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The honouring of obligations and commitments by the Republic of Moldova

Report[1]
Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)
Co-rapporteurs: Mr Pierre-Alain FRIDEZ, Switzerland, Socialists, Democrats and Greens Group, and Ms Inese LĪBIŅA-EGNERE, Latvia, Group of the European People's Party

Summary

The Republic of Moldova, which since July 2021 has had a stable parliamentary majority committed to European integration, has continued a profound reform process of its institutions, in particular the restoration of the independence and integrity of the judiciary and the public prosecutor's office and the fight against corruption. The Monitoring Committee welcomes the ratification of the Istanbul Convention and the progress in the field of gender equality.

However, the committee underlines the challenges the country faces in eradicating the roots of "state capture", in a context of economic, energy and humanitarian crisis following the Russian Federation's aggression against neighbouring Ukraine and the massive arrival of refugees. This regional context and the hybrid war threaten the country's external security and the Transnistrian conflict settlement, but also the functioning of its democratic institutions.

The Parliamentary Assembly should therefore support the country's efforts and encourage the authorities to consolidate the reform process in co-operation with the Council of Europe and the Venice Commission. It should also urge the authorities to ensure respect for the rule of law and democracy by involving the parliamentary opposition and civil society in order to guarantee good quality laws and the establishment of sustainable and solid institutions.

1. Reference to committee: Resolution 1115 (1997).

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A. Draft resolution[2]

1. The Republic of Moldova joined the Council of Europe in 1995. In 2019, the Parliamentary Assembly highlighted efforts to "de-oligarchise" the country and depoliticise its judicial institutions, in Resolution 2308 (2019) "The functioning of democratic institutions in the Republic of Moldova". Since then, some major developments have altered the country's political landscape: in November 2020, Maia Sandu became the first female President of the Republic, elected on the back of a clear pro-European agenda. In July 2021, in the wake of a political and constitutional crisis, the President's Action and Solidarity Party won a majority in a snap parliamentary election. For the first time in its history, the Republic of Moldova is governed by a stable parliamentary majority held by a single party. The elections also confirmed the electoral support for eradicating corruption and building efficient and transparent State institutions able to work in the public interest. At the same time, this unprecedented political situation places a responsibility on the ruling party to ensure that democratic principles, the rule of law and the protection of human rights are fully upheld.

2. Since the summer of 2021, the authorities have embarked on a far-reaching programme of reform, notably in the judiciary and the fight against corruption, to tackle the roots of "state capture" and thereby restore integrity and public trust in State institutions.

3. The authorities have made efforts to review the functioning of most State institutions and independent bodies and appoint new officials following parliamentary assessment procedures, triggering questions about the transparency and speed of the selection process. The Assembly understands that taking the necessary steps to quickly restore the proper and transparent functioning of democratic institutions is a huge challenge without any ready-made solution. However urgent and necessary the reforms may be, the Assembly urges the authorities to ensure that such changes are made in accordance with the rule of law and Council of Europe standards, and are drawn up with the involvement of the parliamentary opposition and civil society so as to facilitate sound law making and enable sustainable and strong institutions to be established. In this respect, it welcomes the Moldovan authorities' close co-operation with the Council of Europe, in particular with the Secretary General's High-Level Working Group on the reform of the judiciary and the European Commission for Democracy through Law (Venice Commission), as well as their constructive approach to ensuring that the restructuring of the State, and in particular the judicial overhaul, are in line with Council of Europe standards.

4. The outbreak of the war in Ukraine on 24 February 2022 had major repercussions on the Republic of Moldova. New logistical and national and external security challenges compounded difficulties in dealing with the Covid-19 pandemic, energy crisis and high inflation rates and exacerbated existing tensions in Moldovan society. The country has seen a huge wave of refugee arrivals from Ukraine: over 700 000 have entered the country since February 2022 and almost 100 000 have stayed there. This makes the Republic of Moldova the country that is hosting the largest number of refugees from Ukraine in relation to its population (2.6 million), presenting a major logistical challenge for the authorities and putting a considerable strain on their administrative bodies.

5. The Assembly commends the authorities' efforts to manage these multiple crises, develop contingency plans for receiving refugees and address the humanitarian, socio-economic and educational challenges of welcoming refugee children. It applauds the solidarity and resilience shown by the Moldovan people. The Assembly calls on Council of Europe member States to support the country's efforts and to consolidate their assistance, building on the guidance provided by the Secretary General's Special Representative on Migration and Refugees in her report of June 2022, in particular to develop long-term solutions for women, children, the elderly and persons with disabilities, including for preventing and detecting all forms of trafficking in human beings and violence against women and for protecting unaccompanied and separated children from Ukraine.

6. The on-going aggression of Ukraine by the Russian Federation has presented major public security challenges, prompting the authorities to take measures to protect State institutions and combat extremist activities, including the use of war symbols. In its amicus curiae brief of October 2022, the Venice Commission found that banning the use of such symbols was acceptable since "the display of the symbols used by the Russian armed forces in the current war produce[d] an actual and immediate danger of disorder and a threat to national security and the rights of others, including those of Ukrainian war refugees" and that there was a "pressing social need" to impose a ban on such use.

7. The energy crisis, compounded by the conflict in Ukraine, and high inflation are hitting the population hard, as are the energy cuts caused by the bombing of Ukraine's energy infrastructure. The Assembly strongly condemns the weaponisation of gas supplies and the hybrid war being waged by the Russian Federation which violate the country's sovereignty and the democratic functioning of its institutions.

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2. Draft resolution unanimously adopted by the Committee on 14 December 2022.

8. In this context, the decision by the Council of the European Union to grant candidate country status to the Republic of Moldova on 23 June 2022 was a powerful response to the electorate's aspiration to join the European Union and to the country's efforts to shore up its democracy. The Assembly believes that this negotiation process is conducive to driving forward the legal and democratic reforms needed to honour Council of Europe membership obligations.

9. Despite its difficult circumstances, the country has continued to implement its ambitious programme of reform in co-operation with the Council of Europe, focusing on overhauling the judiciary and tackling corruption. The Assembly notes that the lack of financial and human resources clearly hinders the satisfactory implementation of such holistic reforms within a limited time frame.

10. Where democracy is concerned:

10.1. the Assembly welcomes the efforts undertaken to consolidate democratic institutions and strengthen them against the risk of foreign interference. It welcomes the adoption of a new Electoral Code on 9 December 2022 however without a broad political consensus. It welcomes the progress noted by the Venice Commission and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR) in their October 2022 joint opinion and invites all stakeholders to implement the new Electoral Code in good faith and in line with the Venice Commission recommendations. It encourages moreover the authorities to implement the recommendations of the Group of States against Corruption (GRECO) on the transparency of political party funding;

10.2. in this context, the Assembly urges the parliament to strengthen its rules on integrity and adopt a Code of Conduct for Members of Parliament and a Code of Parliamentary Rules and Procedures so as to help eradicate party switching, which has frequently been an underlying cause of political instability in the past;

10.3. the Assembly notes that the country has been facing protests organised by the Shor Party since 18 October 2022. The Assembly calls on the political forces concerned to ensure the peaceful nature of these demonstrations and deplores the violence exerted against journalists on 23 October 2022. Moreover it supports the authorities' efforts to investigate the allegations of illegal financing of these demonstrations and possible destabilisation of the country. Following the government's referral to the Constitutional Court to verify the constitutionality of the Shor Party, the Assembly calls on the authorities to take full account of the Venice Commission's *amicus curiae* brief adopted in December 2022 on declaring a political party unconstitutional and the well-established case law of the European Court of Human Rights on the freedom of expression and association of political parties when ruling on this issue;

10.4. the Assembly calls on the authorities of the Republic of Moldova and of the Autonomous Territorial Unit of Gagauzia (ATUG) to pursue their dialogue and welcomes the efforts made to enhance Romanian language learning. It also calls on both parties to support the activities of the working group tasked with ensuring Moldovan legislation is in line with the ATUG's special status and urges the ATUG People's Assembly to refrain from adopting legislation that contradicts national legislation, particularly in the area of LGBTI rights.

11. Where the rule of law is concerned:

11.1. the Republic of Moldova has embarked on a programme of major judicial reform, including of the Superior Council of Magistracy, Superior Council of Prosecutors, Prosecutor's Office, Supreme Court of Justice and the Constitutional Court. The Assembly welcomes the country's extensive co-operation with the Venice Commission to ensure that the amendments comply with the Council of Europe standards, which has resulted in a number of opinions and *amicus curiae* briefs;

11.2. the Assembly also welcomes the adoption of constitutional amendments in September 2021, which commanded broad consensus and won the backing of the main political parties. The constitutional reform represented a major step forward in depoliticising the judiciary and improving its independence, accountability and efficiency. Some major changes were made, in particular with regard to the election and appointment of members of the Superior Council of Magistracy and the Superior Council of Prosecutors;

11.3. the Assembly applauds the reforms set in motion to enhance the integrity of the judiciary and restore trust in judicial institutions. To this end, the authorities have introduced an integrity evaluation procedure to vet judges and prosecutors with a view to "cleansing" the system of those involved in large-scale corruption and organised crime. The Assembly shares the Venice Commission's position in

this respect and calls on the authorities to ensure that the vetting of sitting judges is implemented in accordance with constitutional safeguards and due respect for judicial independence; it can only be justified in exceptional circumstances when ordinary methods of judicial accountability are not available;

11.4. the Assembly supports the steps taken by the authorities to dismiss judges and prosecutors who have failed to meet integrity requirements. The Commission for the assessment of judges' and prosecutors' activities (hereinafter referred to as the "Pre-Vetting Commission") set up in March 2022 and composed of national and international members, is responsible for checking that integrity requirements are met by candidates for key positions at the Superior Council of Magistracy, the Superior Council of Prosecutors and their specialised bodies. The Assembly encourages the authorities to ensure that the Pre-Vetting Commission has the necessary financial and human resources to discharge its duties, while noting that this will be a lengthy process that could affect the functioning of judicial institutions;

11.5. the reform of the Public Prosecution Service threw up some difficulties. The Law on the Public Prosecution Service has been amended several times since 2019 to: (i) introduce a new procedure for appointing an interim Prosecutor General pending the selection of a permanent Prosecutor General; (ii) change the rules on the composition of the Superior Council of Prosecutors; (iii) lay down a new procedure for both appointing and dismissing the Prosecutor General (in July and September 2019); (iv) reorganise the Superior Council of Prosecutors; (v) set up new accountability mechanisms for the Prosecutor General; (vi) enable a specially created Evaluation Commission to carry out an *ad hoc* "performance evaluation" of the Prosecutor General once a year (in August 2021); and (vii) govern the procedure for selecting and appointing the Prosecutor General and the heads of the specialised prosecutors' offices (in January 2022);

11.6. in the opinion of June 2022, the Venice Commission found that the latest amendments to the Law on the Public Prosecution Service had addressed most of the key recommendations it had made in 2021 following the hastily passed raft of legislative amendments. The Assembly welcomes the 2022 amendments that improve the composition of the Superior Council of Prosecutors – notably re-establishing the Prosecutor General as *ex officio* member of the Superior Council of Prosecutors, stipulate that findings of the Evaluation Commission, which now includes Superior Council of Prosecutors members, are of an advisory nature and leave the decision to dismiss the Prosecutor General on the grounds of unsatisfactory performance with the Superior Council of Prosecutors;

11.7. the arrest in October 2021 of former Prosecutor General Mr Stoianoglo, who has been under judicial supervision since December 2021, and his suspension from his duties have raised questions about the observance of procedural safeguards. The Assembly calls on the authorities to ensure that the proceedings under way are completed in accordance with due process of law and that his performance is assessed according to the criteria of integrity and professionalism that derived uncontestably from the pre-existing rules, as the Venice Commission once again stressed in June 2022;

11.8. corruption in the Republic of Moldova remains a pervasive phenomenon which the authorities are committed to addressing as a matter of priority. There has been a slight improvement since 2016 in the Corruption Perceptions Index published by Transparency International, with the country ranking 105th in 2021, compared to 123rd in 2016;

11.9. with regard to corruption prevention in respect of judges and prosecutors, GRECO welcomed, in its December 2021 (fourth round) interim compliance report, the significant progress made in terms of the composition of the Superior Council of Magistracy resulting from the constitutional amendments adopted in September 2021. On another positive note, legislation aimed at strengthening the independence and effectiveness of the National Integrity Authority and tightening the rules governing the declaration of assets and personal interests was adopted on 7 October 2021;

11.10. in accordance with GRECO's findings, the Assembly notes with satisfaction the increase in the National Integrity Authority's budget and its closer scrutiny of the declarations of assets and personal interests of parliamentarians, judges and prosecutors, which have resulted in administrative penalties and, where appropriate, referrals to the criminal investigation bodies. However, it calls on the authorities to take the necessary steps to recruit and train the required number of staff and to adopt a comprehensive strategy for the National Integrity Authority;

11.11. there have been other major changes to Moldovan legislation since July 2021, including amendments to the Law on the declaration of assets and personal interests, the Law on the National Anti-Corruption Centre, the law on company ownership with a view to ending offshore secrecy, as well as the adoption of the Law establishing a mechanism of prosecution, trial and conviction in absentia;

11.12. the Assembly notes that steps have also been taken to tackle political corruption: parliament plans to amend the Constitution to stipulate that parliamentary consent will no longer be required for the detention, arrest, search and criminal prosecution of members of parliament for violations related to passive or active corruption, influence peddling, abuse of power, illicit enrichment and money laundering. The Assembly encourages the parliament to continue its efforts to tighten the rules on the integrity of members of parliament and the regulations governing the funding of political parties and election campaigns. It also encourages the authorities, in accordance with GRECO's recommendations, to continue to tackle corruption, which requires the involvement of all stakeholders.

12. Where the protection of human rights is concerned:

12.1. the Assembly welcomes the meaningful and substantial progress made in the area of gender equality, including women's accession to high political positions, which is a source of inspiration for all countries in the region;

12.2. the Assembly also commends the country for ratifying, on 31 January 2022, the Convention on preventing and combating violence against women and domestic violence (CETS No. 210, "Istanbul Convention") and for adopting, on 17 November 2022, Law 316/2022 ensuring the rights of victims in the case of crimes related to sexual life and family violence. In this respect, it notes with satisfaction the amicus curiae brief adopted by the Venice Commission in December 2021 and the subsequent decision of the Moldovan Constitutional Court clearly reasserting that the Istanbul Convention does not seek to impose a certain lifestyle or interfere with the personal organisation of private life, but seeks only to prevent violence against women and domestic violence. The Assembly encourages the authorities to continue their efforts to implement the Convention, bring their legislation into line with it and adopt action plans on gender equality and on preventing and combating domestic violence and violence against women;

12.3. in the field of the media, the Assembly notes a positive trend – in 2022, the country ranked 40th (out of 180 countries) in the Reporters Without Borders' World Press Freedom Index, compared to 89th in 2021, despite a highly polarised environment. The Assembly welcomes the measures taken by the Audiovisual Council to promote media pluralism and high-quality information and invites the authorities to reinforce the fight against media concentration. It notes however that the amendment to the Code of Audiovisual Media Services adopted in November 2021 also restored parliamentary control over the Audiovisual Council and the public broadcaster, Teleradio-Moldova, which could raise questions about the independence of these institutions. The Assembly refers in this respect to the judgment of the European Court of Human Rights in the case of *Manole and Others v. Moldova* (2009) and calls on the authorities to ensure that the Audiovisual Council's independence and integrity are strengthened in order to prevent undue political interference;

12.4. the Republic of Moldova is a multi-ethnic State. The Assembly commends the Moldovan people for ensuring that national minorities continue to live together peacefully despite unrest in the region and encourages the authorities to continue implementing the Framework Convention for the Protection of National Minorities (ratified in 1996, ETS No. 157) and the Strategy on the Consolidation of Interethnic Relations (2017-2027) "with a view to further developing a civic identity that is inclusive and firmly based on respect for ethnic and linguistic diversity as an integral part of Moldovan society", as recommended by the Committee of Ministers in July 2021;

12.5. the Assembly also welcomes the discussions that have been initiated on how to promote the use of minority languages in Moldovan public media and encourages the authorities to ratify the European Charter for Regional or Minority Languages (ETS No. 148), which the country signed in 2002.

