



Strasbourg, 13 March 2023

CDL-AD(2023)010

Or. Engl.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

REPUBLIC OF MOLDOVA

INTERIM OPINION

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

**Adopted by the Venice Commission
at its 134th Plenary Session
(Venice, 10-11 March 2023)**

On the basis of comments by

**Mr Francesco MAIANI (Member, San Marino)
Ms Grainne McMORROW (Former Substitute Member, Ireland)
Ms Angelika NUSSBERGER (Member, Germany)
Mr Cesare PINELLI (Substitute Member, Italy)**

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I. Introduction

1. By letter dated 13 February 2023, Mr Sergiu Litvinenco, former Minister of Justice of the Republic of Moldova, requested an opinion of the Venice Commission on the draft Law "on limiting excessive economic and political influence in public life (de-oligarchisation)"([CDL-REF\(2023\)011](#)) (hereinafter "the draft law").
2. Mr Francesco Maiani, Ms Grainne McMorrow, Ms Angelika Nussberger, and Mr Cesare Pinelli acted as rapporteurs for this opinion.
3. On 24 January, 20 and 21 February 2023, the rapporteurs, together with Ms Simona Granata-Menghini, Mr Schnutz Dürr, Mr Mamuka Longurashvili and Mr Domenico Vallario from the Secretariat, had online meetings with representatives of the Parliament (majority and opposition), the Minister of Justice, representatives of the Supreme Court of Justice, the specialised Prosecutor's offices for Anti-corruption and Organized Crime and Special Case, the Central Electoral Commission, the Ministry of Economy, the National Bank of Moldova, as well as the specialised regulatory and monitoring agencies (such as the National Anti-corruption Center, the Criminal Asset Recovery Agency, the Office for Prevention and Combating of Money Laundering, the Audiovisual Council, the Public Property Agency and the National Commission for Financial Markets), the European Union and with representatives of civil society. The Commission is grateful to the Ministry of Justice for the excellent organisation of these online meetings.
4. During the online meetings, the Ministry of Justice informed the delegation that the draft law submitted to the Venice Commission was a preliminary version and that the authorities intended to amend this preliminary version on the basis of the recommendations of the Venice Commission. It was thus decided to prepare an interim opinion on this preliminary version of the draft law.
5. On 7 March 2023, the Ministry of Justice submitted a note containing observations on the draft interim opinion, which are reported and taken into consideration in this text. The Venice Commission did not analyse in detail the newly proposed modifications to the text but took note of the commitment of the Ministry of Justice to address certain issues in the text of this interim opinion, where applicable. The Venice Commission welcomes the intention of the authorities to submit a revised draft law taking into account several of its recommendations, but at this stage it reserves its position on it.
6. This interim opinion was prepared in reliance on the English translation of the draft law. The translation may not accurately reflect the original version on all points.
7. This interim opinion was drafted on the basis of comments by the rapporteurs and the results of the online meetings on 24 January and 20-21 February 2023. The draft interim opinion was examined at the joint meeting of the Sub-Commissions on Democratic Institutions, Fundamental Rights and the Rule of Law on 9 March 2023. Following an exchange of views with Ms Veronica Mihailov-Moraru, Minister of Justice of the Republic of Moldova, it was adopted by the Venice Commission at its 134th Plenary Session (Venice 10-11 March 2023).

II. Background

8. While Ukraine was the first country to adopt specific de-oligarchisation legislation, the commitment to eliminate the excessive influence of vested interests in economic, political and public life has been the objective of a specific recommendation of the European Commission (EC) also to Georgia and to the Republic of Moldova.¹

¹ See European Commission [opinions](#) on the EU membership applications by Ukraine, Georgia and the Republic of Moldova, 17 June 2022.

9. The EC recommendations concerning the issue of de-oligarchisation to Georgia and the Republic of Moldova, drafted in similar terms, did not specify whether de-oligarchisation should be addressed by means of specific "anti-oligarch" legislation and/or structural reforms to reinforce state institutions and the rule of Law. As regards Ukraine, in its opinion the EC noted that "*a so-called "Anti-Oligarch law" was signed into Law in November 2021*". Consequently, the EC recommended to "*implement the Anti-Oligarch law to limit the excessive influence of oligarchs in economic, political, and public life; this should be done in a legally sound manner, taking into account the forthcoming opinion of the Venice Commission on the relevant legislation*".

III. Analysis

A. Preliminary remarks

10. The non-transparent influence of so-called "oligarchs" is a major problem for democracy-building in the States of Eastern Europe, such as Ukraine, Georgia and the Republic of Moldova. It is difficult to grasp the extent of adverse influence of "oligarchs" on the rule of law, because "oligarchs", as a rule, do not exert overt influence on political life and on the media directly but in an indirect and hardly visible manner. Often illegal methods are used to merge political decision-making and business interests. "Oligarchs" tend to successfully avoid the jurisdiction and ambit of criminal, anti-corruption and anti monopoly legislation, by utilising methods designed to undermine the protective mechanisms of separation of powers and by exerting undue influence on the judiciary to their benefit.

11. Indeed, in the Republic of Moldova as in other countries, oligarchisation is the result of a combination of exercising political power without political mandate, influence on parliaments, governments, political parties, judiciary and law enforcement bodies; ownership or influence on the media, decisive, if not monopolistic, influence on a number of areas, such as energy, mining, oil and gas, metallurgy, real estate, etc.² Speaking about the problem of oligarchy, the term "captured state" has also been used.³

12. Limiting the influence of "oligarchs" in political, economic and public life is certainly a priority for a state wishing to achieve a democratic system governed by the rule of law and respectful of human rights, and the Venice Commission supports the goal of eliminating or at least reducing this negative influence. Nevertheless, de-oligarchisation is a very complex issue, and the choice of the means to achieve it is of decisive importance if the system is to be effective while respecting democracy, the rule of law and fundamental rights.

13. The Venice Commission notes from the pieces of legislation submitted to it for assessment that two approaches as to the means of de-oligarchisation may be distinguished.

14. The first, which the Venice Commission will refer to as "systemic", involves the adoption and strengthening of legal tools in many fields of law, such as legislation relating to media, anti-monopoly, political parties, elections, taxation, anti-corruption and anti-money laundering, etc.

² See among many others, Venice Commission, [CDL-AD\(2020\)013, Albania - Opinion on draft amendments to the Law n°97/2013 on the Audiovisual Media Service](#), § 48; Wojciech Konończuk, Denis Cenuşa and Kornely Kakachia, "[Oligarchs in Ukraine, Moldova and Georgia as key obstacles to reforms](#)", Understanding the EU's Association Agreements and Deep and Comprehensive Free Trade Areas with Ukraine, Moldova and Georgia, 2017; [Study](#) prepared by the Reporters Without Borders, 2016.

³ In the European Parliament resolution of 14 November 2018 on the implementation of the EU Association Agreement with Moldova ([2017/2281\(INI\)](#)), para. 3, Moldova is mentioned as "*a state captured by oligarchic interests with a concentration of economic and political power in the hands of a small group of people exerting their influence on parliament, the government, political parties, the state administration, the police, the judiciary and the media*". See also Ion Marandici, [Taming the oligarchs? Democratization and State Capture: The Case of Moldova](#), March 2021.

Addressing the destructive influence of oligarchy requires considering these fields of law in a comprehensive and coordinated manner. In view of the interconnected nature of the problem, efficient bridges must be built between these fields of law and the institutions that implement them. This systemic approach has a long-term preventative effect.

