choice of the authorities to complement the appointment of international members of the Evaluation Commissions with an anti-deadlock mechanism based on the reduction of the majority threshold from a qualified majority to an absolute majority, does not, in the specific circumstances of the present case, run counter to international standards.

69. The Venice Commission and DGI make the following recommendations:

- in order to reduce the risk of potential stalemate at the initial voting stage in the future, to extend to international members the “one-by-one” approval approach currently provided only for national members;
- to introduce into the procedure for the appointment of international members of the Evaluation Commissions a sufficiently meaningful interval between the first vote requiring a qualified majority and the second vote requiring an absolute majority, thereby providing the majority and the opposition with a genuine opportunity to engage in negotiations and seek possible consensus.

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