13. Regarding the situation in the Transnistrian region of the Republic of Moldova, the Assembly welcomes the restrained attitude Chisinau and Tiraspol adopted at the beginning of the war in Ukraine by making an appeal for calm. It calls on both sides to keep the lines of communication open, despite a tense situation exacerbated by provocative statements by Russian officials and by the *de facto* authorities in Tiraspol.

14. The Assembly reiterates its readiness to support the efforts of the OSCE 5+2 (and 1+1) discussions and the steps taken by the Moldovan authorities to strive for the protection of human rights in the region, in particular through implementing the judgments of the European Court of Human Rights, taking confidence-building measures and introducing the Council of Europe's human rights standards. In this respect the Assembly refers to the decision of the Committee of Ministers of 6-8 December 2022 concerning the violations of the rights of children, parents and staff members of Latin-script schools during the periods 2002-2004 and 2013-2014 in the Transnistrian region of the Republic of Moldova. Ten years after the European Court of Human Rights Catan judgment, the Assembly, joining the Committee of Ministers, regrets the lack of any form

of redress for the applicants and the continued failure of the Russian authorities to execute this judgment – which remains its unconditional obligation under the Convention – and calls for its implementation. The Assembly also reiterates its call on the Russian Federation to withdraw its troops from the Transnistrian region of the Republic of Moldova, whose presence pose a threat to the security of the country.

15. In conclusion, the Assembly welcomes the reforms undertaken to consolidate the country's democratic institutions and recognises the difficulty and challenges involved, taking into account both the regional context which threatens its external security and also the integrity and functioning of those democratic institutions. The Assembly therefore calls on Council of Europe member States to provide humanitarian and financial assistance and to support the efforts to bring about democratisation and promote the Organisation's founding values. The Assembly also calls on the Moldovan authorities, which have a stable parliamentary majority, to ensure respect for the rule of law and inclusive democracy and to pursue reforms that are part of a clearly expressed desire for European integration. It asks the authorities to continue their co-operation with the Council of Europe, in particular to strengthen the independence of the judiciary and the public prosecution service and to consolidate anti-corruption laws. The Assembly moreover encourages the authorities to pursue and implement their reform agenda based on the Council of Europe standards so as to establish solid and sustainable State institutions, which are a prerequisite for the good functioning of democratic institutions. The successful continuation of this process would pave the way to a new phase of post-monitoring dialogue with the country. In the meantime, the Assembly resolves to observe how the situation develops through its monitoring procedure.

B. Explanatory memorandum by Ms Inese Lībiņa-Egnere and Mr Pierre-Alain Fridez, co-rapporteurs

1. Introduction

1. Since the adoption of Parliamentary Assembly Resolution 2308 (2019) "Functioning of democratic institutions in the Republic of Moldova", the country has experienced important political changes after the November 2020 presidential election and the July 2021 early parliamentary elections, in a context marked by the management of the pandemic and the consequences of the Russian aggression against Ukraine. This monitoring report intends to recall the main developments since 2019 and take stock of the progress achieved and the reforms that are still needed.

2. We were appointed rapporteurs for the monitoring of the Republic of Moldova respectively in October 2020 and February 2021. For the preparation of this report, we relied on findings established by our predecessors, Egidijus Vareikis (Lithuania, EPP/CD) and Maryvonne Blondin (France, SOC). We issued statements after our two visits to the Republic of Moldova from 12 to 15 October 2021[3] and from 6 to 9 June 2022[4] and published two information notes in May 2021 and February 2022.[5]

3. A preliminary draft report was sent to the authorities for comments on 14 September 2022. Mr Vlad Batrîncea, member of the opposition and Vice-President of the Moldovan Parliament, provided comments.[6] We would like to thank the Moldovan authorities for the excellent co-operation and preparation of our visits as well as the continuous co-operation established with the members of the Moldovan delegation to the Assembly, both from the majority and the opposition, as well as with the Permanent Representation of the Republic of Moldova to the Council of Europe. Our co-operation with the Council of Europe Office in Chisinau was also very important. We would like to extend our thanks to the Head of the Council of Europe Office, Mr Massolin, and his team for their invaluable assistance, as well as to the representatives of the international organisations and diplomatic community of Chisinau for our fruitful exchanges in these past two years.

2. Functioning of democratic institutions

2.1. Political developments in the Republic of Moldova since 2019

2.1.1. From November 2019 to November 2020: a period of political turbulences

4. Following a serious constitutional crisis in June 2019,[7] Maia Sandu, leader of the Platform Action and Solidarity (PAS), became Prime Minister in June 2019, following an agreement between the ACUM bloc (composed of PAS and the Dignity and Truth Platform (DA)) and the Party of the Socialists to "de-oligarchise" the country. This objective and the subsequent reforms to "de-oligarchise" the country had been welcomed by the Assembly in its October 2019 Resolution. At the same time, the Assembly had stressed the need to adopt reforms to the judiciary system and the prosecution office to comply with Council of Europe standards.

5. The issue of the selection of a new Prosecutor General was highly important in order to ensure that alleged cases of corruption, interference in the judiciary and matters related to "state capture" would be duly investigated.

6. As a matter of fact, the selection of the Prosecutor General gave rise to a political crisis (as described at length by our predecessors)[8] and resulted, on 12 November 2019, in a no confidence vote supported by 63 votes (out of 101 members) from the Party of Socialists (PSRM) and the Democratic Party (PDM), and Ms Sandu's Government defeat two days later, since the negotiation to form an alliance between the Party of

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3. "Republic of Moldova: the PACE monitoring co-rapporteurs welcome the authorities' determined action to reform the judicial system and fight corruption", Statement of 20 October 2021.
4. "PACE rapporteurs welcome the continuation of the reform agenda in the Republic of Moldova despite considerable economic and security challenges", Statement of 13 June 2022.
5. Revised information note on recent political developments in the Republic of Moldova, 19 May 2021 (AS/Mon(2021)08rev) and Revised Information note following the co-rapporteurs' visit to the Republic of Moldova (12-15 October 2021), 8 February 2022 (AS/Mon(2022)02rev2).
6. Comments made by the delegation of the Republic of Moldova to the preliminary draft report, AS/Mon(2022)26, 5 December 2022.
7. See Doc. 14963 and PACE Resolution 2308 (2019) "The functioning of democratic institutions in the Republic of Moldova" of 3 October 2019 which described this crisis.
8. Memorandum by co-rapporteurs Mr Egidijus Vareikis, Lithuania, EPP/CD, and Ms Maryvonne Blondin, France, SOC, on recent developments in the Republic of Moldova, 28 August 2020 (AS/Mon(2020)11).

the Socialists and ACUM failed. Upon the proposal of the then President, Igor Dodon, a technical government was formed in November 2019 (8 of the 10 cabinet ministers were former presidential advisors to President Dodon) and approved by the parliament with the support of the PRSM and the Democratic Party (PDM). On 16 March 2020 the PRSM and the PDM signed a coalition agreement leading to a re-shuffle of the government: the Democratic Party was granted five ministerial posts, including the Deputy Prime Minister for Reintegration, the Minister of Foreign Affairs and European Integration and the Minister of Defence.

7. Following the defection of 16 members from the PDM and one from the PSRM between February and June 2020, the PSRM-PDM coalition was left, as of 30 June 2020, without a parliamentary majority. The opposition considered introducing a no-confidence vote. In the meantime, it did not attend some sessions of parliament, which prevented it from voting on texts due to the lack of quorum. In November 2020, the PDM withdrew its ministers from the government, left the parliamentary coalition shortly before the second round of the presidential election and supported the candidature of Maia Sandu in the presidential election.

8. While there was no longer a parliamentary majority, the question whether early parliamentary elections could be organised together with the presidential election was raised. The Constitutional Court however ruled, on 7 July 2020, that the constitutional law clearly bans the dissolution of parliament during the last six months of the President's term in office and does not envisage exceptions from this ban – unless the President of the Republic resigns – thus reversing its previous ruling which had permitted an exception to this rule.[9] In addition, the Constitutional Court ruled on 6 August 2020 that the President's discretionary powers are limited while appointing a candidate for prime minister: the President is required to approve the prime minister's candidacy proposed by the absolute parliamentary majority, and can be removed from office or dismissed if he/she fails to do so. If there is no parliamentary majority, the President is obliged to nominate a candidate for the post of prime minister after consulting the parliamentary parties.[10]

2.1.2. From November 2020 to July 2021: from the election of the first female President of the country to early parliamentary elections: a power struggle between the President and the Prime Minister

9. The presidential election took place on 1st November and 15 November 2020. Incumbent President Dodon, running as an independent candidate supported by the Party of the Socialists, and the leader of the Party of Action and Solidarity, Maia Sandu, reached the second round. Businessman and leader of "Our Party", Renato Usaitii, who had won nearly 17% of the votes in the first round, appeared as the kingmaker, called on the voters not to vote for Mr Dodon and demanded that early elections be organised. In the runoff to the election, Maia Sandu won a clear victory (57%), with a massive support (92%) of the voters from the diaspora and became the first elected woman to this position.

10. Due to the sanitary conditions, the Assembly could not observe the election, but the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ ODIHR) deployed a limited election observation mission which concluded that fundamental freedoms of assembly and expression continued to be respected, but that there was however negative and divisive campaigning and polarising media coverage; lack of effective campaign finance oversight; intolerant and divisive rhetoric in the second round; prominent discussions over the role of Moldovan diaspora; allegations of undue influence on public officials and voters; and possible vote-buying and organised transportation of voters on election day.[11]

11. The programme of newly elected President Sandu included reforms of the judiciary and the fight against corruption. However, Maia Sandu's PAS did not have a parliamentary majority. At that time, the main political parties, including PAS and the PSRM, which had the largest political faction in parliament, were in favour of the organisation of early parliamentary elections. Later on, their views differed however on the timing of these elections. Subsequently a power struggle between the presidential administration and the parliament ensued, while questions on the interpretation of constitutional provisions were referred to the Constitutional Court on many occasions by all political parties to settle these disputes. This situation led to a serious political and constitutional crisis by April 2021. We have devoted an information note to these events and described at

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9. "Domnica Manole explained that by a decision of 2015, the Constitutional Court held that the dissolution of Parliament during the last six months of the President's term in office is permitted if the formation of the Government during three months was impossible. However, the interpretation of 2015 referred only to the situation when the President is elected by Parliament. This interpretation was no longer valid as the President was now elected by the people". Ipn (7 July 2020).
10. Regional Trends Analytics (6 August 2020).
11. See "ODIHR Limited Election Observation Mission Final Report" published by ODIHR on 26 February 2021.

length the developments between the November 2020 presidential election and the dissolution of parliament in April 2021.[12] This led to a political and constitutional crisis in a highly polarised climate, the dissolution of the parliament and eventually the organisation of early parliamentary elections on 11 July 2021.

12. In our note, we had also emphasised the major role played by the Constitutional Court: several questions concerning the interpretation of constitutional provisions were referred to the Constitutional Court by parliamentarians belonging to different political factions. However, on 15 April 2021, when the Constitutional Court, by 3 votes to 2, ascertained that the conditions to dissolve the parliament had been met, the parliamentary majority led by the Party of the Socialists strongly reacted, dismissed the President of the Constitutional Court (and appointed a substitute) and adopted a declaration on the "usurpation of power" by the Constitutional Court. This amounted to an unacceptable attack against the Constitutional Court. The Constitutional Court later declared the decisions of the parliament as unconstitutional, as well as the declaration of the state of emergency (which actually rendered impossible the dissolution of the parliament).

13. On 11 July 2021, early parliamentary elections, based on the proportional system, were organised. The Assembly *ad hoc* election observation committee concluded that the elections were competitive and well run despite the inadequate handling of election disputes and campaign finance issues.[13]

14. These elections brought a new political landscape in the country: for the first time in the history of the Republic of Moldova, a single party, the Party Action and Solidarity, which won 52,8% of the votes, has a large majority in parliament (63 seats out of 101). The opposition comprises 32 MPs from the Electoral Bloc of Communists and Socialists (BCS) and 6 MPs from the Shor Party.

15. The newly elected parliament held its first session on 26 July 2021 and elected Igor Grosu, interim leader of PAS, as President of the Parliament. Natalia Gavriliță was appointed as Prime Minister-designate the following day and her cabinet of 13 minister was sworn into office on 6 August with the support of 61 votes, all from PAS.

2.1.3. Since July 2021, an unprecedented political situation in the Republic of Moldova, with a one-party, stable majority in parliament

16. The results of the presidential election (November 2020) and the early parliamentary elections (11 July 2021) both indicated a clear choice expressed by the voters in favour of eradicating corruption and building efficient and transparent State institutions capable of functioning for the benefit of all.

17. As noted by the Assembly *ad hoc* committee that observed the July 2021 elections, after years of political instability, corruption and scandals, which cannot be uprooted by these early elections alone, these elections have changed the political landscape: "PAS has for the first time won an absolute majority of seats on its own, and it is the first time since 1994 that neither the PSRM nor PCRM have won the most votes or seats. Former PAS coalition partner DA and the Democratic Party of Moldova (formerly connected to oligarch Vladimir Plahotniuc, who fled the country in 2019) are no longer represented in parliament for the first time in over a decade".

18. The new composition of the parliament would hopefully discourage the long-criticised practice of "party hopping", which Assembly monitoring rapporteurs have often described and decried. Our predecessors, Ms Blondin and Mr Vareikis, had noted, with concern, that 25% to 30% of the members of parliament had switched political factions at least once (if not two, or three times) from February 2019 until August 2020, hence confirming a parliamentary practice which was not new.[14] More recently, the first semester of 2020 saw the defection of 16 deputies from the PDM, which eventually led to another political crisis, and prompted the Moldovan Parliament to adopt on 11 June 2020 a declaration condemning party defectors and political corruption in parliament. We discussed this issue during our visit in October 2021, stressing that there was a momentum for the authorities to address the roots of this political migration (or "political tourism") – which resulted from MPs switching political factions for reasons other than ideological – and improve transparency in

12. AS/Mon(2021)08rev.
13. See the joint statement issued by the OSCE/ODIHR, the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), and the European Parliament (EP) and Doc. 15356 "Observation of the early parliamentary elections in the Republic of Moldova (11 July 2021)" rapporteur: Stefan Schennach, Austria, SOC.
14. In December 2015 for example, 14 Communist MPs joined the Democratic Party overnight. No thorough investigation was conducted at that time into allegations of political corruption. AS/Mon(2020)11, op. cit.

public life, in particular to improve transparency in the financing of political parties. This problem had been, in recent years, a chronic source of political instability and has had a nefarious impact on the functioning of the parliament and the trust in electoral processes.

19. A series of actions and reforms were swiftly launched by the newly elected authorities to "cleanse" the system from its corrupt elements and put an end to the "state capture", including by reshuffling the personal:

– A number of heads of governmental agencies (such as the Land Relations and Cadastre Agency, the Interethnic Relations Agency, the State Agency on Intellectual Property institutions, the Public Property Agency or the National Health Insurances Company) and 22 secretaries of state were dismissed on 9 August 2021. The heads of the General Inspectorate of police and the National agency for electronic communication and information technologies were dismissed on 10 August 2021, and the Head of the General Staff of the National Army on 8 September 2021.

– On 30 September 2021, the parliament adopted a law enabling it to evaluate the performance of State institutions under parliamentary control (such as the Competition Council, the National Agency for Energy Regulation, the Audiovisual Council, the National Agency for Solving Complaints and the National Commission of the Financial Market). The law also provided that their managers could be dismissed if they were considered as under-performing.