15. The other approach, adopted by the draft law under consideration and which the Commission will refer to as “personal”, seeks to identify the persons who wield this negative influence on the state through specific criteria, such as wealth, media ownership, etc. The persons who fulfil a combination of these criteria are publicly declared as “oligarchs”. Once registered as “oligarchs”, these persons are then subjected to a series of limitations that include exclusion from the financing of political parties or activities, exclusion from privatisations of public property, and the strict obligation for public officials to report on the content of exchanges with them or their representatives. The “personal approach” is thus rather punitive in character. The consequences of the declaration of a person as an “oligarch” raise a series of questions regarding its compatibility with the guarantees of the European Convention on Human Rights (ECHR). Further, to the extent that “oligarchs” are excluded from political participation, the principle of political pluralism needs to be upheld: the decision as to who qualifies as an “oligarch” should not be left at the risk of being decided along party political lines. Supposing that this “personal approach” could be made to be compatible with Council of Europe standards, it would require clear legal criteria and strong guarantees of an independent decision-making body and due process, notably the establishment of special procedures for the investigation into the applicability of the criteria, for making evidence based decisions, a special registry for these persons, for a comprehensive appeal process against these decisions and the possibility of having the “oligarch” designation removed for a person previously registered as an “oligarch”.

16. Overall, it can be said that the Venice Commission favours a more systemic approach, which includes prioritising the strengthening of the legislation and the institutions that work in the various sectors, in order to enable an efficient cooperation and mutual assistance between them. While the Venice Commission considers the personal approach as generally problematic, it does not categorically exclude all the elements of such an approach, notably insofar as they relate to illegal or criminal acts. The Commission wishes to stress once more that this approach requires putting in place strong procedural guarantees to prevent violations of both human rights and the rule of law and meet compliance obligations of the ECHR.

17. Bearing in mind the above reasons, the Venice Commission is also mindful of the prevailing domestic legal and political context, which offers important insights concerning the rationale and content of the draft law, and makes its recommendations accordingly on the most effective means of addressing such a de-oligarchisation priority. Therefore, given the contextual differences, the de-oligarchisation strategy has to take into account the specific situation in each country.

18. The Venice Commission considers that the implementation of the recommendations in various fields, when taken together, will be an essential part of a systemic approach to de-oligarchisation, and will serve as the necessary foundation for any specific legislation on this issue. De-oligarchisation process should take into account the recommendations of the Council of Europe and other international bodies linked to various aspects of the excessive influence of vested interests in economic, political and public life. For example, the EU recommendations and recommendations from, *inter alia*, GRECO⁴ and MONEYVAL⁵ are of significance.

⁴ In its 4th evaluation round [report](#) on the Republic of Moldova, adopted in 2016, GRECO made 18 recommendations. Following the [first](#) (2019), [second](#) (2020) and [interim](#) (2022) compliance reports, GRECO concluded that the Republic of Moldova has implemented satisfactorily or dealt with in a satisfactory manner 6 of the 18 recommendations.

⁵ MONEYVAL adopted the fifth-round mutual evaluation [report](#) of the Republic of Moldova in September 2020. Given the overall results, the Republic of Moldova was placed in [enhanced follow-up](#). Regarding the

B. Overview of the draft law

19. The draft law is clearly inspired by the Ukrainian law in force ([CDL-REF\(2021\)086](#)), and the Georgian draft law ([CDL-REF\(2023\)010](#)) on the same topic; however it departs from these pieces of legislation in some respects. The Ukrainian Law, and the Georgian and Moldovan draft laws inspired by it, are a novelty and do not have a known equivalent in other Venice Commission member states. They are temporary in nature. This explains why they have a so-called "sunset" clause, which provides for the Law to expire within ten years.

20. According to the Ministry of Justice, the draft law has been prepared in response to a number of factors. First of all, the need to limit the excessive influence of private interests of a number of wealthy individuals and their related businesses on political, economic and public life, having regard to the legacy of the state capture in Moldova; to help remove the remnants of such influence, but also to prevent the re-capture of the state. Secondly, to meet the requirement of the European Commission's Opinion issued on 17 June 2022 (see paragraph 8 above).

21. The Venice Commission heard concerns that the draft law was not discussed with relevant stakeholders and was prepared hastily. As indicated above, the Venice Commission notes that the draft submitted for opinion is a preliminary version and that the authorities intended to amend this preliminary version on the basis of recommendations by the Venice Commission; the Ministry of Justice confirmed that public consultations will be launched in due time.

22. Moreover, it is the Venice Commission's understanding that the draft law will not be the only tool to achieve de-oligarchisation as recommended by the EU. Indeed, to reach such a goal, the draft law will be accompanied by a series of amendments to other laws to help put the draft law into application. In this regard, the Republic of Moldova adopted a National Action Plan (Action Plan).⁶ With particular regard to step 4, i.e. the commitment to "de-oligarchise" the country, in addition to the current draft law, the Moldovan authorities plan to, *inter alia*: (i) strengthen the capacities and responsibilities of the specialised body of the Central Electoral Commission (CEC) regarding the oversight and control of political financing and establish the interconnection and inter-institutional collaboration between the CEC and other public authorities responsible for financial control (step 4.5); (ii) tackle the concentration of media ownership and non-transparent media financing in order to guarantee media pluralism (step 4.6) by, *inter alia*, drafting and adopting necessary amendments to the Audiovisual Media Services Code;⁷ (iii) strengthen institutional capacities to monitor the behaviour of persons with excessive influence over economic life and fight against the abusive practices used by them in the markets, by, *inter alia*, amending Competition Law no. 183/2012 in order to harmonise the legislation of the Republic of Moldova with EU legislation (step 4.7); (iv) develop the State ownership policy (step 4.8); (v) improve the regulatory framework on corporate governance of state-owned enterprises / companies with majority state capital, in line with the principles of the Organisation for Economic Co-operation and Development (step 4.9); (vi) amend the Law on public-private partnership in order to improve public-private partnership model (step 4.10).

23. The Venice Commission further notes that the Moldovan authorities have envisaged a series of legislative actions to address recommendation 5.2 of the European Commission, i.e. introducing a legislative package on asset recovery and a comprehensive framework for the fight against financial crime and money laundering, ensuring that anti-money laundering legislation is

implementation of the Financial Action Task Force (FATF) [Recommendations](#) on transparency and beneficial ownership of legal persons and legal arrangements, see notably recommendations 24 and 25.

⁶ [Action Plan for the implementation of the steps proposed by the European Commission in the Opinion on the Republic of Moldova's application for membership of the European Union](#), adopted by the National Commission for European Integration on 4 August 2022.

⁷ In this regard, the Venice Commission notes and echoes the concerns expressed by the Audiovisual Council during the online meetings regarding the lack of investigative powers to identify beneficial ownership in the media.

in compliance with the standards of the Financial Action Task Force (FATF). This is particularly relevant to the issue at stake.

24. Moreover, the Venice Commission notes that, despite the absence of transitional provisions, upon enactment of the draft law the Government shall: (i) submit to the Parliament, within three months, proposals on aligning the legislation in force with this Law; (ii) bring its normative acts in line with the (draft) law; (iii) ensure the drafting of the normative acts necessary for the implementation of the (draft) Law; (iv) ensure the supervision by central public entities of their internal acts; and (v) undertake other measures for the implementation of the (draft) Law, its study and application by the subjects of law.⁸

25. The Venice Commission welcomes in principle such a comprehensive approach to address the issue of de-oligarchisation.

C. Definition of “oligarch”

26. An “oligarch” (or “*a person who has excessive economic and political influence in public life*”) is defined in Article 3 as a person simultaneously matching two sets of different criteria. The draft law distinguishes between mandatory and optional criteria. As to the former, an “oligarch” shall be considered to be a person, citizen of the Republic of Moldova who:

- has been, in the last five years, involved in political life (further defined in Article 4 of the draft law, see below); and/or
- exercises or has exercised in the last five years excessive influence or pressure on state authorities/politically exposed persons (further defined in Article 5 of the draft law, see below).