20. The appointment of new officials in State and judicial institutions – and the speed of this process - raised questions. Some interlocutors deplored that these positions had been allocated to members of the extended family of the new authorities, which could undermine the credibility of the government. We were informed that this is a long-standing issue in the Republic of Moldova, given the traditions and personal allegiances ("cumatrism") prevailing in the country.[15] Appointment procedures were also challenged by the parliamentary opposition: the Bloc of Communists and Socialists decried the nomination of "loyal persons" in the judiciary as well as the appointment of the new Ombudsperson, Ms Moloşag, a former lawyer of Ms Sandu, on 23 September 2021.[16] These concerns were reiterated in Mr Batrîncea's comments.[17]

21. In addition, the newly elected authorities, after major changes that happened in the prosecution office (and notably the suspension and *ad interim* replacement of the Prosecutor General), tackled the question of political corruption linked to oligarch groups:

– The prosecution and arrest of former President Igor Dodon was a major event. He was detained on 24 May 2022 for 72 hours and sent to house arrest. The Supreme Court of justice decided to release Mr Dodon from house arrest on 19 November 2022, with a travel ban of 60 days. Mr Dodon is accused of illicit enrichment,[18] passive corruption, illegal party funding and treason. This is related to the alleged bribery of the then leader of the Democratic Party, Vladimir Plahotniuc, in June 2019 (in the so-called "black bags" case). On 27 June 2022, the Prosecutor General's Office brought additional charges against Igor Dodon in the case of illegal schemes for the purchase of electricity in 2008-2009 through Energocom.[19]

– This adds to the detention, in February 2022, of four former Communist deputies (who had "migrated" to the Democratic Party and the Shor Party) on suspicion of corruption and illicit enrichment, and the request for the lifting of parliamentary immunity of MPs Ilhan Shor and Marina Tauber from the Shor party on 27 May 2022, being accused of money laundering and fraud in the investigation on the "theft of the billion". While Mr Shor is abroad (he fled the country in 2019), Marina Tauber was stripped of her immunity, arrested on 23 July 2022 and detained at the Chisinau remand prison n°13. She was put under house arrest on 14 September 2022. She is charged with "knowingly accepting the financing of the party from an organised criminal group" and "falsifying the report on the financial management of the Shor party".

22. The newly elected authorities have also undertaken to reinvigorate the investigation of the bank scandal which, in 2014, resulted in the theft of one billion dollars from the bank system, which has also impacted the functioning of democratic institutions, undermined their credibility and shed light on the State institutions

15. www.infotag.md/politics-en/295455/. These concerns and critics were also voiced by Mr Batrincea, AS/Mon(2022)26.
16. Ms Moloșag, resigned from her position on 2 December 2021 after being seen several times in public, including at official events organised by the Office of the Ombudswoman, with a citizen whom she had previously defended in court and who was sentenced for pimping in 2017. www.zdg.md/en/?p=8814.
17. AS/Mon(2022)26.
18. On 28 July 2022, the President of the Constitutional Court of the Republic of Moldova requested an *amicus curiae* brief related to the offence of illicit enrichment, prepared jointly by the OSCE/ODIHR and the Venice Commission and adopted at the meeting of the Venice Commission of 21-22 October 2022.
19. Mr Dodon was, at that time, Deputy Prime Minister of Economy and Trade. www.infotag.md/politics-en/301999/.

deficiencies. Since then, the responsibilities have not been clearly established, and the authorities failed to recover the stolen assets. In our previous information note,[20] we had explained that the investigation had been marked by high polarisation, mistrust and allegations of manipulations.

23. On 20 August 2021, the parliament adopted a decision declaring as "unsatisfactory" the activity of the criminal investigation body in investigating the banking fraud and noted "the lack of measurable action and progress in investigating the theft of the billion". The Prosecutor General, Mr Stoianoglo, did not appear at hearings in the parliament but sent a four-page report on the institution's actions in the case. The decision stipulated that the criminal investigation body should create an instrument and an action plan on recovering he stolen money within 30 days. The adoption of this recovery strategy was also crucial for the release of the next trench of the EU macro-financial assistance.[21]

24. The economic crisis triggered anti-government protests. Since 18 October 2022, the Shor Party has been organising regular demonstrations throughout the country. Tents were installed by protesters in front of the parliament and demonstrations took place in front of the Prosecutor General's office. Demonstrations have often led the police to take protesters, including minors, to the police station due to their alleged behaviour. In September 2022, the anti-corruption prosecutor detained 24 people, including members of Shor party, in connection with the alleged illicit financing of the demonstrations and seized about US$181 000 in cash. Other searches were conducted in the following weeks. On 23 October, three journalists were attacked by the protesters, which is to be deplored. On 30 October, the police clashed with the protesters after being prevented from entering the Great National Assembly square. The leader of the party, Ilan Shor (who was convicted in the "billion dollar bank fraud" and has fled the country), called for civic disobedience. The investigative media Rise Moldova reported about alleged support and management of the protesters by the Russian intelligence service and its influence in previous election campaigns.[22] Further to this investigation, the authorities opened an investigation into alleged illegal support of political parties by the Russian authorities.

25. In addition, the Minister of Justice requested the Constitutional Court to establish whether the Shor Party is constitutional. On 17 November 2022, the Interim President of the Constitutional Court requested from the Venice Commission an *amicus curiae* brief on declaring a political party unconstitutional, which was adopted in December 2022. We consider that the manipulation of protests by illegal means or for illegal purposes threatens the stability of the country, and we support the steps undertaken by the authorities to investigate the allegations raised by investigative media. We also invite the authorities to take full account of the findings of the Venice Commission and the well-established case law of the European Court of Human Rights on the freedom of expression and association of political parties when dealing with this question.

26. Restoring the proper and transparent functioning of democratic institutions, "de-oligarchise" the State institutions and address the roots of the "state capture" that has prevailed in the country so far remains an immense challenge, for which there is no ready-made solution. These changes trigger resistance within the system – while the authorities stress that quick changes are needed to cleanse the institutions. However urgent and necessary the reforms might be, the authorities will have nevertheless to ensure that the reforms respect the rule of law and Council of Europe norms, are based on the involvement of the parliamentary opposition and the civil society to ensure good quality laws and lead to sustainable changes.

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20. AS/Mon(2020)11. Moldovan authorities unsuccessfully asked Interpol to issue a red notice on Mr Plahotniuc, a former leader of the Democratic Party who fled the country in June 2019. The Head of the Anti-corruption Prosecutor's Office, Mr Viorel Morari, was dismissed by the new Prosecutor General on 3 December 2019, arrested on charges of abuse of office, forgery of public documents and interference in a criminal investigation (allegedly in order to protect Mr Plahotniuc and his inner circle from the investigation into bank fraud) and released from pre-trial detention under judicial supervision for 60 days on 14 February 2020. The release, on parole, of former Prime Minister Filat in October 2019, came as a surprise (Mr Filat had been sentenced to 9 years in prison for bribery). Based on a decision taken by the European Court of Human Rights on 19 March 2019, stating that Mr Filat (and four others) should be entitled to lodge a new complaint about their detention conditions, a Chisinau court ruled, on 30 July and 12 October 2019, that Mr Filat's prison term should be reduced due to inhuman and degrading detention conditions. The Minister of Justice challenged the legality of this release decision and dismissed the interim director of the National Administration. His successor appealed the decision of the Court to release Mr Filat, who claimed for his part that his release was fully in line with the law, after he had served two thirds of his sentence.

21. The European Union eventually disbursed, on 11 October, €50 million in macro-financial assistance (namely loans at favorable rates), as part of the €3 billion emergency macro-financial assistance package for ten enlargement and neighbourhood countries to help them respond to the economic impact of the Covid-19 pandemic.

22. Rise Moldova. See also The Washington Post (28 October 2022).

2.2. The global and regional environment, and its impact on the functioning of democratic institutions

2.2.1. Management of the Covid-19 pandemic

27. With the outbreak of the Covid-19 pandemic in 2020, the Republic of Moldova faced major economic and sanitary challenges. During the reporting report, the country had to face the consequences of the pandemic, which resulted so far in over 11 000 deaths.[23] As described by our predecessors, a state of emergency was declared in the Republic of Moldova on 17 March 2020 and extended on several occasion. The Secretary General was notified of derogations under Article 15 of the European Convention on Human Rights (STE No. 5) with respect to freedom of assembly and association, the right to education and the freedom of movement.

28. The parliament empowered the "Commission for Emergency Situations" to perform actions necessary to contain, reduce and eliminate the consequences of the Covid-19. As of 16 May 2020, responsibilities regarding Covid-19 restrictions were handed over from the Government State of Emergency Commission to the National Extraordinary Public Health Commission chaired by Prime Minister Ion Chicu.

29. The state of emergency and the crisis management generated some human-rights-related issues. The Ombudsman, Mr Cotorobai at that time, played an active role during the pandemic to draw attention to the protection of children's rights, health workers, etc., and drew attention to the situation in prisons.[24] The Ombudsman undertook to monitor the activity of the Commission for Exceptional Situations and of the local and central public authorities, recalling that the restrictions imposed by the authorities to ensure the population's protection from infection should be necessary, legitimate, reasonable and proportional to the risk or threat to public health.

30. In order to cope with the economic consequences of the Covid-19 crisis and the slowdown of the economy, the Moldovan Government took responsibility, on 1 April 2020, for a bill on a series of economic and social measures to provide assistance to individuals and businesses. This bill was partly challenged by the opposition in the Constitutional Court. On 13 April 2020 the Constitutional Court declared this bill unconstitutional due to a breach of constitutional procedure during its adoption. On 23 April 2020, the parliament adopted a new version of the law and ratified two loan agreements: one with the International Monetary Fund for a loan of US$235 million to the National Bank of Moldova and one with the Russian Federation for a loan of €200 million to the Moldovan Government. The opposition feared that this loan contained obscure provisions that would channel the money towards unnecessary projects that favour Russian companies.[25] Following a complaint lodged by the opposition, the Constitutional Court suspended the law of ratification of the loan agreement with the Russian Federation, and later declared it unconstitutional. The government has re-launched negotiations with the Russian Federation in order to partially cover the budget deficit with this loan.

31. It was reported that the then President Dodon had called the President of the Constitutional Court, Mr Vladimir Turcan, before the examination of the constitutionality of the law on the Russian loan. While the President considered it as part of an inter-institutional dialogue, there was suspicion of pressure being exerted on the Court, which resulted in a vote of no-confidence by the Constitutional Court members, the dismissal of its chair and the election of judge Domnica Manole as new chair.

32. On 22 April 2020, the European Commission decided to allocate €100 million to the country (out of a €3 billion euro macro-financial assistance package to ten countries of the European Neighbourhood Policy) in the form of loans to limit the economic fallout of the Covid-19 pandemic. Following the adoption of the Law on NGOs[26] by the Moldovan Parliament in line with the 2014 Association Agreement, the European Union was also in a position to release part of the EU macro-financial aid (€30 million out of €100 million). The European Union adopted later on an Economic Recovery Plan for the Republic of Moldova, worth €600 million, to continue supporting the country's fight against Covid-19. A first trench of €36,4 millions was disbursed.

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23. Figures of the World Health Organisation, figures as of 19 September 2022.
24. The Ombudsman set up a website focusing on action undertaken during the pandemic.
25. RadioFreeEurope-RadioLiberty (7 May 2020).
26. The new law simplifies the registration of non-commercial organisations and their internal organisational structure, sets clear limits on the relations between NGOs and political parties, institutes the framework legislation on the financing and supporting of NGOs by the State or clarifies the fact that NGOs cannot support those running in elections but can promote elections, organise debates and monitor the election campaign and the elections in the conditions stipulated by the Election Code.

33. These sanitary conditions added to the economic challenges and the energy crisis that the country faced late 2021. Despite the renewal of the contract with Gazprom in October 2021, the price of the gaz increased from US$457 per 1000 m3 in October 2021, and then to US$1200 in April 2022.[27] This led to an economic crisis, prompted the state to declare a State of emergency to cope with the energy crisis and diversify its energy supplies to cope with the "inadmissible weaponisation of the gas supply from Russia in order to put political pressure on the Government of Moldova to change its geopolitical orientation", as the European Parliament described it.[28]

2.2.2. Impact of the Russian aggression against Ukraine and the subsequent refugee crisis

34. The outbreak of the war in Ukraine on 24 February 2022 has triggered important challenges which we could discuss with the authorities, which added to the energy crisis and the management of the Covid-19 pandemic, which disrupted economic co-operation with neighbouring Ukraine and resulted in high inflation rates (about 30%, the highest in the region) which directly affect the population.

35. One of the consequences of the war was the massive arrival of refugees from Ukraine, which has been described in detailed by the Special Representative of the Secretary General on Migration and Refugees, Ms Kayacik.[29] Since 24 February 2022, over 700 000 refugees entered the Republic of Moldova. Over 96 000 of them are registered in the country.[30] Half of them are children, and around 90% of these refugees are hosted by over 10 000 local families, mainly in the area of Chisinau. 3 600 refugees are third-country nationals. The Special Representative of the Secretary General recalled that the Republic of Moldova has the second largest border with Ukraine (1 222 km, of which 453 km are not under the control of the Moldovan constitutional authorities) and is the neighbouring country that has received the largest number of refugees from Ukraine in relation to its population size (under three million).[31]

36. This poses a major logistical challenge for the authorities, notwithstanding the issues related to human rights and education of children. On 24 February 2022, the parliament declared a state of emergency for 60 days (which has been extended since then and is still in vigour), empowering the Commission for Exceptional Situations to issue provisions and directives to regulate the movement into and within the territory and manage the migration flow.[32] The parliament also adopted relevant legislation to manage the migration crisis as well as the hike of registration of asylum (8 000 since the outbreak of the war, compared to previous annual average of 100).

37. This situation has put a considerable strain on the State administration, which has handled it remarkably. The country had previously prepared a contingency plan and showed strong solidarity and resilience. Given the volatility of the regional context, the country is now preparing, as a matter of priority, a contingency action plan at national level, for around 500 000 more people arriving from Ukraine, with possibly half of them that may stay in the Republic of Moldova.[33] While the country had deployed extraordinary efforts to welcome people fleeing war in Ukraine, Ms Kayacik stressed the need for additional resources and expertise to build long-term solutions for the women, children, elderly and persons with disabilities currently in the country, as certain facilities were not meant to accommodate refugees for longer periods. She also suggested ten actions, including the adoption of a specific legal framework on the status and protection of refugees from Ukraine, the prevention and detection of human trafficking and violence against women in all their forms, the protection of unaccompanied and separated children arriving from Ukraine and the promotion of an inclusive education system seeking to sustainably integrate children arriving from Ukraine with local children.[34]

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27. The government directly subsidised the tariff for consumers with MDL 1.1 billion during the cold period (five months until April 2022), which was largely covered by € 60 million in grants from the EU. The question of the old gas debts that Gazprom claims against Moldova (about US$700 million) and the Transnistrian region (about US$7 billion), remains unresolved for the time being. In Opinion on Moldova's application for membership of the European Union, by Michael Emerson / Denis Cenusa / Steven Blockmans / Tinatin Akhvlediani, Centre for European Policy Studies (CEPS) Policy Insights No. 2022-18 / May 2022.
28. European Parliament Resolution of 19 May 2022 on the implementation of the EU Association Agreement with the Republic of Moldova (2021/2237(INI)), para. 20 (Rapporteur: Dragoş Tudorache).
29. Report of the fact-finding mission to the Republic of Moldova by Ms Leyla Kayacik, Special Representative of the Secretary General on Migration and Refugees, 13-14 June 2022, published on 16 September 2022, SG/Inf(2022)33.
30. UNHCR figures, as of 29 November 2022.
31. Ibid.
32. Ibid. See para. 27-29 and footnotes 18 and 19.
33. Ibid, para. 24.
34. Ibid, para. 142.