In addition to either of these situations, the person shall match two of the following circumstances:

- exercise significant influence over mass media, which in Article 6 of the draft law is defined as being an owner, founder, beneficial owner or controller⁹ of a media outlet;¹⁰
- personal assets (and those of the businesses of which s/he is a beneficiary) that exceed the amount of 50,000 average monthly salaries;
- is the beneficial owner or has control over a commercial entity which has a dominant position on the market;¹¹
- has been convicted of committing corruption offences or acts related to corruption;
- is subject to international restrictive measures imposed by resolutions of the United Nations Security Council, by EU legal acts, by acts and decisions of other international organisations or other States, or by the Republic of Moldova on its own initiative.

Should both the former criteria (involvement in political life and excessive pressure) be met at the same time, only one of the optional criteria is to be met in order to be considered as an “oligarch”.

⁸ Article 17 of the draft law.

⁹ Being controller of mass media is defined (in Article 2 of the draft law) as “*a person who has the possibility of exercising decisive influence over a legal entity, which derives from rights, contracts or any other means, separately or in combination, having regard to the relevant legal and factual circumstances, in particular from:*

(a) the right of ownership or use of all or part of the assets of a legal entity;

(b) rights or contracts which offer a decisive influence on the structure, votes or decisions of the governing bodies of the legal entity;

(c) significant financing of the legal entity.

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

¹⁰ This includes persons who have held such a position until the date of adoption of the Law, but gave their rights before the entry into force of this Law to a person who does not have an irreproachable reputation in business within the meaning of Article 16 of the draft law.

¹¹ According to [Law on Competition](#) no. 183/2012 (in Romanian only).

27. A first difference with the Ukrainian law and Georgian draft law is that the Moldovan draft law only applies to Moldovan citizens (Article 3(1) of the draft law). The Venice Commission learned that the rationale underlying this limitation is the inherent difficulty of collecting data concerning assets of foreign nationals. While it takes note of the explanation given, the Venice Commission considers that the difficulty in obtaining data should not be an obstacle to the applicability *erga omnes* of the law. This is especially important in a very small country like the Republic of Moldova where “oligarchs”, as a rule, operate inside and outside the country and where almost half of the population has multiple nationalities. People having dual nationality could therefore relinquish their Moldovan citizenship to escape application of the draft law. In its written observations of 7 March 2023, the Ministry of Justice took note of the Venice Commission’s observations and expressed its intention to modify the draft law accordingly, by eliminating the “nationality” criterion.

1. “Involvement in political life”

28. Insofar as the first criterion, namely the involvement in political life, is concerned, Article 4(1)(a) of the draft law further defines it as including various high-level officials (the President, members of Parliament, members of Government, high political figures of the Autonomous Territorial Unit of Gagauzia, mayors of municipalities), persons who, in the last five years, have held positions in governing bodies of political parties and/or have financed the activities of a political party, an independent candidate and/or electoral campaigns as well as “family member”¹² or “associated/affiliated persons”¹³ to such categories of persons.¹⁴ The notions of “family member” and “affiliated persons” are, therefore, legally defined. However, other elements need some further reflection. In its written observations of 7 March 2023, the Ministry of Justice informed the commission that the notions of “electoral campaign” and “financing of an electoral campaign”, on which the Venice Commission had expressed some doubts as to their legal precision, do not need to be further developed in the provisions of the draft as they have a clear legal definition in the law.¹⁵ The Venice Commission takes note of the explanation of the Ministry. However the Venice Commission remains concerned by the absence of any threshold to the financing of political activities, as the Electoral Code defines “financing of electoral campaigns” as including volunteering and services provided free of charge. Insofar as the Ministry further argues that it would be useless to set any minimum threshold for financing of political activities as a person could use several “affiliated persons” to avoid the threshold, the Venice Commission takes note of the concern but considers that without a specific threshold this criterion could apply to an excessively broad range of people, including family members of people who have volunteered during an electoral campaign.

2. “Excessive influence/pressure”

29. The second (alternative) mandatory criterion, i.e. “excessive influence or pressure on state authorities/politically connected persons” deserves some clarification. The criterion is defined

¹² For the definition of a “family member”, Article 2 of the draft law refers to [Law no. 133/2016 on the declaration of wealth and personal interest](#) (in Romanian only), which at its Article 2 defines a “family member” as: “*spouse, minor child, including adopted child or dependant of the subject of the declaration*”.

¹³ Affiliated persons are in turn defined in Article 2 of the draft law as persons “*who directly or indirectly hold an interest or voting right in a company or another type of person in accordance with Article 203 of the Civil Code*”.

¹⁴ The draft law here differs from the Ukrainian law and the Georgian draft law insofar as the latter only apply the “familiar/affiliated link” to the exhaustive list of public officials, whereas the draft law covers also relatives and affiliated persons of subjects who held positions in governing bodies of political parties.

¹⁵ The Ministry of Justice referred to Article 1 of the Electoral Code of the Republic of Moldova no. 325/2022, which defines “election campaign” as a period of activity meant, under the terms of this Code, to induce voters to cast their votes for the election of one electoral competitor or another or for the expression of one option or another in the referendum and “financing of election campaigns” as “direct and/or indirect financing as well as material support through other forms of electoral competitors (referendum participants), including volunteering actions and services provided free of charge to electoral competitors (referendum participants) by natural and/or legal persons, as appropriate, by the State”, see [CDL-REF\(2022\)036](#).

in Article 5 of the draft law and is based on the exercise of either one's functions in general, or specific acts.¹⁶ The description of what constitutes excessive pressure is unclear insofar as it refers to what "cannot be considered as the ordinary exercise of his/her powers" when referring to the pressure exercised by a high-level official on the law-making process or the implementation of policies by other public persons. Although the article further refers to acts that can be considered "undue influence", it is unclear which type of conducts the draft law intends to target. Insofar as one of the criteria for being designated as an "oligarch" is that of having been convicted of committing corruption offences or acts related to corruption, the Venice Commission considers that this already covers the instances of (criminal) abuse of power, and therefore it substantially overlaps with the criterion on "excessive influence/pressure". If, on the contrary, this criterion intends to target actions which are situated in a grey area between legitimate lobbying activity and the criminal conduct, the criterion needs further explanation. In this regard, the Venice Commission takes note of the explanations of the Ministry of Justice formulated in its written observations of 7 March 2023. The Ministry confirmed that such a criterion indeed intends to target actions that cannot yet be considered as offences but can no longer be analysed as the normal exercise of legal powers. Insofar as the Republic of Moldova does not have a regulatory framework expressly dedicated to the regulation of political lobbying activities, the Venice Commission takes note of the commitment of the Ministry to develop/clarify the criterion, by providing a clearer definition of the conducts targeted, such as referring to cases of undue influence which involved the disciplinary liability of the public official.

3. "Significant influence on mass media"

30. The term "*significant influence on mass media*" is not sufficiently clear. In so far as "influence" refers to "*ownership*", including beneficial ownership,¹⁷ it should, at least in principle, be possible to prove.

31. Concerning the notion of "*holder of control*" the draft law sketches a legal definition in its Article 2, but still refers to concepts such as "significant financing" which are vague and need to be further clarified. The term "significant" requires additional criteria. The Ministry of Justice, in its written observations of 7 March 2023, informed the Commission that the notion of "media control

¹⁶ Article 5 of the draft law reads: "A person shall be deemed to meet the criterion of exerting excessive influence or pressure on state authorities/politically exposed persons if one of the following can be established in relation to that person:

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

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

¹⁷ For the definition of "beneficial owner", Article 2 of the draft law refers to Article 3 of [Law No. 308/2017](#) on prevention and combating money laundering and terrorist financing (in Romanian only), which at its Article 3 defines "beneficial owner" as a natural person who ultimately owns or controls a natural or legal person, or a beneficiary of an investment company or an investment company administrator, or a person on whose behalf an activity or transaction is performed and/or who holds directly or indirectly the ownership or control of at least 25 per cent of the shares or voting rights in a legal person or of assets held in trust. This is inspired by the definition of beneficial owner contained in Article 3(6) of the [5th Anti-Money Laundering Directive, no. 2015/849](#) of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. See also the latest [European Commission Analytical report on Moldova's alignment with the EU acquis](#), 2 February 2023, see Chapter 4.

holder” in Article 2 of the draft law will be revised, in consultation with the Audiovisual Council, in line with Venice Commission’s recommendations.

4. “Irreproachable commercial reputation”

32. The notion of “*a person who does not have an irreproachable reputation in business*” in Article 6 (c) of the draft law is further clarified in Article 16 which sets the following criteria of a flawed business reputation: “(a) *he has previously been convicted of corruption offences or offences related to corruption offences; (b) has been subject to international restrictive measures imposed by means of United Nations Security Council resolutions, acts of the European Union, acts and decisions adopted by other international organisations or by other States, as well as by the Republic of Moldova on its own initiative - during the period in which the sanctions have been in effect and three years after their abolition or termination; (c) has been deprived of the right to hold public functions on the basis of a court decision - for the period of the limitation of the right and 5 years after the termination of this limitation; (d) improper exemption of the person from the obligation to pay taxes, duties or other compulsory payments if the total amount unpaid is equal to or exceeds 50 average monthly wages for the period in which the violation was committed - for the period of the punishment and three years after its termination; (e) purchase (intention to purchase) of a mass media at a price significantly lower than the market price, or with funds whose origin is not confirmed by documents proving the lawful origin of the funds; (f) substantial and/or systematic violation by the person of the provisions of the laws and regulations on the media, banking, finance, foreign exchange, taxation, laws and regulations on financial monitoring, laws and regulations on securities, joint stock companies and stock market.*”

33. Some of the above-mentioned criteria are evidence-based (e.g. former conviction) or are provable (e.g. inclusion in a list of sanctions, deprivation of the right to occupy certain positions). However, the Venice Commission finds that certain criteria refer to situations where the potential wrongdoing (non-payment of taxes, violations of the laws) has not been formally established by the courts. In order to avoid a violation of the presumption of innocence of the persons concerned, these criteria must refer to final tax decisions or convictions.¹⁸ Similarly, the “intention” to acquire a mass medium at a price that is significantly lower than the market price cannot be included in this list. In its written observations of 7 March 2023, the Ministry of Justice informed the Commission that the “intention to purchase” sub-criterion will be excluded from the revised draft text.

D. Procedure to be designated as an “oligarch”

34. The procedure for designating a person as an “oligarch” is rather different from the provisions contained in the Ukrainian law and the Georgian draft law.

35. The draft law provides for a two-step procedure, whereby an *ad hoc* committee takes a decision on a referral submitted by a defined set of subjects, which decision is later endorsed through adoption by the Parliament in a public sitting. An explicit appeal procedure against the final decision by the Parliament to the Supreme Court of Justice (SCJ) is provided for by the draft law.

36. The National Committee for De-Oligarchisation (NDC) is established under Article 7 of the draft law. The NDC is composed of 15 members,¹⁹ a majority of whom are members of the

¹⁸ In this regard, the Venice Commission takes note of the clarification of the Ministry of Justice, provided in its written observations of 7 March 2023, that the tax evasion referred to in sub-paragraph d) of this provision must be established by law/court.

¹⁹ But in theory could be more, depending on how many Deputy Prime Ministers are appointed. For example, three Deputy Prime Ministers were appointed at the time of drafting of the law.

executive.²⁰ The NDC shall examine referrals submitted by, pursuant to Article 7 § 7 of the draft law, a member of the Committee, a Member of Parliament, the Governor of the National Bank of Moldova, the Chairman of the Board of Directors of the National Commission for Financial Market, the Director of the Service for the Prevention and Combating of Money Laundering, or the Director of the State Tax Service.

37. While the influence of the ruling majority (the executive) is counter-balanced by the presence of several autonomous/independent authorities (such as the Central Electoral Commission, the Audiovisual Council etc.), the addition of sufficient participation of independent members or institutions in the NDC, with some form of involvement of civil society, would guarantee, in the Venice Commission's opinion, a better balance and prevent the risk of abuses by the Government at this stage of the procedure. In this regard, the Venice Commission welcomes the willingness of the domestic authorities, expressed during the online meetings, to further reflect on the composition of the NDC to ensure a more appropriate balance. In particular, in its written observations of 7 March 2023, the Ministry of Justice informed the Commission that the composition of the NDC will be supplemented by 2 representatives of civil society, to be selected by the National Platform of the Eastern Partnership Civil Society Forum. The Commission reserves its position as to whether, as a result of this addition, the composition will be sufficiently balanced.

38. The Venice Commission takes note of the concerns expressed during the online meetings by some independent authorities (in particular the Audiovisual Council and the Central Electoral Commission), namely that in some situations the authorities sitting on the NDC could find themselves being at the same time the initiator of a procedure, one of the subjects deciding on the report and even the authority implementing the sanction (e.g. a person designated as an "oligarch" has to give up control over mass media within six months and a political party that accepts funds from an "oligarch" shall be excluded from the electoral campaign). This arguably creates a confusion of roles that might jeopardise the perceived impartiality and transparency of the body. In its written observations of 7 March 2023, the Ministry of Justice argued that the concerns expressed by the above-mentioned independent authorities are outweighed by the fact that the final decision on the designation of a person as an "oligarch" is taken by the Parliament.

39. Turning to the procedure before the NDC, the Venice Commission welcomes the provision contained in Article 8 § 3 of the Law, setting out the rights of a person concerned by the referral. In particular, the person who is the subject of the referral shall have the right to: (i) submit in written form any explanations, data, documents and other additional information it may consider necessary no later than five working days before the date of the meeting; (ii) be heard at the meetings or to ask to have written explanations; (iii) be assisted at the hearing by a representative; (iv) be informed of the report of the NDC and the material gathered during the examination of the complaint; (v) appeal against the Parliament's decision regarding his/her designation as an "oligarch".

40. The draft law has the merit of explicitly setting out, in Article 9, the means by which the NDC gathers and reviews information. Among other things, the NDC shall have the right to request from individuals and legal entities of public or private law, including financial institutions, the documents and information necessary for the assessment of the criteria. The draft law further provides that failure to submit the information required within the specified time limit shall be sanctioned in accordance with the law. However, it is not clear what happens

²⁰ Pursuant to Article 7 § 3 of the draft law: the Prime Minister, the First Deputy Prime Minister, Deputy Prime Ministers, the Minister of Justice, the Minister of Economy, the Minister of Finance, the Minister of Internal Affairs, the Minister of Agriculture. Other non-executive members are: The Governor of the Autonomous Territorial Unit of Gagauzia (Gagauz-Yeri), the Director of Security and Intelligence Services, the President of the Audiovisual Council, the President of the Competition Council, the President of the Central Electoral Commission, the General Prosecutor, the Director of the National Anti-Corruption Centre.

in case of non-compliance. Provisions on storage and processing of information collected, including personal data, are however lacking (see also the discussion relating to Article 8 ECHR below). Moreover, the Venice Commission considers that the power of the NDC to compel documents and information from any person is too wide and unrestrained. The Venice Commission considers that it should be counterbalanced by, at a minimum, a general protection against self-incrimination, a protection of the legal professional privilege and the privileges attaching to journalists, such as the protection of confidential sources. The Venice Commission invites the Moldovan authorities to clarify these points. Insofar as non-compliance is concerned, the Venice Commission takes note that the Ministry of Justice will regulate the issue in secondary legislation, by, for example, supplementing the Contravention Code with appropriate provisions.²¹

41. Pursuant to Article 8 § 8 of the draft law, the report of the NDC shall be adopted by 2/3 of the members of the NDC. The final decision to designate a person as an “oligarch” is then taken by the Parliament in a public sitting, affording the person concerned a hearing at his/her request, and requires a vote of 3/5 of the elected deputies.²² The Venice Commission finds that involvement of the Parliament provides more safeguards against abuse than the sole reliance on the Government or other executive body, so long as it includes the safeguard of a qualified majority. A qualified majority in parliament necessarily entails some involvement of the opposition, and therefore at least provides some checks on the ruling majority’s powers. It is important that the decision as to who qualifies as an “oligarch” should not be used as a tool to exclude political competition.