38. In addition to the refugee crisis, the war in Ukraine has raised new security issues. In the Transnistrian region of the Republic of Moldova, there are 1 700 Russian soldiers, operating in peacekeeping operations or guarding the ammunition depot at Cobasna with 20 000 tons of Soviet-era ammunition. After the Russian aggression, there were unexplained explosions in Tiraspol in April 2022 and sophisticated bomb threats in the Republic of Moldova linked to the conflict in Ukraine.

39. Statements made by Russian officials or *de facto* authorities in Tiraspol have also added additional security concerns : on 22 July 2022, the *de facto* Transnistrian "Minister of Foreign Affairs" (and Tiraspol's Chief Negotiator in the 5+2 conflict settlement), Mr Ignatiev, announced that he would seek Transnistria's annexation to Russia, what the Deputy Prime minister for Reintegration of the Republic of Moldova, Mr Serebrian, said was a provocation and "may be a prelude to a pro-Russian military operation against Moldova". On 31 August 2022, the Russian Minister of Foreign Affairs, Mr Lavrov, asserted that Moscow is monitoring the situation and offered assurances that Russia intends to protect the interests of the ethnic population of Moldova, both from [the Transnistrian region] and Gagauzia.[35] Early September 2022, Leonid Slutskiy, Chairman of the Russian State Duma Standing Committee for International Affairs stated that, "Transnistria belongs to Russia". This statement was deemed by Deputy Prime Minister Serebrian as "unacceptable, inadmissible and raising alarming questions in the context of the provisions of Article 5 in the Treaty of Friendship and Cooperation between the Republic of Moldova and the Russian Federation of November 19, 2001" which stipulates that "each of the contracting parties shall refrain from any action that can prejudice the other contracting party, its sovereignty, independence and territorial integrity".[36]

40. The partial mobilisation of Russian citizens decided by President Putin has also raised concerns about the possible mobilisation of Moldovan citizens holding dual nationality (up to 200 000 in the Transnistrian region). President Sandu was considering the possibility to withdraw the Moldovan nationality from persons also holding Russian nationality and who will fight on the behalf of the Russian Federation or impose harsher penalties against Moldovan citizens who would promote the war.[37] The fate of Moldovan citizens currently residing in the Russian Federation is also closely monitored by the Moldovan authorities.

41. The security concerns of the country became even more acute on 31 October 2022, when a missile shot down by the Ukrainian anti-aircraft system fell near the town of Naslavcea, at the border with Ukraine. Fortunately, no casualty was reported. In November 2022, bombing of energy infrastructures in Ukraine by Russia led to massive energy cuts. The haking of the Telegram accounts of the President of the Republic, the Deputy Prime Minister, the Minister of Justice, the Head of the police adviser and a presidential adviser early November added to the security threats experienced by the country.

2.2.3. Membership application of the Republic of Moldova to the European Union

42. Following the outbreak of the war, the Moldovan authorities[38] applied on 3 March 2022, together with Ukraine and Georgia, to the European Union. On 16 June 2022, the European Commission recommended providing the status of candidate country to the Republic of Moldova, which was accepted by the European Council of the European Union on 23 June 2022.

43. Since then, a National Commission for European Integration was created, and adopted an action plan for meeting the conditions linked to Moldova's status as EU candidate country. This Commission comprises, among others, the Bashkan (Governor) of Gagauzia and the Speaker of the People's Assembly of Gagauzia, as well as the director of the Congress of local authorities of Moldova and other civil society representatives. The plan includes actions that should be carried out to advance Moldova's accession process, including in the field of justice reform, fight against corruption, improving the electoral legislation, de-oligarisation and strengthening the fight against organised crime and asset recovery, strengthening the capacity of public administration and managing public finances, involvement of civil society in decision-making processes, as well as strengthening the protection of human rights and combating gender-based violence.[39] The road to the European Union will be long, however, the "European perspective" offered by the European Commission is a strong political signal for the country.

44. Considering the current regional context, the grant of the EU candidate status is also a response to the country's quest for security, including democratic security. It is also in line with the choice of the voters expressed in November 2020 (when they elected pro-European President Sandu) and in July 2021, with a

35. Moldovalive (31 August 2022).
36. Infotag (09 September 2022).
37. Ipn (26 September 2022).
38. Namely President Maia Sandu, the Speaker of the Parliament Igor Grosu and the Prime Minister Ms Gavrilița
39. Moldpres (4 August 2022).

clear majority given to the PAS and its pro-European and pro-European Union agenda. The war in Ukraine has accelerated the Republic of Moldova's path to the European Union, which has already been initiated with the signing of the Association Agreement in 2014.

2.3. Progress in the field of gender equality and fight against violence against women

45. The early parliamentary elections of July 2021 led to significant progress in the field of women's participation in public life: there is now a better representation of women in parliament (with 39,6% of female MPs[40]). Ms Maia Sandu was the first woman elected President of the Republic, and Ms Natalia Gavriliță the first woman appointed Prime Minister. The government comprises 4 women (Interior, Health, Environment, and the Bashkan of Gagauzia) out of 16 members. This progress is unprecedented in the history of the Republic of Moldova and should inspire other countries in Europe. We also welcome the creation, in June 2022, of a women caucus in the Moldovan Parliament to further consolidate women's rights in the country.

46. Another major achievement was the ratification of the Convention on preventing and combating violence against women and domestic violence (CETS No. 210, "Istanbul Convention") on 31 January 2022.[41] The Convention had been signed in 2017, but the fight against domestic violence and violence against women was an issue highly debated in society, and instrumentalised by some political parties and churches.

47. The ratification law adopted by the parliament on 14 October 2021 had been challenged by the Socialists. The Constitutional Court has subsequently asked the Venice Commission to assess "the constitutional implications of Articles 3 (c) [gender], 14 [education], 28 [reporting by professionals] and 42 [unacceptable justifications for crimes, including crimes committed in the name of so called "honour"] of the Istanbul Convention on the right of the parents to educate their children according to their own religious beliefs and on the concept of the family".

48. In its *amicus curiae* brief of December 2021,[42] the Venice Commission recalled that the Istanbul Convention did not seek to impose a certain lifestyle or interfere with the personal organisation of private life; instead, it sought only to prevent violence against women and domestic violence. In addition, "the Convention does not seek to regulate family life and/or family structures: it neither contains a definition of 'family' nor does it promote a particular type of family setting".[43] The Venice Commission concluded that it had found no incompatibility of the above-mentioned provisions of the Istanbul Convention with the Moldovan Constitution. On 17 January 2022, the Constitutional Court thus declared the application as inadmissible. Ms Manole, President of the Constitutional Court, notably stated that "the Istanbul Convention does not oblige the States to legalise same-sex marriages. Consequently, the Istanbul Convention does not contradict the national constitutions that define marriage as a union between a woman and a man".[44]

49. The ratification of the Istanbul Convention is a major advancement for the protection of human rights in the Republic of Moldova, which is now among the forerunners in the region: as of 26 September 2022, among the Eastern Partnership countries, only Georgia (2017) and the Republic of Moldova (2021) have ratified the Istanbul Convention.[45] The country submitted on 3 October 2022 its State report to the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), which should carry out its fact-finding visit to the country in 2023.

50. We also welcome the adoption on 17 November 2022 of Law 316/2022 for the amendment of some normative acts (ensuring the rights of victims in the case of crimes related to sexual life and family violence) and the ongoing work on the preparation of action plans on gender equality and on preventing and combating domestic violence and violence against women. We encourage the authorities to continue to bring their legislation into line with European standards, in co-operation with the Council of Europe and its co-operation project aimed at "Supporting the implementation of the Istanbul Convention in the Republic of Moldova".

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40. Ipu Parline.
41. Statement by the co-rapporteurs (14 October 2021).
42. *Amicus curiae* brief for the Constitutional Court on the constitutional Implications of the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), adopted by the Venice Commission at its 129th Plenary Session (Venice and online, 10-11 December 2021) CDL-AD(2021)044-e
43. CDL-AD(2021)044-e, para. 19, citing a 2018 press release of the Council of Europe, "Ending misconceptions about the Convention on Preventing and Combating Violence against Women and Domestic Violence".
44. www.ipn.md/en/constitutional-court-rejects-application-concerning-istanbul-convention-7967_1087218.html
45. As of today, the Istanbul Convention counts 37 ratifications and 8 signatures: CETS No. 210.

2.4. Reform of the Electoral Code

51. The electoral framework has been much discussed. We recalled that the country had introduced, against the recommendation of the Venice Commission, a mixed electoral system for the 2019 parliamentary elections, before returning to a proportional system for the July 2021 elections. While the Assembly election observers noted that the legal electoral framework provided an adequate basis for the conduct of democratic elections "if applied in good faith", they pinpointed several issues where improvements were needed, including legal provisions dealing with complaints and appeals, campaign finance oversight, number and location of polling stations abroad and media coverage.[46]

52. In the meantime, the authorities have launched a comprehensive reform of the Electoral Code, accelerated by the request of the European Commission, in June 2022, that steps are taken, *inter alia*, to "address the shortcomings identified by the OSCE/ODIHR and the Council of Europe/Venice Commission" to be granted the status of candidate country. A draft electoral code was prepared by the Central Electoral Commission (CEC)[47] following a process that, according to the Venice Commission, "appears to have been consultative and inclusive so far".[48] It introduces a considerable number of changes, including those related to the composition of the election management bodies, conduct of the election campaign, regulation and supervision of campaign financing, voting rights including voting abroad and the rules on various types of referendums. It was adopted, in the first reading, by the parliament on 28 August 2022.

53. At the request of the Speaker of the Parliament of the Republic of Moldova, Mr Igor Grosu, the OSCE/ODIHR and the Venice Commission adopted in October 2022 a Joint Opinion on the draft electoral code.[49] The Venice Commission noted that the draft code included a number of welcome developments "to clarify the procedures for voting abroad, strengthening of the campaign funding regulations and the CEC's mandate to engage in meaningful control and supervision of political and campaign financing, and increasing the capacity of district councils by making the position of their chairpersons permanent". The code fulfilled most of previous recommendations by OSCE/ODIHR and from ODIHR and Council of Europe observation reports – including recommendations made by Assembly observers – such as introducing a rule that the most important aspects of election law may not change within a year of elections; prohibiting the organised transportation of voters by political parties on election day or defining and clarifying what constitutes campaign coverage in the broadcast media.

54. The Venice Commission issued a number of key recommendations, notably to clarify the provisions providing for a two-day voting (which is a novelty), specify the grounds allowing the dismissal of members of the CEC, the de-registration of candidates or specify the exhaustive list of circumstances which could lead to the de-registration of political parties. It also raised some questions about the proposed composition of the CEC. Other recommendations refer to the need to elaborate (or make a reference) to the election processes held in the Autonomous Territorial Unit of Gagauz-Yeri, define more precisely symbols that are not permitted in campaigns or review the eligibility requirements for standing for president of the Republic and mayors, or retain the possibility that the ballot papers and the other relevant voter information are produced in both Romanian and the languages spoken by national minorities. The Venice Commission also recalled that the adoption of electoral codes should be based on a large political consensus.[50]

55. Some parliamentary and extraparliamentary opposition parties expressed their dissatisfaction with the the draft code and challenged in particular the electronic vote.[51] In his comments to the preliminary draft report, Mr Batrîncea also challenged the appointment procedure of member of the electoral bodies, the status of the current members (appointed in 2022) and the modalities entrusting the CEC to decide to hold the vote over two-days, which would fail to provide equal [voting] rights for all citizens of the country.[52]

56. The parliament adopted on 9 December 2022, in a third and final reading, the Electoral Code. Due to lack of time, we were not in a position to thoroughly analyse the Electoral Code as revised and adopted. We noted that the composition of the CEC was changed and that elections could be held over two days (Saturday

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46. Doc. 15356 "Observation of the early parliamentary elections in the Republic of Moldova (11 July 2021)", rapporteur: Mr Schennach (Austria, SOC).
47. See the Draft electoral code of the Republic of Moldova, 26 September 2022, CDL-REF (2022) 036.
48. Joint opinion on the draft electoral code approved by the Council for Democratic Elections at its 74th meeting (Venice, 20 October 2022) and adopted by the Venice Commission at its 132nd Plenary Session (Venice, 21-22 October 2022), CDL-AD(2022)025-e.
49. Id.
50. Id.
51. www.infotag.md/politics-en/303302/.
52. AS/Mon(2022)26.

and Sunday) in exceptional situations (such as pandemic, state of emergency, in some constituencies) by way of derogation from the general rule to be decided by the CEC at least 25 days before the election day. We await further information to be in a position to assess the adopted version of the Electoral Code. We regret however that it could not be adopted on the basis of a broad political consensus engaging all political forces represented in the parliament. We therefore call on all stakeholders to implement the Electoral Code taking into account the existing and future recommendations issued by the Venice Commission to ensure that the election process will be conducted in line with the European standards governing free and fair elections.

2.5. The Autonomous Territorial Unit of Gagauzia (Gagauz-Yeri)

57. During our visits to the country, we looked into the situation of the Autonomous Territorial Unit of Gagauzia (ATUG), a region of 85 sq.km and about 135 000 inhabitants (according to the 2014 census), nearly 84% of them declaring themselves as Gagauz.[53] This region aspired to independence in December 1991. A peaceful solution was then negotiated over two years, which led the Moldovan Parliament to adopt Law No. 344-XIII of the Republic of Moldova on the Special Status of Gagauzia, on 23 December 1994. As regards the hierarchy of legislation in Gagauzia, the Moldovan Constitution is followed by the Law on the Special Status of Gagauzia, the Legal Code of Gagauzia and, finally, Gagauz laws adopted by the People's Assembly of Gagauzia.

58. As highlighted by our predecessors, there are a number of long-lasting issues and demands from the ATUG authorities which have not been addressed, including the need to harmonise the Moldovan and Gagauzian legislation. A working group (set up in 2015) was re-established in the Moldovan Parliament after the July 2021 parliamentary elections to tackle this issue and resumed its activities in March 2022.[54] Other demands for more autonomous bodies have been made by the ATUG authorities, including in the field of the justice system, the Electoral Code, or the parliamentary representation of the Gagauz population: ATUG deputies have recently proposed an amendment to the Electoral Code of Moldova and demanded that five seats in the parliament be reserved for deputies representing Gagauzia.[55]

59. During our visits, we had meetings with Ms Irina Vlah, the Bashkan of the Autonomous Territorial Unit of Gagauzia, who was re-elected, in the first round, for a second (and last) 4-year mandate in July 2019.[56] The Bashkan is an *ex officio* member of the government.

60. The Bashkan emphasised, in October 2021, the need to improve the socio-economic conditions of the Moldovan people in the first place, to fight early drop out from school, increase job opportunities, improve access to and command of the Romanian language, and build economic partnerships to prevent young, educated people from leaving the country. She regretted the lack of dialog with the new Moldovan leadership, the lack of consultation when the authorities decided to request membership to the European Union, her exclusion from the National Security Council and from the inaugural ceremony of the President, and the abrogation of the *ex officio* membership of the Prosecutor General from Gagauzia from the Superior Council of Prosecutors. She also informed us about the need to protect national minorities and the use of the three official languages in ATUG (Romanian, Russian and Gagauz), as well as the need to reinforce the learning of the Romanian language.

61. Regional elections of the People's Assembly took place on 19 September 2021 (they were not observed by the Congress of local and regional authorities, due to the sanitary situation). The recent months were marked by a struggle between the Bashkan and the People's Assembly, which is trying to expand its power at the expense of both the central government in Chisinau and Irina Vlah, whose second (and last) term expires in June 2023 (the election of a new Governor is scheduled on 30 April 2023).