42. As to the role the Parliament plays in the procedure, it is the understanding of the Venice Commission that in such a procedure the Parliament is only called upon to verify whether the legal conditions for the designation are met. If this is the case, the Venice Commission suggests that a series of procedural guarantees be added and afforded to the concerned person: in addition to the public hearing, a pluralistic composition of the parliamentary committee tasked with the preparation of the case, if any; its nature as standing committee; the right of the person to submit arguments, and to appear before the Parliament in person and to be assisted by an attorney.²³ In this regard the Venice Commission takes note of the commitment of the Ministry of Justice, expressed in its written observations of 7 March 2023, to supplement Article 10 of the draft law with procedural guarantees similar to those provided in Article 8 of the draft law.

43. Pursuant to Article 11 of the draft Law, the decision of the Parliament can be appealed by the person concerned within 15 days of its publication. A panel of three judges of the SCJ who have passed the vetting procedure is entrusted with hearing the appeal against the decision of the Parliament. The Venice Commission welcomes at the outset the explicit provision of an appeal procedure, an additional guarantee that can prevent abuses. However, a series of issues need to be addressed in more detail. First of all, as raised by several interlocutors during the online meetings, the deadline of 15 days to appeal against the decision of the Parliament seems to be too short a deadline for cases that might be based on voluminous and complex financial documentation. The Venice Commission recommends extending this term to 30 days. In its written observations of 7 March 2023, the Ministry of Justice agreed with this recommendation and expressed their intention to modify the draft law accordingly.

44. Second, the scope of the review of the SCJ is not entirely clear. Interlocutors of the Venice Commission were uncertain whether the review could concern the merits of the case or only procedural issues. The Ministry of Justice explained that further guidance in this sense can be

²¹ As indicated in the written observations of 7 March 2023.

²² Article 10 of the draft law.

²³ See, *mutatis mutandis*, Venice Commission, [CDL-AD\(2017\)025](#), *Amicus Curiae Brief for the European Court of Human Rights in the case of Berlusconi v. Italy on the minimum procedural guarantees which a State must provide in the framework of a procedure of disqualification from holding an elective office*, § 27.

found in a recent judgment of the Constitutional Court of the Republic of Moldova. The latter, on 14 February 2023, issued a judgment on the exceptions of unconstitutionality of certain provisions of Law no. 26 of 10 March 2022 on certain measures related to the selection of candidates for membership of self-administrative bodies of judges and prosecutors.²⁴ That law provides for a similar mechanism of appeal, whereby a special panel of the SCJ decides upon appeals against the decisions of the Evaluation Commission, i.e. pre-vetting.²⁵ Insofar as such a mechanism of appeal did not cover procedural matters such as flagrant violations of procedural rights, and that a further appeal to a court with full jurisdiction to examine each of the grounds of appeal was not foreseen, the Constitutional Court found that the provision did not ensure that non-appointed candidates would benefit from a "sufficient examination" of the central issues of the appeals lodged before the special panel of the SCJ. The Constitutional Court therefore held (para. 3 of the operative part of the judgment) that until the amendment of the law by the Parliament, the special panel of the SCJ, when examining the appeals lodged against the decisions of the Evaluation Commission, may order the re-evaluation of the candidates not promoted if it finds (a) that serious procedural errors were admitted in the evaluation procedure by the Evaluation Commission, which affect the fairness of the evaluation procedure, and (b) that there are circumstances which could have led to the promotion of the evaluation by the candidate. It is the Venice Commission's understanding that the scope of the review of the SCJ in the context of the draft law will have to be similar as the Constitutional Court's findings will be applied *mutatis mutandis*.

45. Lastly, it is peculiar that, pursuant to Article 11 § 4 of the draft law, the decision of the Parliament cannot be declared null and void. The SCJ can in fact either dismiss the appeal or order the reopening of the procedure. This means that the judiciary does not necessarily have the last word. The risk of such an approach is that authorities and individuals concerned might be dragged in lengthy administrative and judicial proceedings in a circuitous examination of the decision. The Venice Commission invites the Moldovan authorities to reflect on this risk. In its written observations of 7 March 2023, the Ministry of Justice took note of the Commission's concerns and specified that it will further examine the subject and identify appropriate effective remedies.

E. Consequences of being designated as an "oligarch"

46. The consequences of being designated as an "oligarch" pursuant to the final decision of the Parliament are described in Articles 12, 13 and 14 of the draft law. They are as follows:

- being put in a public register. This register can be accessed through the website of the Parliament and includes information justifying the decision of the Parliament, the legal entities of which the designated person is the ultimate beneficial owner and the list of persons involved in political life or political parties which received funds from the designated person in the past three years;²⁶
- upon inclusion in the register, persons concerned are prohibited from financing political parties, election campaigns, other political campaigning and/or the holding of meetings or demonstrations "with political demands" and are additionally banned from participating in the privatisation of public property, receiving public property under concession, or from entering into public-private partnerships;²⁷

²⁴ The [decision](#) and its [summary](#) are available on the website of the Constitutional Court of Moldova (in Romanian only).

²⁵ The Ministry of Justice informed the Venice Commission that the establishment of such a panel in the draft law was clearly inspired by the provision contained in Law no. 26/2022.

²⁶ Article 12 of the draft law.

²⁷ Article 13 § 1 of the draft law.

- persons designated as “oligarchs” will be required to submit an asset and interest declaration (on an annual basis to the National Integrity Authority).²⁸ These declarations will be made public;
- In the event that a person was designated on grounds of meeting the criterion for involvement in political life and exerting influence over mass media, the person shall give up control over mass media within six months;²⁹
- If a political party accepts funds from a designated person, this party shall be excluded from the electoral campaign;³⁰
- public officials in a high-level decision-making or sensitive position (those defined in Article 4(1)(a) of the draft law) will be required to disclose any meeting, conversation or communication by phone, on-line or in person with persons included in the register or their representative through the obligatory filing of a declaration of contacts via the website of the Parliament.³¹

47. In its written observations of 7 March 2023, the Ministry of Justice informed the Commission that all the specific provisions related to the legal consequences of being designated as an “oligarch” will be excluded from the draft, and will be replaced by a general provision according to which the legal implications and consequences of the designation of a person as an “oligarch” will be regulated by the special rules existing in the national legislation regulating the specific sectors concerned by the interests of the “oligarchs”. The Ministry of Justice further explained that the related normative framework will be adjusted and the capacities of the public authorities with attributions in the relevant fields strengthened. The Venice Commission reserves its position as to the methodology of splitting up the legal regulation of the procedure for the designation of “oligarchs” and the consequences following from it; the contents of the new regulations will have to be assessed separately.

F. Removal from the register

48. The Venice Commission notes that according to Article 8 § 12 and Article 15 of the draft law, removing an “oligarch” from the register is possible if the person no longer meets the criteria for being recognised as an “oligarch”. The person him/herself may – according to Article 15 § 5 - request a removal decision.

IV. Human rights issues

49. The draft law introduces several restrictions and limitations applicable to persons designated as “oligarchs”. These restrictions and limitations interfere with the enjoyment of rights guaranteed by the European Convention on Human Rights. The most obvious of these are the right to respect for private and family life (Article 8 ECHR), freedom of expression (Article 10 ECHR), freedom of assembly and association (Article 11 ECHR), the right to peaceful enjoyment of possessions (Article 1 of Protocol 1 to the ECHR). Interferences with these rights may be justified only insofar as they pursue a legitimate aim, are provided for by the law and lawful (in terms of the quality of the law) and are proportionate to the legitimate aim pursued and necessary in a democratic society. This will be examined further below.

²⁸ Article 13 § 2 of the draft law, referring to the Law on the declaration of personal assets and interests.

²⁹ Article 13 § 3 of the draft law.

³⁰ Article 13 § 4 of the draft law.

³¹ Article 14 of the draft law.

A. Possible interference with Article 8 ECHR

50. Interference with the enjoyment of the right to respect for private and family life protected by Article 8 ECHR may arguably occur at several stages of the application of the law by:

- the collection, assessment, storage and processing of personal data by the NDC (Article 9 of the draft law);
- the publication of the names of persons designated as “oligarchs” in the register of the Parliament (Article 12 of the draft law);
- the requirement to submit declarations of assets and interests (Article 13 § 2 of the draft law);
- the requirement upon some public officials to declare their contacts with persons designated as “oligarchs” and/or their representatives (Article 14 of the draft law).

51. First of all, the NDC has to assess whether a person meets the criteria set out in the draft law to be designated as an “oligarch”. The Venice Commission notes that the draft law explicitly provides for derogation to Law no. 133/2011 on personal data protection. In particular, the draft law, at its Article 9 § 4 provides that processing of personal data of the person referred, their family members and related persons is allowed during the procedure of examination of the referral. The Venice Commission recalls that the mere storing of personal data (and, by analogy, its collection) can already amount to an interference in a person’s rights under Article 8 ECHR, even if the NDC would not take any further steps in using this data.³² The fact that some of the information collected on persons to be designated as “oligarchs” (and the subsequent publication of such data) is already in the public domain will not necessarily remove the protection offered by Article 8 ECHR.³³ Moreover, as noted above, individuals and legal entities under public or private law, including financial institutions, cannot refuse to provide the information requested by the NDC on the grounds of protection of personal data, bank secrecy or other data with limited access. This triggered concerns by the National Bank of Moldova, who during the online meetings informed the Commission that such a provision might lead to the infringement of the EU Capital Requirements Directive (CRDIV)³⁴ and the Revised Payment Services Directive (PSD2),³⁵ which oblige supervising financial authorities to preserve confidentiality of data. Against this background, the Venice Commission welcomes the obligations, for members of the NDC to ensure the confidentiality and security of personal data that become known to them during the examination of the complaint and not to use, transmit or disclose confidential information which has become known to them during the examination of the complaint.³⁶

52. The second instance of possible interference with the rights protected by Article 8 ECHR relates to the publication of names of persons designated as “oligarchs” in the register held by the Parliament (which includes the publication of information as to how the person fulfils the eligibility criteria, the legal entities of which the designated person is the ultimate beneficial owner and the list of persons involved in political life or political parties which received funds from the designated person in the past three years). By comparison with – for example – a register of lobbyists, in the opinion of the Venice Commission, the publication of the names of persons designated as “oligarchs” contains an element of stigmatisation and can be seen as

³² ECtHR, *Amann v. Switzerland*, no. 27798/95, 16 February 2000, §69.

³³ ECtHR, *Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland*, no. 931/13, 27 June 2017, §134.

³⁴ [Directive 2013/36/EU](#) of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

³⁵ [Directive \(EU\) 2015/2366](#) of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC

³⁶ Article 7 § 9 of the draft law.

a form of blacklisting.³⁷ While in the minds of people the term “oligarch” indeed implies some form of wrongdoing, being designated as an “oligarch” and thereby included in the register does not necessarily mean having committed unlawful acts. It is noted that reputation is protected by Article 8 ECHR as part of the right to respect for private life.³⁸ A “blacklisting” effected by inclusion in the register can thus constitute an interference of the enjoyment of rights under Article 8 ECHR from the standpoint of the protection of reputation. In its written observations of 7 March 2023, the Ministry of Justice agreed with the considerations formulated by the Venice Commission and decided to exclude the corresponding provisions from the draft.

53. Once a person is designated as an “oligarch”, pursuant to Article 13 § 2 of the draft law, s/he would be required to submit, within 30 days, a declaration of assets and interest on an annual basis to the National Integrity Authority. This entails a large volume of personal data, including personal identification details and place of residence of the person concerned (and his/her immediate family), as well as their real estate, moveable property, commercial interests, intangible assets, received income, monetary assets, accounts opened in financial institutions, loans and debts.³⁹ This information is in large part made public.⁴⁰ Again, such far-reaching disclosure requirements constitute an interference in the right to respect for private life under Article 8 ECHR (also considering that it extends to members of the immediate family of persons designated as “oligarchs”).

54. The draft law furthermore affects the privacy of not only persons designated as “oligarchs”, but also public officials who may come into contact with them.⁴¹ The right to respect for private life and correspondence under Article 8 ECHR is implicated by the requirement for public officials to declare their contacts with persons designated as “oligarchs” and/or their representatives.⁴² It is noteworthy that apart from containing information about the public official him/herself, the person designated as an “oligarch” or his/her representative (with whom the contact occurred), the date and place of the meeting or communication, the declaration of contacts is even to contain a “*press release*” (which is understood to be a summary of the meeting).⁴³ Given that Article 8 ECHR protects the confidentiality of private conversations, this requirement may interfere with both public officials’ and persons designated as “oligarchs” (and their representatives’) right to respect for their correspondence and private life.

³⁷ See Venice Commission, [CDL-AD\(2010\)022](#), *Report on counter-terrorism measures and human rights*, §§ 73-76.

³⁸ ECtHR, *Axel Springer AG v. Germany*, no. 39954/08, 7 February 2012, §83; *Chauvy and Others v. France*, no. 64915/01, 29 June 2004, §70; *Pfeifer v. Austria*, 12556/03, 15 November 2007, §35.

³⁹ Article 4 of [Law no. 133/2016](#) (in Moldovan only) on the declaration of personal assets and interests.

⁴⁰ Article 5 § 3 of Law no. 133/2016 (cited above) provides that the declaration is a public document. However, the year of birth, identification number, domicile and telephone number of the subject of the declaration; the surname, first name, patronymic, years of birth, addresses and identification numbers of family members and his/her cohabitant, addresses and cadastral numbers of real estate, registration numbers of movable property, cash in national or foreign currency which is not subject to financial deposits, bank account numbers, goods in the form of precious metals or stones, objects of art and worship, objects forming part of the national or universal cultural heritage, collections of art, numismatics, philately, arms, value of services purchased, signature of the subject of the declaration as well as declarations of the subjects of the declaration whose identity and quality constitute state secrets shall not be published on the official website and shall constitute restricted information (Article 9 § 2 and 33 of Law no. 133/2016, cited above).

⁴¹ The draft law limits the scope of the application of this provision to the public officials listed in Article 4 § 1(a), i.e. those in a high-level decision-making or sensitive position.