62. In her meeting with Ms Vlah on 25 November 2021, President Sandu urged the ATUG representatives to support the reforms in the country, especially in the field of justice and the fight against corruption, and not to restrict the democratic freedoms of citizens. The President announced that she would visit Gagauzia as soon as the process of setting up the working bodies of the newly elected regional assembly was completed.[57] President Sandu visited Comrat in September 2022, called on the preservation of interethnic

53. National Bureau of Statistics of the Republic of Moldova.
54. Regular meetings of the Working Group are facilitated by the CMI – Martti Ahtisaari Peace Foundation in the framework of the "Gagauzia Dialogue" project, funded by Sweden, which provides expertise and good offices to the dialogue process.
55. De facto States Research Unit.
56. Ms Vlah's mandate will expire in June 2023. The elections of the new Governor are scheduled on 30 April 2023.
57. Presidency of the Republic of Moldova.

peace and of the Gagauz culture, and announced the launch, in 2023, of a national programme to learn Romanian. She also acknowledged that the (wide) powers of the Autonomous Unit needed to be regulated and brought in line with the legislation, which remained a laborious process.[58]

63. The relations between Chisinau and Comrat became more difficult against the backdrop of Russia's aggression against Ukraine:

– While the Moldovan Parliament had adopted, on 7 April 2022, a law against the use of war symbols and of the Ribbon of Saint George (see below) signed by President Sandu, the deputies from the People's Assembly unanimously adopted a law entitled "On the Symbols of Victory in the Territory of Gagauzia", permitting symbols associated with the Great Patriotic War to be flown in Gagauzia (thus excluding the "Z" symbol). This law was signed by the Bashkan. The Comrat Appellate Court quickly suspended the new law passed by the People's Assembly because it violated the Moldovan law. In defiance of Chisinau's authority, the People's Assembly organised an emergency session the night before Victory Day and once again voted in favour of a law that legalised the use of the Ribbon of Saint George in Gagauzia.[59]

– Deputies of ATUG regional assembly also adopted anti-LGBT legislation, which bans the organisation of any form of pride parade in Gagauzia. days after it was announced that several LGBT events would take place in Chisinau in June 2022 to mark International Day against Homophobia, Transphobia, and Biphobia. Igor Grosu, Speaker of the Moldovan Parliament, criticised the new law.[60]

– Earlier this year, while the Moldovan authorities were coping with the energetic crisis and the increase of gaz price, a delegation from the ATUG undertook, in January 2022, to travel to Moscow in order to negotiate preferential gas prices.

64. Against the backdrop of the Russian aggression against Ukraine, the relationship between Chisinau and Comrat have remained difficult, with decisions taken by the People's Assembly obviously defying the State institutions. Nevertheless, we welcome efforts to contribute to better dialog, including the inclusion of the Bashkan in the newly created National Commission for European Integration, or the plan to launch a programme for the learning of the Romanian language. At the same time, it is important to support the work of the parliamentary group, which could be a forum to discuss contentious and long-lasting issues that should be solved in a legal way.

3. Rule of law

3.1. Reform of the judiciary

65. The judicial system has long-standing issues[61] which have been a matter of concern for the Assembly for many years.[62] The International Commission of Jurists had even depicted the judicial system in 2019 as "only an empty shell", meaning endemic corruption, political control, selective justice, lack of judicial integrity and improper application of the law. This was also reflected in the low level of trust in the judiciary: according to a Public Opinion Barometer of June 2021, over 65% of the Moldovan population did not trust the judiciary.[63]

66. The Assembly also highlighted, in January 2021, its concerns with respect to the independence of the judiciary. In its Resolution 2359 (2021), it noted that "several attempts to reform the judiciary have not been successful and that corruption, including within the circles of the judiciary, remains a widespread phenomenon in this country". It called on the Moldovan authorities to "continue the reform of the judiciary, the Superior

58. Speech by the President of the Republic of Moldova, Ms. Maia Sandu, in front of students and teachers of the Comrat State University, 2 September 2022.
59. De facto States Research Unit.
60. Id.
61. In a study on the "Role of civil society in advancing the rule of law and justice sector reform" (2018-2021) carried out by the NGO Invento, 39% of respondents, when asked what criteria the current authorities are guided by when making personnel changes, said that appointments are based on cumatrism, namely kinship with government officials. Another 24% believe that appointments are based on political criteria (depending on membership in the ruling Party of Action and Solidarity (PAS) or whether the candidate represents the interests of this party). Only 22% believe that appointments are based on professional merit. This study was carried out in partnership with Freedom House, within a project implemented with support from the US Department of State's Bureau of International Narcotics and Law Enforcement Affairs. Ipn (21 September 2022).
62. See PACE Resolution 2359 (2021) "Judges in Poland and in the Republic of Moldova must remain independent".
63. Public Opinion Barometer | Republic of Moldova (ipp.md).

Council of Magistracy and the prosecution service in line with the recommendations of Council of Europe organs and bodies" and "take the necessary steps to implement the new strategy for reform of the judiciary". It called on the Moldovan authorities to "prioritise the issue of the evaluation of judges and prosecutors and make full use of the procedures already available for ensuring the integrity of the judiciary" and to "significantly step up their efforts to combat corruption among judges and prosecutors" by implementing the GRECO recommendations.[64]

67. As a matter of fact, since June 2019, successive governments focused on the reform of the judiciary and the prosecution office. In particular the Supreme Council of Magistracy was at the centre of a legal battle, which prompted the President of the Venice Commission to call on the Moldovan institutions to work together to ensure the independence and integrity of the judiciary.[65] The reform of the judicial system intensified after the parliamentary elections of July 2021, as the new majority vowed to "cleanse" it from its corrupt elements.

68. A positive element, throughout these past years, was the intensive co-operation of the Moldovan authorities with the Council of Europe Secretary General's High Level Working Group, which resulted in the adoption of the strategy for justice reform and the preparation of an action plan. Co-operation also continued with the Venice Commission on the reform of the Supreme Council of Magistracy, the Prosecutor's Office, the Supreme Court of Justice and amendments to the law on the Constitutional Court.

69. We would like to attempt to summary the main action undertaken to reform the judiciary, while some of these issues have been described in detail in our previous information notes, following the visits we paid to the country.

3.1.1. Adoption of constitutional amendments to de-politicise the judiciary

70. One of the key issues was the revision of the constitution, in order to de-politicise the judiciary. The Venice Commission assessed the draft constitutional amendments which had been in preparation since 2018.[66] In its June 2020 opinion, the Venice Commission found that the draft constitutional amendments proposed "could improve the independence, accountability and efficiency of the judiciary. The amendments are generally positive and in line with the applicable international standards".[67] The Venice Commission also drew attention to the renewal of the lay composition of the Superior Council of Magistracy upon the entry into force of the constitutional amendments, expected to take place at the beginning of 2021, according to the new rules requiring a 3/5 qualified majority in parliament for their election – suggesting that the transitional provision should allow the lay members appointed in March 2020[68] to apply again.[69]

71. The constitutional amendments were adopted in their final reading on 23 September 2021 by a large majority (86 MPs were in favor, the Shor MPs abstaining) after several consultations with the Venice Commission[70] and took effect on 1 April 2022. We welcomed this constitutional revision based on a large

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64. Resolution 2359 (2021), op. cit., para. 10.1-10.3.
65. Statement by Mr Gianni Buquicchio, President of the Venice Commission, of 27 November 2019: "President of the Venice Commission calls on the institutions to work together to ensure the independence and integrity of the judiciary".
66. "On the draft law on amending and supplementing the Constitution with respect to the Superior Council of Magistracy" (CDL-AD (2020)001) ("the March 2020 Opinion") and "On the revised draft provisions on amending and supplementing the Constitution with respect to the Superior Council of Magistracy" (CDL-AD(2020) 007) ("the June 2020 Opinion").
67. See the Joint interim Opinion of October 2019 (CDL-AD(2019)020), followed by the Joint opinion on the revised draft provisions on amending and supplementing the Constitution, with respect to the Superior Council of Magistracy, adopted by the Venice Commission on 18 June 2020 by a written procedure replacing the 123rd Plenary Session, CDL-AD(2020)007.
68. On 17 March 2020, with 55 votes from the Socialist Party and the Democratic Party, the Moldovan Parliament appointed four law professors as members of the Superior Council of Magistracy. Recent nominations made by the Council raised questions, however, such as the appointment of judge Vladislav Clima as head of the Court of Appeal – he had headed the panel of judges that invalidated the local elections in the capital city Chisinau in 2018, won by the opposition candidate Mr Andrei Nastase – or the nomination of Ms Nadejda Toma as vice-chairperson of the Supreme Court of Justice, as well as Ms Tamara Kishke-Doneva, whose reputation was challenged by the Minister of Justice.
69. The constitutional amendments were adopted after the law regulating the composition of the Superior Councils of Magistracy and Prosecutors and entered into force in April 2022. The mandate of some members of the Superior Council of Magistracy had expired by then.
70. The Venice Commission adopted opinions on these draft amendments in March 2018 (CDL-AD(2018)003), in March 2020 (CDL-AD(2020)001), in June 2020 (CDL-AD(2020)007) and issued in December 2020 an urgent joint *amicus curiae* brief requested by the Moldovan Constitutional Court on three legal questions concerning the mandate of members of constitutional bodies (CDL-AD(2020)033).

consensus and agreed by the major political parties. The amendments have changed the election and appointment of members of the Superior Council of Magistracy and the Superior Council of Prosecutors and were a major progress in the reform of the judiciary.

72. Later the Venice Commission was asked by the authorities to assess the draft Law "on Amending Some Normative Acts" (Judiciary) that should bring the legislation on the judiciary in line with the 2022 constitutional amendments.[71] The Venice Commission assessed, on 17 June 2022, the draft Law "positively and in line with the applicable European standards" while making additional recommendations to improve it. The Venice Commission notably welcomed the removal of the probationary periods for judges, the unification of judicial appointment procedure which excludes involvement of parliament and the shifting of the power of appointment of court presidents and vice-presidents to the Superior Council of Magistracy.[72]

3.1.2. Reform of the Superior Council of Magistracy

73. The adopted constitutional amendments have changed the appointment of judges and the composition and selection of the Superior Council of Magistracy (SCM): the initial appointment period of five years in the case of judges was abrogated; the President can reject the candidates proposed by the SCM only once. Judges will no longer enjoy general immunity, but only functional immunity and the judges of the Supreme Court of Justice will be named in the same way as the judges of common law and appeals courts, by the President, upon a proposal from SCM. The Prosecutor General and the Minister of Justice are excluded from the composition of SCM, that will consist of six members from among judges and six lay members, selected by the parliament. The amendments introduce a constitutional requirement for a qualified majority of MPs for the election of lay members of the SCM and include a reference in the Constitution to the anti-deadlock mechanism in case parliament fails to reach the qualified majority.

74. The amendments also provide that the General Assembly of Judges will elect six judges to be members of the SCM (four from first-tier courts, one from an appellate court and another one from the Supreme Court of Justice). Candidates for the position of judge-members are now required to have at least three years' experience on the bench and no disciplinary sanction in the last three years. The SCM will also comprise three lay members appointed by the parliament, and three *ex officio* members (namely the Ministry of justice, the Prosecutor General and the President of the Supreme Court of Justice) despite a negative opinion of the SCM, which had recommended to exclude the Prosecutor General and the Ministry of Justice from *ex officio* position to ensure the depolitisation and independence of the judiciary.

3.2. Prosecution office

75. In the context of dismantling the "captured state", the selection procedure of the Prosecutor General (PG) and the organisation of the prosecution office are a crucial issue. Amendments to the Law on the Prosecutor's Office had been adopted in July 2019 and September 2019, introducing a new procedure for the appointment of an interim PG pending the selection of a permanent one, a new composition of the Superior Council of Prosecutors and a new procedure for both the appointment and the dismissal of the PG. A group of MPs contested the constitutionality of these amendments. The Constitutional Court sought guidance from the Venice Commission, which adopted its *amicus curiae* briefs in December 2019.[73] In the meantime, the appointment of the Prosecutor General triggered a major political crisis and resulted in a no-confidence vote and the fall of Ms Sandu's government in November 2019 (see above).

76. After the July 2021 elections, amendments to Law n°3/2016 on the Public Prosecution Service were swiftly adopted by the parliament in August 2021. The amendments reorganised the Superior Council of Prosecutors, introduced new mechanisms of accountability of the Prosecutor General and reduced the retirement age for the members of the Superior Council of Prosecutors to 65 years. The amendments also introduced mechanisms of *ad hoc* performance evaluations of the PG and provided for a mechanism of dismissal of the PG for a disciplinary violation. In its opinion of December 2021, the Venice Commission criticised the swift adoption of the amendments "during the period of summer holidays, without proper

71. In respect of the Organisation of Judiciary, the Status of Judges, the Superior Council of Magistracy, the Supreme Court of Justice and the disciplinary liability of judges. Opinion of the Venice Commission on the draft Law "on Amending Some Normative Acts" (Judiciary) adopted on 17-18 June 2022, CDL-AD(2022)019.
72. CDL-AD(2022)019.
73. *Amicus curiae* brief (CDL-AD(2019)034) on the Law on the Prosecutor's Office, adopted by the Venice Commission at its 121st Plenary Session (Venice, 6-7 December 2019).

deliberations in Parliament or a meaningful public discussion" and called for changes in the law with respect to the procedure of "performance evaluation" of the Prosecutor General, the composition of such Evaluation Commission, as well as the conditions related to the suspension or dismissal the Prosecutor General.[74]

3.2.1. Reform of the Superior Council of Prosecutors

77. The composition of the Superior Council of Prosecutors (SCP) had already been modified in 2019 and the number of members had then been increased from 12 to 15. The amendments adopted in August 2021 again reduced the number of SCP members to 12,[75] excluding the former three *ex officio* members (namely the Prosecutor General, the Chief Prosecutor of the ATUG Prosecutor's office and the President of the Bar Association), while the Minister of Justice, the President of the SCM and the Ombudsman remain *ex officio* members, and providing a new balance between prosecutorial and lay members in the SCP.