⁴² Article 8 ECHR “*protects the confidentiality of private communications, (...) whatever the content of the correspondence concerned (...), and whatever form it may take*”. ECtHR, *Klaus Müller v. Germany*, no. 24173/18, 19 November 2021, §37.

⁴³ Only contacts which took place in the course of official events broadcasted live, court sessions and official events initiated by government authorities (as posted on the website of the government authority) do not have to be disclosed (Article 14 § 4(c) of the draft law).

B. Possible interferences with Articles 10 and 11 ECHR

55. The Venice Commission observes that some of the measures provided for by the draft law may have an effect on other rights protected by the Convention. This concerns in particular, the rights to political participation of persons designated as “oligarchs”. A consequence of the inclusion in the register of “oligarchs” is that the person concerned may no longer finance political parties, election campaigns, and/or the holding of rallies or demonstrations “with political demands”.

56. The possibility to donate to political parties is part and parcel of the right to freedom of association, guaranteed by Article 11 ECHR, which involves not only personal participation in a political association but also other forms of support. This measure may also affect Article 10, since persons designated as “oligarchs” will see their possibility to impart information reduced – for example, as a result of the prohibition on the financing of rallies and demonstrations “with political demands”. It is noted that the draft law does not reinstate the legal cap on financing which has been violated by the “oligarch” but results in a complete ban on any such financing by persons designated as “oligarchs”.

57. Lastly, the draft law also potentially impinges upon political parties’ right to freedom of expression, freedom of association, and right to free elections by sanctioning with the exclusion from the electoral campaign parties who receive funds from persons designated as “oligarchs”. The Venice Commission recalls that restriction to political parties funding might have a significant impact on the party’s ability to engage fully in its political activities and certainly constitute an interference with Article 11 (also considered in light of Article 10) ECHR.⁴⁴ Exclusion from electoral campaign also constitutes an interference with Article 3 of Protocol no. 1 to the Convention.⁴⁵

C. Possible interference with Article 1 of Protocol 1 to the ECHR

58. Differently from the Law in Ukraine and the draft law in Georgia, the Venice Commission notes that according to the Moldovan draft law in the event that a person is designated as an “oligarch” on grounds of meeting the criterion for involvement in political life and exerting influence over mass media, s/he shall give up control over mass media within six months. The Venice Commission recalls that the concept of “possessions” in the first paragraph of Article 1 of Protocol no. 1 to the ECHR is not limited to the ownership of material goods and is independent from the formal classification in domestic law. It has already been held that, for example, interests associated with exploiting a broadcasting licence constituted property interests attracting the protection of Article 1 of Protocol No. 1.⁴⁶ Against this background, the requirement to give up all control over the controlled media outlet would clearly amount to an interference with property rights.

⁴⁴ EctHR, Parti Nationaliste Basque – Organisation Régionale d’Iparralde v. France, no. 71251/01, 7 June 2007, §§ 36-38.

⁴⁵ EctHR, Political Party “Patria” and Others v. The Republic of Moldova, no. 5113/15 and 14 others, 4 August 2020, §§ 32-33.

⁴⁶ EctHR, Centro Europa 7 s.r.l. and Di Stefano v. Italy [GC], no. 38433/09, 7 June 2012, §§ 171-180.

D. Legitimate aim

59. The enjoyment of the rights under Articles 8, 10 and 11, and Articles 1 of Protocol 1 and 3 of Protocol 1 to the ECHR is not absolute and can be restricted. The conditions upon which a State may interfere with the enjoyment of these rights are set out in the second paragraphs of these articles or have been elaborated in the Court's jurisprudence.⁴⁷ One of the aims for which a State may interfere with these rights is if this is necessary in the interests of national security, to which Article 1 of the draft law indeed explicitly refers. While at first sight the draft law may appear only to be remotely connected to a threat to national security, the Venice Commission can accept that the reality and prominence of the phenomenon of so-called "oligarchisation" in the Republic of Moldova is such (in particular in the way that this undermines democracy and the rule of law) that this could amount to a threat to the national security. Similarly, Article 8 ECHR allows for restrictions for the "economic well-being of the country", which can be implied for a Law that tries to contain the influence of "oligarchs" as major economic actors. Articles 8, 10, and 11 ECHR allow for limitations for reasons of "public safety". The overwhelming influence of "oligarchs" in specific sectors could be seen as a threat to public safety. From this perspective, the draft law could therefore be said to pursue a legitimate aim.

E. Lawfulness

60. A test used by the European Court of Human Rights to analyse compliance of contested measures with the requirements of the second paragraphs of the above-mentioned provisions is the lawfulness of the interference. The requirement of "lawfulness" implies not only the existence of a legal basis, but also meeting certain fundamental criteria underpinning the *quality* of this legal basis: The law must be sufficiently clear and foreseeable.⁴⁸ For domestic law to meet these requirements, "*it must afford adequate legal protection against arbitrariness and accordingly indicate with sufficient clarity the scope and discretion conferred on the competent authorities and the manner of its exercise*".⁴⁹ While it is true that "*many laws are inevitably couched in terms which, to a greater or lesser extent, are vague and whose interpretation and application are questions of practice*", laws nevertheless have to satisfy the requirement of "foreseeability".⁵⁰

61. The Venice Commission is of the opinion that the draft law as it stands is open to criticism from the standpoint of the quality of its legal basis. While the Venice Commission welcomes the clearer definition of NDC's power in gathering and processing information on persons potentially to be designated as "oligarchs", it is still concerned by the fact that the draft law does not define with sufficient precision the criteria used to be designated as an "oligarch".

F. Necessity in a democratic society

62. It needs to be ascertained whether the measures provided by the draft law correspond to a pressing social need and are proportionate to the legitimate aim pursued.⁵¹ The Venice Commission recalls that it is not its task to examine instances of the application of this draft law. It can therefore not be excluded that, in some cases, restrictions and obligations imposed

⁴⁷ For example, Article 3 of Protocol No. 1 does not contain a list of "legitimate aims" capable of justifying restrictions on the exercise of the rights it guarantees and does not refer to those enumerated in Articles 8 to 11 of the Convention. Therefore, the Contracting States are free to rely on an aim not mentioned in those Articles, provided that it is compatible with the principle of the rule of law and the general objectives of the Convention.

⁴⁸ Given the extent the enjoyment of Articles 8, 10 and 11 are interfered with, the necessity to formulate the law with "sufficient precision" to enable persons to foresee whether the law is applicable to them becomes all the more important. See for example: ECtHR, *Rotaru v. Romania*, no. 28341/95, 4 May 2005, §57-58; *Amann v. Switzerland*, cited above, §56.

⁴⁹ ECtHR, *Catt v. the United Kingdom*, no. 43514/15, 24 January 2019, §94.

⁵⁰ ECtHR, *Huhtamäki v. Finland*, no. 54468/09, 6 March 2012, § 45.

⁵¹ ECtHR, *Olsson v. Sweden* (no. 1), no. 10465/83, 24 March 1988, §67.

by this draft law would be justified. The task of the Venice Commission is different – to evaluate the draft law *as presented in its current form* and to identify weak points and flaws which may lead to human rights violations. In doing so, the Venice Commission is essentially guided by the approach of the ECtHR which in its analysis of proportionality also looks at the procedural safeguards available to the individual, protecting him or her from arbitrariness and excesses.⁵²

1. Broad discretion

63. A major flaw of the draft law is the vagueness of certain provisions (as already briefly mentioned above, under the heading of “lawfulness”). Thus, for example, as regards the storage and processing of personal data by the NDC on persons to be designated as “oligarchs”, no provision of domestic law lays down any limits on the exercise of these powers. The draft law does not define the categories of persons on whom this information is collected and kept or the procedure to be followed.⁵³ In its written observations of 7 March 2023, the Ministry of Justice informed the Commission that, insofar as the processing of personal data is concerned, a reference to Law no. 133/2011 on the protection of personal data will be added in the revised draft law.