– The Venice Commission pointed out that the SCP composition has been changed twice since 2019. It warned that "such frequent changes may give the impression that each respective parliamentary majority tried to change the balance of power in the SCP in its favour" and thus suggested regulating this issue in the Constitution "to reduce the risk of such arbitrary changes", and to require "a qualified majority of votes for such important changes in the rules on the SCP".[76] Likewise, the amendments providing for a new retirement age of 65, have, as a matter of fact, enabled the early termination of the mandate of one SCP member [Mr Pulbere] who had been appointed by the previous President and under the previously existing rules. The Venice Commission considered that the issue of early termination of the mandate of SCP members should also be regulated by the Constitution and "the legitimate expectation of the members to finish their mandate should not be perturbed without very serious reasons".[77]

– The Venice Commission invited the authorities of the Republic of Moldova to consider returning the Prosecutor General to the SCP as an *ex officio* member (with a corresponding adjustment of the composition of the SCP, if necessary) and, concerning the exclusion of the Chief Prosecutor from Gagauzia from the SCP, suggested that the law might provide that one of the prosecutors elected by their peers should come from Gagauzia. The Venice Commission noted however that the prosecutors elected by their peers (namely 5 out of 12) remain a "substantive part" of the SCP (in line with Venice Commission recommendations), and the new composition of the SCP remains pluralistic enough "to ensure that neither of the three groups (prosecutors, lay members, or *ex officio* members) can govern alone".[78]

– The participation of the Minister of Justice in the SCP as *ex officio* member contradicts the recommendations issued by GRECO in 2020 which had recommended abolishing the *ex officio* participation of the Minister of Justice and the President of the Superior Council of Magistracy to provide appropriate guarantees of objectivity, impartiality and transparency.[79] The Venice Commission has adopted a more nuanced position, and found that "the participation of the PG in the SCP is not objectionable if the PG has no voting rights or if the prosecutorial members in the reformed SCP remain in the minority, even together with the PG".[80]

78. On 21 January 2022, the parliament adopted additional amendments to the Law on Prosecutor's Office which regulate the selection and appointment procedure of the Prosecutor General and heads of specialised prosecutor's offices. The law provides for the establishment of an independent commission, composed of five members (one nominated by the Ministry of Justice, one by the Moldovan President, and three by the SCP). The special commission will organise interviews, will verify the integrity of candidates and submit the full list of

74. CDL-AD(2021)047-e. The Venice Commission examined those amendments only *ex post*, when they have been made into the law and implemented, and, in particular, when some of the members of the SCP had already been replaced. (See also CDL-AD(2022)018).
75. The SCP is now composed of 5 prosecutors elected by the General Assembly of Prosecutors, 4 members among civil society organisations, appointed by respectively the President, the Government, the Parliament and the Science Academy and the three *ex officio* members (President of the Superior Council of Magistracy, Minister of Justice and the Ombudsman).
76. CDL-AD(2021)047-e, para. 103.
77. Ibid., para. 60 and 105.
78. Ibid., para. 104.
79. GrecoRC4(2020)9, para. 70, Second Compliance Report of the Fourth Evaluation Round on Prevention of corruption in respect of members of parliament, judges and prosecutors, 13 October 2020.
80. CDL-AD(2021)047-e, para. 51.

candidates and their results to the SCP, which has the right to make its own assessment of the files and has the right to select any candidate admitted to the contest, even if he/she was not nominated winner of the contest by the special commission.[81]

79. The authorities prepared in the meantime additional draft amendments, which have been reviewed by the Venice Commission on 17 June 2022 (and before their adoption by the parliament, contrary to the August 2021 amendments). The Venice Commission concluded that these draft amendments to the Law on the Public Prosecution Service represented "a significant improvement compared to the current version of the Law" and suggested some further changes. It noted that most of the key recommendations had been addressed, and notably that the Prosecutor General will henceforth be an *ex officio* member of the SCP, albeit with limited rights; the composition of the SCP will remain compatible with the previous recommendations of the Venice Commission; the Evaluation Commission will not be able to function without the prosecutorial members and its conclusions will be of an advisory nature, while the decision to remove the PG for underperformance will belong to the SCP; there will be no automatic suspension of the Deputies to the PG in the case of the suspension of the latter, and, as a rule, the SCP will decide both on the initial suspension of the PG and on any prolongation thereof.[82]

3.2.2. Introduction of a performance evaluation and dismissal mechanisms of the Prosecutor General

80. The amendments to the Law on the Prosecution Service adopted on 24 August 2021 provide for the possibility to conduct an *ad hoc* "performance evaluation" of the Prosecutor General once a year performed by a specially created Evaluation Commission (which is "quite uncommon in Europe", notes the Venice Commission)[83] and to dismiss the Prosecutor General as a result of the proceedings conducted by a Disciplinary Commission. The evaluation procedure may be initiated upon notification of the President or at least three members of the SCP and carried out by the Evaluation Commission composed of 5 members.[84] Later, the commission's report is transmitted to the SCP; if the Prosecutor's activity is assessed as "failed", the SCP will suggest that the President should dismiss the Prosecutor General.[85] The SCP later approved, on 22 November 2021, the Regulation on the procedure of evaluation of the performances of the prosecutor general and detailed the criteria which will be used to assess the work of the prosecutor general.

81. The Venice Commission however criticised the "performance evaluation" mechanism of the Prosecutor General established in August 2021 and called for a significant revision of it, including the introduction of clearer assessment criteria.[86] Assessing the draft amendments prepared in 2022,[87] the Venice Commission concluded that these amendments met key recommendations issued in 2021, notably with respect to the composition of the Evaluation Commission (which will not be able to function without the prosecutorial), its conclusions will be of an advisory nature; the decision to remove the PG for underperformance will belong to the SCP; there will be no automatic suspension of the Deputies to the PG in the case of the suspension of the latter, and, as a rule, the SCP will decide both on the initial suspension of the PG and on any prolongation thereof. The Venice Commission however found it necessary to include "more precise formulation of the indicators" when assessing the performance of the Prosecutor General to meet a general requirement of legal certainty in terms of foreseeability of any legal text and avoid the risk of arbitrary interpretation of such terms as "efficiency", "public behaviour" or "trust".

3.2.3. The case of suspended Prosecutor General Mr Stoianoglo

82. Concerning the case of Mr Stoianoglo, who had been appointed Prosecutor General by the then President Dodon on 29 November 2019[88], an evaluation procedure was launched by the parliament, which found that his performance had been insufficient, paving the way for his dismissal. At the request of President

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81. Moldpres (21 January 2022).
82. Opinion on draft amendments to Law No 3/2016 on the Public Prosecution Service, adopted by the Venice Commission at its 131st Plenary Session (Venice, 17-18 June 2022) CDL-AD(2022)018.
83. CDL-AD(2021)047-e, para. 63.
84. The 5 members are appointed by respectively the President, the Minister of Justice, the Superior Council of Magistracy, the Superior Council of Prosecutors and the Prosecutor General.
85. Ipn (24 August 2021).
86. CDL-AD(2021)047-e, para. 14-16 and 105. For further details, refer to our previous information note, AS/Mon(2022)08 rev2.
87. CDL-AD(2022)018.
88. This appointment had been made in the wake of Ms Sandu's Government fall, upon the proposal made by the pre-selection commission set up in September 2019 and the decision of the Superior Council of Prosecutors. One of the Prosecutor General's Office first decisions was to drop charges in 9 out of 38 criminal cases that had presumably been started based on political reasons. This issue had been raised by the Assembly in its Resolution 2308 (2019) (para. 11.3)

Sandu, an Evaluation Commission[89] was set up in November 2021 to evaluate Mr Stoianoglo's performance. The Evaluation Commission assessed the activity of the prosecutor from 29 November 2019 to 5 October 2021 and adopted its report on 26 April 2022, which was approved by the SCP on 23 May 2022. The SCP proposed that the President of the Republic dismisses Mr Stoianoglo from the office of Prosecutor General.[90]

83. In its June 2022, the Venice Commission dismissed a possible retroactive application of the law and stressed that "any assessment of the PG's performance before 24 August 2021, which ultimately may lead to his dismissal, should be based on such criteria of integrity and professionalism which could be uncontestably derived from the pre-existing rules or from the very nature of the mandate of the PG, as stressed in the 2021 Opinion". The Venice Commission also took note of the explanations provided by the Ministry of Justice "to the effect that the PG's performance during the period before 24 August 2021 in a new procedure will be based on pre-existing standards of performance related to his mandate".[91]

84. In parallel to this evaluation procedure, a criminal investigation was launched in October 2021 by the Prosecutor's office against the Prosecutor General following the statements of PAS MP Lilian Carp, President of the Committee on National Security, Defence and Public Order. The latter alleged, among other things, that Mr Stoianoglo, while being an MP for the Party of the Socialist ten years earlier, had promoted legislation that facilitated the Moldovan involvement in the Russian (Global) Laundromat. On 5 October 2021, few hours after the launch of criminal proceedings, the Prosecutor General was arrested on abuse of office, bribery, perjury and facilitation of an organised criminal group while he was about to give a press conference. He was detained in the remand prison of the Chisinau Police Division and sent to house arrest for 30 days on 8 October 2021[92] and suspended from his post on 21 October 2021. On 9 December 2021, he was released from house arrest and has been under judicial control since then.

85. Several interlocutors expressed their concerns and questions about the respect of procedural guarantees and the transparency of the procedures.[93]

86. Due to the ongoing investigation, and in line with the law, all deputy Prosecutors General were suspended. In addition, the arrest of Mr Stoianoglo triggered the resignation of several deputy prosecutors general, and the prosecution of others prosecutors.[94]

87. On 7 July 2022, one of the criminal cases initiated against Mr Stoianoglo, in which he was accused of interfering into the administration of justice by abusing his official position in the investigation of the expulsion of Turkish teachers in 2018, was closed by the Moldovan Anti-Corruption Prosecution Service due to lack of evidence.[95] Concerning the other case, Mr Stoianoglo has lodged a complaint to the European Court of Human Rights. The Government replied to the information request made by the Court.[96]

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on "The functioning of democratic institutions in the Republic of Moldova", when the Assembly asked the Moldovan authorities to "do everything possible to terminate all existing politically motivated criminal cases against political activists and their lawyers which were initiated by the previous regime as a result of political interference in the judiciary and law enforcement, as mentioned in the report by the Committee on Legal Affairs and Human Rights (Doc. 14405)." See also AS/Mon(2022)02rev2.

89. The evaluation commission notably comprises a former prosecutor from the National Anticorruption Directorate of Romania, Mariana Alexandru (nominated by SCP), an international expert, Drago Kos (from Slovenia, Chair of the OECD Working Group on Bribery and former President of GRECO, nominated by the Moldovan Presidency) and lawyer Angela Popil (nominated by the Ministry of justice).

90. Newsletter of the Legal Resources Centre from Moldova No. 45 | May 2022 – CRJM.

91. Opinion of the Venice Commission on the draft amendments to Law n° 3/2016 on the Public Prosecution Service, CDL-AD(2022)018.

92. www.ipn.md/public/index.php/en/jurists-and-political-commentators-about-alexandr-stoianoglos-arrest-7967_1084860.html.

93. We referred in detail to this case in our last information note. See AS/Mon(2022)02rev2.

94. The deputy prosecutor general Ruslan Popov was investigated on charges of illicit enrichment after prosecutors examined investigative journalism reports and other evidence. Mr Popov argued that the National Integrity Authority had carried out an inspection and decided to drop the case on 30 September 2021. He was arrested on 9 October and placed under house arrest. Suspended deputy prosecutor general Iurie Perevoznic resigned on 7 October 2021 as well as Ion Caracuian, head of the Prosecutor's Office for Organized Crime and Special Cases, invoking personal reasons. Adrian Bordianu was dismissed from the post of acting chief of the Anticorruption Prosecutor's Office by order of the caretaker prosecutor general. The prosecutor of the Ciocana sector of the capital, Igor Popa, was detained on 9 November 2021 on suspicion of illicit enrichment.

95. Infotag (7 July 2022).

96. The European Court of Human Rights had requested the Moldovan Government to clarify on what grounds Mr Stoianoglo was detained and placed under arrest, and whether there was evidence that the plaintiff could have committed the crimes he was accused of, and why the suspended Prosecutor General was banned from attending public meetings and talking to the press during the investigation. Infotag (23 September 2022).

88. On 6 October 2021, following the arrest and suspension of Mr Stoianoglo, the Superior Council of Magistracy appointed Dumitru Robu, whom we met, as acting Prosecutor General. Mr Robu was not allowed to comment the current investigation, however he admitted that the arrest of a Prosecutor General in function was an exceptional case.

3.3. Law on the Selection of Candidates for Administrative Positions in Bodies of Self-Administration of Judges and Prosecutors: the issue of the external evaluation of judges and prosecutors (by a pre-vetting commission)

89. One of the sensitive topics related to the reform of the judiciary concerned the creation of an *external* evaluation mechanism to check the integrity of judges and prosecutors and ensure that those failing the test be removed from the system. The evaluation, promotion and dismissal of judges and prosecutors is normally performed by the self-governing judicial bodies (namely the Superior Councils of Magistracy and of Prosecutors). It was quite clear, from our meetings with President Sandu and other representatives of the majority, that an evaluation performed by external stakeholders was of paramount importance and of "extraordinary nature", due to "extraordinary circumstances". President Sandu hence expected to "clean the system of people with integrity problems and unjustified wealth" and should "hit the deep interests of the corrupt groups, which have been rooted and consolidated in corruption schemes during years".[97]

90. The authorities have therefore decided to establish an *ad hoc* evaluation committee which will be responsible for checking the integrity of the candidates for administrative positions in the SCM, the SCP and their specialised bodies. At the request of the Minister of Justice, Mr Sergiu Litvinenko, the Venice Commission adopted, in December 2021,[98] an 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".

91. The Venice Commission found that, in general, the integrity checks targeted at the position of SCM, SCP and specialised bodies envisaged in the revised draft law represented "a filtering process, and not a judicial vetting process" which could be considered as "striking a balance between the benefits of the measures and its possible negative effects" if implemented properly. The Venice Commission stated that "it falls ultimately within the competence of the Moldovan authorities to decide whether the prevailing situation in the Moldovan judiciary creates sufficient basis for subjecting all judges and prosecutors, as well as members of the SCM and SCP, to extraordinary integrity assessments". It recommended however that the law should provide adequate guarantees for the protection of the right to private and family life of judges, prosecutors and third persons involved in the procedure, allow candidates to appear before the Evaluation Committee and to participate in the procedure before it if they so wish, clarify the notion of "development partners" and their criteria of selection of the members of the evaluation commission, and make a clear indication of the duration mandate of this commission.

92. In March 2022, the parliament adopted the Law on the Selection of Candidates for Administrative Positions in Bodies of Self-Administration of Judges and Prosecutors. It provides for the creation of an evaluation commission composed of six members (three to be appointed at the proposal by the parliamentary factions, according to the principle of proportionality and three put forward by the "development partners" and approved with three fifths of the elected MPs). The commission should assess the integrity of the candidates and analyse their wealth and the wealth of their families extending research and information provided by all public bodies and authorities, public registers, as well as all private people, including the banks. The commission would submit the information to the relevant law-enforcement bodies, should it find discrepancies between the information declared by the candidate and the real situation. The decisions of the commission could be appealed to the Supreme Court of Justice and examined by a special panel of judges, whose members will be nominated by the SCM and confirmed by Moldova's President under decree. It was foreseen that the law would be limited in time and be in effect until the end of 2022.[99] The parliament is likely to extend the term of mandate of the pre-vetting commission until 30 June 2023.

97. Moldpres (22 November 2021).
98. Joint opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe 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, adopted by the Venice Commission at its 129th plenary Session (10-11 December 2021), CDL-AD(2021)046-e.
99. Moldpres (19 January 2022).

93. During our visit in June 2022, we met some members of this so-called “pre-vetting commission”, which is headed by a Dutch jurist (Herman von Hebel) and comprises a Georgian and an American lawyer.[100] We were informed that the Commission would evaluate about one hundred candidates for key positions in the SCM, the SCP and their specialised bodies. The assessment of the candidates is based on the declaration of asset, wealth and personal interests made by the candidates and their hearing, the data required from private people or public or private legal entities, including the fiscal and anticorruption authorities and the information received from civil society organisations and investigation journalists.

94. The Commission started to work early July 2022 and should issue a reasoned decision on the assessment of each candidate. We noted that this Commission will work until time pressure, and faces, like other institutions, shortage of human resources. By the end of November 2022, 22 candidates from among the judges registered for the competition for the position of member of the SCM reached the public hearing stage. The pre-vetting commission announced on 11 November the top three candidates who met the criteria of ethical and financial integrity and passed the assessment. Interviews of other candidates were still going on at the time of the writing of the report.[101]

95. The issue of the pre-vetting of sitting judges was also raised in the context of the preparation of the draft Law on the Supreme Court of justice, submitted by the authorities to the Venice Commission. This draft law envisaged the pre-vetting of candidates (by the Evaluation Commission) and the vetting of sitting judges by the creation of a mechanism for extraordinary evaluation of the integrity of the current judges. In its October 2022 opinion,[102] the Venice Commission recalled that it had stressed, in its 2019 opinion,[103] that it falls ultimately within the competences of the Moldovan authorities to decide whether the prevailing situation in the Moldovan judiciary creates a sufficient basis for subjecting the judges of the Supreme Court to extraordinary integrity assessments. However, extraordinary vetting might only be justified in exceptional circumstances, provided that other avenues (namely disciplinary procedure, regular evaluation and criminal investigations as regular methods of judicial accountability) are not available in case there is a very low level of confidence in the judiciary.[104]

96. In addition to the legislative changes mentioned above, Law No. 228 on checking the assets declarations of the candidates for the position of judges and prosecutors already when applying to the National Institute for Justice was adopted on 28 July 2022.

97. We welcome the adoption of the constitutional amendments on the judiciary, which is a first step but represents a major progress. We noted that the legislation pertaining to the judiciary have introduced profound changes (such as the evaluation of the work of the Prosecutor General by a commission), which are being challenged within the system and will take time to be fully implemented.

4. Fight against corruption

98. Corruption in the Republic of Moldova remains a prevalent issue. According to Transparency International the country ranks 105 (out of 180 countries), with a score of 36 out of 100 in the 2021 corruption perceptions index.[105] We note a slight improvement since 2016 (the country was ranked 123rd in 2016, and 115 in 2020), these scores show that corruption remains a major issue of concern and a pervasive phenomenon, which the new authorities vowed to address as a matter of priority.

4.1. Recent developments

99. Few weeks after the July 2021 elections, the parliament adopted a range of important pieces of legislation.

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100. Ipn (17 June 2022).
101. www.zdg.md/en/?p=10131.
102. Joint opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft law on the Supreme Court of Justice, adopted by the Venice Commission at its 132nd Plenary Session (Venice, 21-22 October 2022), CDL-AD(2022)024-e. This draft law also dealt with the reduction of the number of the judges of the SCJ (from 33 to 20) and the adjustment of its composition. The Minister of Justice requested, on 11 November 2022, a follow up to the October 2022 Opinion of the Venice Commission on the draft law on the Supreme Court of Justice, following the revision of the draft law. This opinion was adopted by the Venice Commission on 16-17 December 2022. (CDL-AD(2022)049).
103. CDL-AD(2019)020.
104. CDL-AD(2022)024-e, para 44-46.
105. Transparency International: Corruption perceptions index.

100. Amendments to the Law on the National Integrity Authority (NIA) and the Law on the declaration of wealth and personal interests were adopted on 7 October 2021. These amendments should improve the legislative framework on the work of NIA and prevent conflicts of interests and of incompatibility among people who hold public offices. The legislation now provides for the suspension from office of persons once it was established that their wealth was unjustified, or that they were in breach of the legal regime of conflicts of interest, incompatibilities, restrictions and limitations. It also provides for the verification of the income acquired during the exercise of the mandate or function, related to the situation of assets held, but also of the expenses incurred. It extends the control of wealth and personal interests to family members.

101. The PAS Party also drafted a bill to supplement Article 70 on incompatibilities and immunities of the Constitution, with a provision stipulating that no parliament's consent is required for the detention, arrest, search or criminal prosecution of deputies in case of deputies committing violations related to passive or active corruption, trading in influence, excess of powers, illicit enrichment or money laundering. On 26 October 2021, the Constitutional Court ruled that the draft constitutional amendments met the norms of a Constitution revision. The parliament will be entitled to adopt a law on amending the Constitution not earlier than 6 months from the date of the submission of the bill.[106]

102. In addition, on 25 November 2022, following the October 2022 joint *amicus curiae* brief of the Venice Commission and the OSCE/ODIHR relating to the offence of illicit enrichment,[107] the Constitutional Court also declared inadmissible several petitions on the exception of the unconstitutionality of Article 330 (2) of the Criminal Code, which establishes criminal liability for illicit enrichment. The Constitutional Court thus reaffirmed that the offence of illicit enrichment remains in the Criminal Code of Moldova.

103. On 28 October 2021, the legislative initiative aimed at cancelling the "offshore secret" was adopted by 74 deputies. The main provisions of the document refer to the obligation of the Public Services Agency to ensure public access to information from the State Register regarding the actual beneficiaries in the existing resources and platforms for publishing open data about companies.[108]

104. On 14 July 2022, Law No. 189 was adopted, establishing a mechanism of prosecution, trial and conviction *in absentia*. This law should provide the legal basis for issuing final court sentences in several high-profile cases related to corruption, money-laundering and other serious crimes.

105. The Law on the National Anticorruption Center NAC) was amended: its Director will now be appointed for a single 5-year mandate by a majority of MPs, upon the proposal of at least 20 MPs and the approval of the Legal Committee. The NAC was also subject to an evaluation procedure by a special parliamentary commission (composed of members of National Security, Defense, and Public Order Commission and the Legal, Appointments, and Immunities Commission), which analysed the activity of the Centre during the period 2016-2021. On 17 November 2021, the parliament declared the NAC activities as unsatisfactory and ineffective. The commission's report noted, among other things, that during this period, "no persons in leadership positions who co-ordinated corruption schemes were brought to justice", there was "a lack of interest on the part of the NAC in high-profile cases, and in some cases, the NAC obstructs the clarification of the truth and sabotages the work of prosecutors"; the NAC was "not independent in its actions and the leadership of the body did not ensure effective implementation of anti-corruption legislation." As a result, Ruslan Flocea, National Integrity Authority Director, was dismissed. He refuted the evaluation report on the National Integrity Authority prepared by the parliament as "a deliberate distortion of reality, a gross manipulation of information and a total lack of understanding of the processes".[109]

106. As a result of the evaluation process carried by the parliament, the Minister of Justice had envisaged to merge the Anti-Corruption Prosecutor's Office with the National Anti-Corruption Centre into a single institution that would deal exclusively with corruption on a particularly large scale.[110] For the time being, the authorities have launched consultations to prepare draft laws on the division of work between the Anti-Corruption Prosecutor's Office and the National Anti-Corruption Centre, as well as on amendments to the law on special investigation activities. The authorities also intend to improve the legal framework on whistleblowers.

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106. Infotag (26 October 2021).
107. Joint *amicus curiae* brief of the Venice Commission and the OSCE/ODIHR relating to the offence of illicit enrichment, adopted by the Venice Commission at its 132nd Plenary session (Venice, 21-22 October 2022) CDL-AD(2022)029-e.
108. Moldpres (28 October 2021).
109. Zdg (18 November 2021).
110. Infotag (19 November 2021) and Infotag (3 October 2022).

107. An Independent Anti-Corruption Advisory Committee (CCIA), consisting of lawyers, economists, and investigative journalists, was also established in June 2021 by a presidential decree, as a joint independent international and national body. Its main purpose is to analyse systemic corruption issues that cut across Moldovan institutions and improve implementation of anti-corruption measures by the relevant parties. It will investigate and identify cases of corruption and submit reports.[111]

108. The appointment of a new Chief Anti-corruption Prosecutor in June 2022 is also expected to boost the fight against corruption: Veronica Dragalin was so far federal prosecutor in the United States. This appointment from "outside the system" is meant to reinforce the trust in this Moldovan institution which is key to fight corruption.

4.2. Recent findings of GRECO

109. GRECO has assessed the legal framework related to the prevention of corruption in respect of members of parliament, judges and prosecutors. It noted a clearly insufficient progress concerning members of parliament : "still too many laws are adopted without adequate consultation and at accelerated speed. A code of conduct for MPs remains to be adopted, including rules for various situations of conflicts of interest. Clear and objective criteria on lifting parliamentary immunity are still not in place."[112] A draft Code of Parliamentary Rules and Procedures should also be completed beyond the existing provisions on discipline and sanctions, so that conflicts of interest and related matters (gifts, incompatibilities, additional activities and financial interests, lobbying etc.) would be addressed. The implementation of these recommendations could contribute to greater transparency in political life.

110. The issue of the lifting of parliamentary immunity should be addressed in a constitutional amendment: GRECO took note of the referral submitted in September 2021 by 63 parliamentarians to propose constitutional amendments aimed at making it possible to lift immunity without prior approval of parliament when parliamentarians have committed passive or active corruption, abuse of powers, illicit enrichment and money laundering offences. This referral was accepted by the Constitutional Court. Therefore, the Law on amending the Constitution can be examined by parliament after 6 months from the submission of the draft law.

111. The prevention of corruption in respect of judges and prosecutors was assessed in light of the 2021 legislative changes: GRECO welcomed "the significant progress made with the adoption of the new constitutional framework for the composition of the SCM". Concerning the external assessment (vetting) of all judges and prosecutors that was envisaged at the time of the visit of GRECO (in October 2021), GRECO stressed that "anti-corruption efforts should be proportionate and compatible with the requirements of judicial independence and, therefore, that the integrity of (candidate) judges should be tested within the framework of clear, predictable, comprehensive and consistently applied rules. Indeed, it will be important that steps undertaken as part of the reforms include the necessary safeguards and respect the Moldovan constitutional and legal frameworks, as well as the relevant provisions of the European Convention on Human Rights (in particular Article 6) and the case law of the European Court of Human Rights". GRECO has also raised attention to the practical consequences in case a large-scale assessment is taken forward, encouraging the authorities "to ensure the legislative framework and operational capacity are in place to replace those judges and prosecutors who fail the assessment, or choose not to undergo it, with well-qualified new candidates whose integrity is checked prior to appointment, also in a standards-compliant procedure".[113]

112. GRECO also noted the authorities' intentions to improve the legal and operational framework for disciplinary liability of judges, the new binding Order by the Prosecutor General aimed at ensuring that all hierarchical interventions regarding a case are properly documented, in line with GRECO's previous recommendation. It welcomed the elaboration and distribution of guidelines to all prosecutors on the

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111. The committee consists of six members: James Wasserstrom (Chairman of the Committee, UN expert), Drago Kos (Council of Europe Anticorruption Centre expert), Laura Ștefan (lawyer, anti-corruption coordinator for Expert Forum), Alina Radu (investigative journalist, the director of Ziarul de Gardă), Tamara Razin (economist) and Nadejda Hriptievschi (lawyer, founder and director of the Justice and Human Rights programme at the Centre for Legal Resources in Moldova), Zdg (7 June 2021) and https://ccia.md/en/.

112. Second Compliance Report to the Fourth evaluation round, GrecoRC4(2020)9 (13 October 2020), para. 109. These concerns were reiterated in the second interim compliance report of December 2021 and GrecoRC4(2021)22 aimed at assessing the measures taken by the authorities of the Republic of Moldova to implement the fourteen pending recommendations issued in the Fourth Round Evaluation Report.

113. GrecoRC4(2021)22.

implementation of the Code of Ethics of Prosecutors (with the support of Council of Europe co-operation project on “Action against corruption in Moldova”) and noted that the system for the disciplinary liability of prosecutors is operational, while the legal framework still needed to be amended.[114]

113. Concerning the National Integrity Authority (NIA), GRECO noted that the legislation aimed at strengthening the NIA’s independence and effectiveness and enhancing the rules governing the declaration of assets and personal interests has been adopted on 7 October 2021. It also notes that the NIA has further developed its controls of the declarations of assets and personal interests of parliamentarians, judges and prosecutors, that these controls have indeed resulted in administrative sanctions and, when appropriate, referrals to the criminal investigation bodies. It highlights that the NIA’s budget has been increased, but that the NIA remains understaffed, as only half of the staff expected has been appointed so far, and that no specific training programme has been put in place for strengthening the inspectors’ professional capacities. Moreover, a global strategy for NIA is still lacking.[115]

114. The implementation of GRECO recommendations could contribute to strengthen the anti-corruption mechanisms. In the first place we hope that the parliament will take the measures expected, namely the adoption of a code of conduct for MPs and of a Code of Parliamentary Rules and Procedures.

115. At the same time, during our visits, the President, the Prime Minister and the Speaker of the parliament stressed that the main problem was the implementation of the existing legislation, by all stakeholders. They explained that tackling corruption in the political sphere required efficient actions from various actors, ranging from the Central Electoral Commission (which was renewed in September 2021) to other law enforcement and fiscal bodies, which are expected to exert a better control over the funding of political parties. The prosecution office would be expected to carry proper investigation and the judges to deliver sentences. The acting Prosecutor General acknowledged that the prosecutors had abstained in the past from investigating allegations of political corruption in order “not to interfere into politics”. He indicated that allegations of political corruption would now need to be investigated in order to establish the facts – or dismiss them.[116]

5. Human rights

5.1. Situation of media

116. The situation of media has been raised in previous monitoring reports and information notes. As election observers, we had expressed our concern about “the bias of major media outlets due to their party affiliation” and underlined that “democracy can only flourish with a comprehensive media reform that provides clear rules on transparent media ownership and forms the basis for balanced and informative journalism.”[117]

117. Reporters Without Borders noted that the country’s media are diverse but extremely polarised, with an excessive influence by oligarchs. While freedom of the press and the right to information are guaranteed by law, in reality laws governing the sector are applied arbitrarily by politically oriented regulatory agencies. Access to information is regularly undermined, and frivolous defamation lawsuits are frequent. However, a positive trend is noted: the country was ranked, in the World Press Freedom Index of Reporters Without Borders, at the 40th in 2022 (out of 180 countries), compared to the 89th position in 2021.[118]

118. Following the July 2021 elections, the Audiovisual Council (BCC) was subject to a parliamentary evaluation. The parliament rejected the BCC activity report; all members of the Council were dismissed by the parliament on 11 November 2021 and the new members were appointed on 3 December 2021. The BCC comprises seven members, nominated for a six-year mandate: three ones are put up by the parliamentary factions (in this case, two were proposed by PAS, and one by the BCS), two candidates by the civil society organisations, one by the presidency and one by the government. While the (speed of the) appointment procedure of the new members of the BCC has raised question, we could note that the new leadership in the BCC sought to give a new impetus, which could open up new avenues to strengthen access to pluralistic and quality information.

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114. Id.
115. Id.
116. On 25 October, the Prosecutor General’s office announced that it would retry the criminal case opened following the display of a video in which the former leader of the Democratic Party, the oligarch Vladimir Plahotniuc, allegedly gave a black bag, allegedly with money, to the (then) President of Moldova Igor Dodon during a meeting allegedly held in 2019. Zdg (25 October 2021).
117. Doc 15356, para. 77.
118. Reporters Without Borders.

119. An amendment to the Code of Audiovisual Media Services adopted on 4 November 2021 has also restored the parliamentary control over the BCC and the public broadcaster Teleradio-Moldova which was described as a "tool of propaganda, serving the interests of the successive oligarchs on power and instead of working in the interest of the people". This amendment however was debated, and criticised by the opposition and also NGOs: it brought the country back to the situation that prevailed in 2009, when one party was controlling the parliament, the government and the presidency, and exerted control over the public broadcaster. This had been criticised by the ECtHR in the *Manole and others v. Moldova* ruling. The opposition claims that this amendment represents a politicisation of the media structure and an interference in their activity.[119]

120. Given the current regional context, the country resorted to measures in the wake of the war in Ukraine to mitigate the effects of a hybrid war. On 7 April 2022, the Moldovan Parliament banned the use of war symbols and of the Ribbon of Saint George (measures challenged by the Gagauz People's Assembly, see above). In June 2022, the parliament also adopted "the law on information security" which bans news bulletins and features produced in countries that did not ratify the European Convention on Transfrontier Television: propaganda will be penalised harsher and media outlets that disinform will face gradual punishment, ranging from fines to the withdrawal of the right to broadcast advertisements.[120]

121. These laws were challenged by the Party of the Socialists before the Constitutional Court, which requested an opinion from the Venice Commission on amendments to the Audiovisual Media Services Code and to some normative acts including the ban on symbols associated with and used in military aggression actions. While recalling that any interference with the right to the freedom of expression needs to comply with the three requirements of lawful restrictions (namely, the requirements of legality, legitimacy and necessity and proportionality), the Venice Commission stated that "it is plausible to argue that the display of the symbols used by the Russian armed forces in the current war could produce an actual and immediate danger of disorder and a threat to the national security and the rights of others, including those of Ukrainian war refugees, and that there is a pressing social need to impose a ban on such use".[121]

122. The Venice Commission recalled that the main purpose of Law No. 143 on Amendments to the Audiovisual Media Services Code was to provide legal tools to ensure information security and fight fake news and disinformation. The Venice Commission's opinion focuses on two provisions which were criticised by the opposition.[122] It stresses, again, that these restrictions to the right of freedom of media and expression needs to comply the requirements of lawful restrictions (see above) but underscores that the Law "pursues a legitimate aim and that its adoption responds to a pressing social need" as the country has been "heavily exposed to external sources of information and a constant target of disinformation activities from external sources". The Venice Commission called on the Moldovan authorities to ensure that the Law is clear and precise enough to avoid chilling effects. The amendments to the Audiovisual Media Services Code were adopted on 3 November 2022. We await further information to assess whether the revised Code complies with the Venice Commission recommendations.

123. In addition to the challenges posed by the independence of media, media representatives also pointed out the economic challenges they faced, and the need to have transparent information about media ownership.

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119. AS/Mon(2022)26.
120. Ipn (18 June 2022).
121. Opinion on amendments to the Audiovisual Media Services Code and to some Normative Acts including the ban on symbols associated with and used in military aggression actions, adopted by the Venice Commission at its 132nd Plenary Session (Venice, 21-22 October 2022), CDL-AD(2022)026-e.
122. Article I.3. requires that "*in the case of television services, at least 50% of audiovisual programmes purchased abroad must come from the Member States of the European Union as well as from the States which have ratified the European Convention on Transfrontier Television*" and Article I.5, now prohibits, in the national audiovisual space, *"to broadcast audiovisual programmes that constitute speech that incites hatred, disinformation, propaganda of military aggression, extremist content, content of a terrorist nature or that poses a threat to national security*". CDL-AD(2022)026-e, para. 79-80. These critics were also expressed by Mr Batrîncea in his comments (see AS/Mon(2022)26), considering that the introduction of "rather vague notions" left "room for the interpretation of the term "disinformation", with media institutions or journalists only able to defend themselves at the Audiovisual Council which is appointed by the parliament and report directly to its respective institutions".

5.2. Situation in prisons

124. We have continued to pay attention to the situation in prisons. In September 2020, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) noted with regret that, although tangible progress had been achieved in several areas, several of its long-standing recommendations had remained unaddressed. This concerned in particular "the persistence of a prison sub-culture that fosters inter-prisoner violence and impairs the living conditions of those prisoners who are deemed by the informal prison hierarchy to be "humiliated", as well as the regime offered to both remand and sentenced prisoners and the low staffing levels in prisons."[123]

125. NGO representatives reported about the lack of structural investment, the poor prison conditions, and, above all, the poor access to medical services in the penitentiary systems, especially in times of pandemic. The incarceration rate remained high (9 out of 10 requests for arrest were granted almost automatically). The situation of prison 13 in Chisinau was especially alarming, due to its overpopulation and inhuman treatments that leads to condemnations by the Strasbourg Court.

126. The Minister of Justice was well aware of this situation. He informed us that a new prison should be built with the support of the Council of Europe Development Bank. This project has actually been in preparation for many years, but never materialised due to unsuccessful tenders and negotiations.[124] The Minister mentioned that a compensation mechanism for detention conditions had recently been approved to compensate inhuman detention conditions, which should decrease the number of applications lodged to the Strasbourg Court.[125]

5.3. Situation of national minorities

127. The Republic of Moldova is a multiethnic State. According to the latest census (2014), Moldovans represent 75,1% of the population, Romanians 7,7%, Ukrainians: 6,6%, Gagauzs: 4,6%, Russians: 4,1%, Bulgarians: 1,9%, Roma 0,3%. The languages declared to be usually spoken were the Moldovan (54,6%), the Romanian (24%), Russian (14,5%), Ukrainian (2,7%), Gagauz (2,7%) and Bulgarian (1%). The country is a party to the Framework Convention for the Protection of National Minorities since 1996 and is currently exploring the possibility to ratify the European Charter for Regional or Minority Languages (signed in 2002).

128. During our visit in June 2022, we met representatives of the Ukrainian, Gagauz, Russia and Roma national minorities, the Chair of the Council for the prevention and elimination of discrimination and the ensuring of equality as well as the Deputy Director-General of the Interethnic Relations Agency. Given the time of our visit, our discussions were dominated by the situation in the region and the impact of the conflict on the coexistence of the national communities. Despite this difficult regional context, the country had remained stable, what should be praised.

129. The question of the commend of the Romanian language, which is crucial to integrate universities or find a job was raised, and there is a clear demand from the national minorities that needs to be addressed by the authorities. We also understand that the authorities are looking into the possibility to increase access to radio television programmes in minority languages – also to offer counter-narratives to Russian TV channels broadcast in the Republic of Moldova. That would also contribute to implement the Strategy on the Consolidation of Interethnic Relations in the Republic of Moldova for 2017-2027, as recommended by the Committee of Ministers in July 2021, "with a view to further developing a civic identity that is inclusive and firmly based on respect for ethnic and linguistic diversity as an integral part of Moldovan society".[126]

6. The Transnistrian conflict settlement

130. In light of the work programme approved by the Sub-Committee on conflicts concerning Council of Europe member States and the decision to organise a seminar on "the protection of human rights in the Transnistrian region of the Republic of Moldova and the role of the Council of Europe"[127], we discussed the Transnistrian settlement process and related human rights issues with the Moldovan authorities during our

123. Report to the Government of the Republic of Moldova on the visit to the Republic of Moldova carried out by the CPT from 28 January to 7 February 2020, published on 15 September 2020, CPT/Inf (2020)27 and press release.
124. The Moldovan authorities provided details in their Response to the CPT report (14 April 2021), p.11.
125. A compensation mechanism existed. Over 10 000 complaints were filed from 2019 to 2021. See the Response to the CPT report (14 April 2021), p.14.
126. Resolution CM/ResCMN(2021)16 on the implementation of the Framework Convention for the Protection of National Minorities by the Republic of Moldova (adopted by the Committee of Ministers on 7 July 2021 at the 1409th meeting of the Ministers' Deputies).

October 2021 visit and travelled to Tiraspol, in the Transnistrian region of the Republic of Moldova. This trip was facilitated by Mr Claus Neukirch, then Head of the OSCE Mission, to whom we extend our thanks for his invaluable assistance these past years. It is important to note that this visit took place before the outbreak of the war in Ukraine.

131. The management of the Covid-19 pandemic affected the settlement process with the Transnistrian region of the Republic of Moldova: Transnistria declared a "state of emergency" on 17 March, forbade the entry of non-residents and limited the possibility for local residents to leave Transnistrian territory. Additional check points and illegal posts in the Security Zone were established unilaterally by the *de facto* "authorities". The OSCE Mission encouraged the two sides to facilitate the flow of medicines as well as food and phytosanitary products intended for people in Transnistria, the free movement of medical personnel residing in Transnistria to their respective workplaces, the temporary accommodation of medical personal (being a high-risk group) on the Dniester right bank for the period of the Covid-19 crisis or access for Transnistrian residents holding Moldovan health insurance to access healthcare facilities and pharmacies on the right bank. The state of emergency was extended three times until 16 June 2020, when a "quarantine regime" was introduced. The Bureau of Reintegration of the Republic of Moldova, however, denounced illegal actions taken by Tiraspol and worrisome developments, especially as regards human rights, schools or travel restrictions.

132. In Chisinau, Mr Vlad Kulminski, then Deputy Prime Minister for Reintegration[128], informed us about the latest developments, in particular the co-operation established with Tiraspol in times of pandemics. The Deputy Prime Minister referred to the current case-law of the European Court of Human right. In 2012, the Court ruled, in the *Catan and others v. Moldova and Russia* ruling, confirmed in subsequent rulings,[129] that the rights of children, parents and staff members of Latin-script schools 2002-2004 had been violated. The Strasbourg Court established "the effective control" of Russia over the ["Moldavian Republic of Transnistria"]: "by virtue of its continued military, economic and political support for the "MRT", which could not otherwise survive, the Russian Federation incurred responsibility under the Convention for the violation of the applicants' rights." The implementation of the Catan ruling is supervised by the Committee of Ministers, which is expecting the Russian Federation to present an action plan setting out the concrete measures taken (or envisaged) to implement the judgments. The Russian Federation however underlined that the European Court's attribution to Russia of responsibility for violations which took place on the territory of another State created serious problems of implementation and proposed to the Committee of Ministers, in December 2020, to engage experts to conduct an independent assessment of the situation in Transnistria.[130] The Moldovan authorities have expressed deep concern over the execution of Court judgments arising from the Transnistrian region of the Republic of Moldova, including the case law of the European Court of Human Rights. The implementation of these judgements will deserve particular attention after the Russian Federation ceased to be a member of the Council of Europe following its aggression against Ukraine.

133. Ten years after the *Catan and others v. Moldova and Russia* judgment, the Committee of Ministers held that the Russian Federation had failed to pay the just satisfaction and to implement the measures for the execution of these judgments, including "the revocation of the 'regulatory framework' at the origin of the violations, the return of the Latin-script schools to their former premises or to alternative premises adequate for the educational process, and measures to eliminate the harassment and intimidation of the pupils, parents and staff members".[131] The Committee of Ministers reiterated "with firm insistence the unconditional obligation of the Russian Federation under Article 46, paragraph 1 of the Convention, to execute the final judgment of the European Court and exhorted the authorities to comply with this obligation, including by rapidly paying the sums awarded, together with the default interest accrued, and submitting an action plan with concrete steps to implement the above measures".[132] We can only support this call and reiterate the need to guarantee the right of education in the Latin-script schools of the Transnistrian region of the Republic of Moldova.

134. We were also informed that the Moldovan Parliament may set up a working group comprising members of the Moldovan Parliament and members of the *de facto* "Supreme Council".

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127. This activity had been proposed during a previous seminar on the political dimension of the conflict settlement process which had been organised by the sub-committee on 18 January 2018 in Paris, with the participation of the two Chief Negotiators, but had to be postponed due to various elections and the sanitary situation.
128. Mr Kulminski resigned in November 2021, citing personal reasons. Oleg Serebran, former Ambassador to Germany and France, and former member of parliament, was appointed to this position on 18 January 2022.
129. Moldova during the years 2002-2004 (*Catan and Others, Bobeico and Others*) and 2013-2014 (*Iovcev and Others*).
130. Hudoc.exec.coe.int.
131. Supervision of the execution of the cases *Catan and Others group v. Moldova and Russia* (Application No. 43370/04). Decision of the Deputies adopted at the 1451st meeting, 6-8 December 2022 (DH), CM/Del/Dec(2022)1451/H46-30
132. Ibid

135. In Tiraspol, our discussion focused on the current sanitary situation, and the protection of human rights. The *de facto* Transnistrian authorities expressed their availability to participate in the follow-up seminar envisaged by the sub-committee. We also discussed the situation in prisons and inquired about the follow-up given to the recommendations issued in 2018 by Thomas Hammarberg, the then Senior UN Human Rights Expert in the Transnistrian region after his previous engagement in 2012.[133] The *de facto* "ombudsman" claimed that the situation had improved dramatically in prisons (we did not, however, have the possibility to visit a prison). We remain concerned about a number of political prisoners in Transnistrian prisons and individuals who have been prosecuted under the so-called "2020-2026 Strategy for Combating Extremism", as it was the case for Ghennadi Ciorba,[134] sentenced to three years and three months in prison on 19 July 2021 on extremism charges and for insulting the *de facto* "President" Vadim Krasnoselsky following a closed trial. There were also concerns concerning the detention conditions of Oleg Horjan, leader of the Transnistrian Communist Party: in 2018, the then member of the *de facto* "Supreme Council" was sentenced to 4,5 years for use of violence against a representative of authority.[135] NGO representatives met in Tiraspol also reported about the restrictions to freedom of assembly and expression of dissenting opinions, and the climate of intimidation prevailing in the area.

136. But the key issue of concern expressed then by all interlocutors in Tiraspol concerned the free circulation of commercial vehicles. The issuance of neutral licence-plates had been achieved within the 5+2 negotiations ("Berlin Plus package") and allowed citizens from the Transnistrian region to register their private car in the Vehicle Registration Points set up in Rîbnița and Tiraspol; they are then provided with a neutral license plate, allowing them to have access to international roads. As from 1 September 2021, the Republic of Moldova and Ukraine agreed that "access to the international road traffic will be granted only to the means of transport from the Transnistrian region that will have the license plates of the Republic of Moldova and neutral plates, including the 'MD' sticker".[136] As a result, companies from the Transnistrian region performing a commercial activity (notably passengers buses and ambulances) could no longer cross the Ukrainian border.

137. We also paid attention to the situation of Latin-script schools and children's right to education. There are currently 8 schools with teaching in Romanian on the Transnistrian territory (5 high schools, 2 secondary schools and a boarding school)[137] which have been facing numerous challenges to operate. The question of the premises of these schools are now the main concern of the Moldovan authorities: some schools were re-located, 5 schools are located in unsuitable buildings. We met the Director of the Grigoriopol Latin-script school, which in fact is relocated in Dorotcaia (26 km away) in the security zone, thus obliging the pupils and the teachers to commute every day and to use the school buildings in shifts. The Director had been teaching for the past 20 years. She explained that the situation had improved, however the pupils did not enjoy normal educational conditions and did not have a school building in Grigoriopol. We commended the efforts made by the educational community to ensure the pupils' education despite the difficult circumstances.

138. Since our visit on the ground in October 2021, the situation dramatically changed after the Russian aggression of Ukraine, which reverberated on the Transnistrian conflict settlement. The sub-committee was informed by Mr Oleg Serebrian, Deputy Prime Minister for Reintegration, at its meeting in Paris on 30 March 2022, about possible developments, should the conflict be extended to the Western regions in Ukraine, especially Odessa. The situation remains very fragile and unpredictable. We noted however that Chisinau and Tiraspol had, especially in the early stages of the war, showed restrains and call for calm. Channels of communication remain open, despite a tense situation, aggravated by provocative statements from Russian officials or *de facto* authorities in Tiraspol.

139. The Sub-Committee on conflicts concerning member States will reflect on this new situation following Russia's expulsion from the Council of Europe in March 2022 and will have to reflect about the possible course of action in the present situation.

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133. OHCHR.
134. Mr Ciorba was arrested on 3 July 2020 after he participated in a peaceful protest against movement restrictions imposed by the Transnistrian *de facto* authorities. After serving ten days under administrative arrest for "organising an illegal protest," he was remanded to prison on "extremism" charges and languished for almost a year before his closed trial was held.
135. Infotag (3 June 2019).
136. Government of the Republic of Moldova.
137. Moldova.org (4 September 2021).

7. Concluding remarks

140. This report has attempted to provide an overview of the major political developments since the last monitoring report adopted by the Assembly. The Republic of Moldova has embarked on an ambitious, and difficult, path. Restoring the rule of law, and in particular an independent judiciary, is a huge undertaking in a country characterised by "state capture". With a stable and comfortable parliamentary majority, the authorities have entered a race against the clock to overhaul the leadership of the State institutions and the judiciary and to initiate a process of profound reforms, especially to restore the independence of the judiciary, suppress the criminal schemes fuelling the "state capture" and restore trust in the State institutions. This is a perilous exercise, in which the imperative of speed must not override respect for the rule of law.

141. The regional context, the immeasurable pressures generated by the Russian Federation on energy matters, and then the consequences of the war, have placed the Republic of Moldova in a very difficult situation, which the authorities are trying to manage with calm and resilience. The opening of European Union accession negotiations should help consolidate the ongoing reform process.

142. In this context, we welcome the close and fruitful co-operation of the Moldovan authorities with the Council of Europe, in particular the Assembly and its Monitoring Committee, as well as with the Venice Commission, which has adopted, since 2019, eleven opinions and six *amicus curia* briefs. It should be noted that these opinions were, in the vast majority of cases, requested by the authorities (parliament, constitutional court, parliamentary opposition or the High Council of Public Prosecutors) and led to the revision of the legislation, and very often to the request for a second opinion of the Venice Commission. We also welcome the commitment expressed by the authorities to address corruption, in particular in the justice system. The legal and constitutional steps taken in that direction, in compliance with the recommendations made by the Venice Commission and GRECO, are to be welcome. The challenge now will be to consolidate the institutions with sufficient human and financial resources. The Assembly should therefore encourage the authorities to pursue and implement their reform agenda based on the Council of Europe standards so as to establish solid and sustainable State institutions, which are a prerequisite for the good functioning of democratic institutions. The successful continuation of this process would pave the way to a new phase of post-monitoring dialog with the country. In the meantime, we will continue to follow the developments and support the reform process in the framework of the monitoring procedure.