64. The designation of persons as “oligarchs” on the basis of the data collected – which results in the publication of their names and other information in a register of “oligarchs” and an array of other limitations as already described before – is based on a set of unclear criteria. These criteria apply to potentially a very large range of people and leave excessive discretion to the decision-making body, the NDC, to – for example – decide whether someone has *exerted excessive pressure, has decisive influence on the management of a mass medium* or is involved in political life through the financing a rally or demonstration “*with political demands*” (which most demonstrations can be considered to have in one way or another) or by having made a donation to a political party or for simply being a relative of a high-level official.⁵⁴ Similar considerations are associated with decisions to no longer identify someone as an “oligarch” in accordance with Article 9 of the draft law (for example, because they have sold their media stakes to someone with an “irreproachable commercial reputation”), all the more so because the procedure for not recognising someone as having an “irreproachable commercial reputation” are in the hands of the NDC itself.⁵⁵ In its written observations of 7 March 2023, the Ministry of Justice took note of these concerns and informed the Commission that it intended to amend Article 16 § 2 of the draft law, so that the procedure for verifying the business reputation of a purchaser of a mass media shall be approved by the Audiovisual Council.

⁵² ECtHR, *Fernández Martínez v. Spain*, 56030/07, 12 June 2014, §147; *A-M V v. Finland*, no. 53251/13, 23 March 2017, §84.

⁵³ See in a similar vein, *Rotaru v. Romania*, cited above, §57.

⁵⁴ More recently, in *Catt v. the United Kingdom*, §106, the ECtHR emphasised the risk of ambiguity in the legal basis used by the authorities for the collection and retention of personal data, stemming from loosely defined notions in domestic law.

⁵⁵ Article 16 § 2 of the draft law provides that the procedure for verifying the business reputation of a purchaser of a mass media shall be approved by the National Committee.

2. Lack of independence/impartiality in decision-making

65. Insofar as the decision-making process is concerned, the Venice Commission reiterates that the involvement of the Parliament in the recognition procedure is certainly an improvement *vis-à-vis* a decision taken exclusively by the executive. Moreover, the Venice Commission notes that the NDC takes its decisions on reports with a 2/3 majority of its members. However, the Venice Commission is still doubtful that a mainly political body (which does not foresee representation of the opposition) is the correct way forward.⁵⁶ The NDC is the body gathering information, assessing it, hearing the person designated and taking the most important decision in the procedure designating someone as an “oligarch”. This might lead a political majority to target its political competitors as “oligarchs”, eventually rendering them unable to finance opposition political parties/candidates and/or rallies. Severe limitations of the right to political participation should not become, be it only potentially, a tool of unfair electoral competition.

66. Moreover, the procedure to recognise a person who has excessive economic and political influence in public life may be initiated by those who are themselves targeted by the draft law as potential “oligarchs”. Thus, members of Government, who, pursuant to Article 4(1)(a) of the draft law are considered potential “oligarchs” shall adopt a report (being members of the NDC) proposing to recognise someone as an “oligarch”. This mechanism *de facto* shields Government members from being considered as “oligarchs”. In its written observations of 7 March 2023, the Ministry of Justice took note of these concerns and informed the Commission that it intended to add a parliamentary component to the composition of the NDC (a group of deputies, which would represent both the parliamentary majority and the opposition), similarly to the mechanism provided for in Law no. 26/2022.

3. Lack of procedural safeguards

67. As outlined above, the Venice Commission welcomes the fact that the draft law provides for a set of specific fair trial guarantees in front of the NDC. However, a series of issues remain.

68. The decisions of the NDC to designate persons as “oligarchs” are made on the basis of submissions by a number of public bodies and officials, including members of the NDC itself. The draft law does not provide that the members of the NDC who made the initial submission will be excluded from the decision-making process. In its written observations of 7 March 2023, the Ministry of Justice informed the Commission that it is prepared to revise its original position and to make it mandatory for the members of the NDC who initiated the procedure to refrain from voting on the report.

69. Persons against which a referral is brought are given notice of the proposal to designate them as an “oligarch” (including which criteria are considered to be applicable in their case and the material gathered during the examination of the complaint) before the meeting of the NDC in which this will be discussed, but it is not clear how much in advance. Moreover, failure of the person concerned to receive the notice of the NDC, to submit written explanations or documents, or to attend the hearing, even for a valid reason, shall not constitute grounds for postponing the hearing in question or for not examining the referral. This might render the above-mentioned due process rights illusory, especially when the person is residing abroad. Whether the authorities acted with the requisite diligence in apprising the person concerned of the proceedings so that their right to a fair trial is not jeopardized⁵⁷ will have to be analysed on a case-by-case basis. In its written observations of 7 March 2023, the Ministry of Justice informed the Commission that it intended to amend the draft law in accordance with

⁵⁶ Also seeing as the composition of the NDC is variable, depending on the number of Deputy Prime Ministers appointed.

⁵⁷ Among others, EctHR, Schmidt v. Latvia, no. 22493/05, 27 April 2017, § 86.

the recommendations of the Venice Commission, in particular by providing that persons against which a referral is brought: (i) will be given notice of the proposal to designate them as an “oligarch” at least 30 days in advance of the meeting of the NDC; and (ii) may present him/herself or offer explanations at any of the NDC's subsequent meetings regarding the referral, up until the time of issuing the report provided for by the law (i.e. 6 months from the initial submission), and the NDC will be obliged to analyse the information presented in this regard when issuing the report.

70. Moreover, as outlined above, it is not clear which kind of procedural safeguards, apart from the right to a public hearing, are provided in front of the Parliament.

71. Lastly, the Venice Commission is concerned by the absence of the suspensive effect of the appeal to the SCJ. Upon inclusion of one's name on the register, much of the damage (to his/her private and business reputation, his/her ability to finance certain political activities etc.) has already been done. In the opinion of the Venice Commission, an appeal before a court of law should have a suspensive effect: unless the decision is confirmed on appeal, the name of the person should not be put in the register. While some interlocutors informed the Venice Commission that the SCJ, guided by the provisions of the Administrative Code, could suspend the execution of the act, judges of the Supreme Court of Justice who met with the Venice Commission expressed their doubts about such a possibility. In particular, they referred to the fact that Article 11 § 3 of the draft law, by providing that the procedure stipulated in the Administrative Code applies *with the exceptions established by this Law* (emphasis added), acts as *lex specialis* and, as such, prevails over the general law, preventing the SCJ from suspending the inclusion of a person's name on the Register. The Venice Commission invites the Moldovan authorities to clarify this issue. In its written observations of 7 March 2023, the Ministry of Justice informed the Commission that, having regard to the fact that it intended to delete the provision concerning the publication of “oligarchs” names on a public register, the need for a suspensive effect of the appeal before the SCJ lost its *raison d'être*.

4. Possible alternative means

72. The current draft law could result in endless expensive litigation and challenges, both nationally and on the European level. Exploring alternative less-intrusive means to achieve a legitimate aim is a core element of the analysis of proportionality. The Venice Commission notes that the draft law introduces burdensome obligations for persons designated as “oligarchs” as well as for public officials who come into contact with them, while questions can be raised as to the efficacy of those obligations in reducing the influence of “oligarchs” on political life in the Republic of Moldova. In the view of the Venice Commission, addressing “oligarchisation” cannot be seen separately from the need for structural reforms of the judiciary to strengthen its independence and integrity, further measures to address the distortive effects of “oligarchs” on competition, measures to address media concentration and legislation facilitating access to official information and investigative journalism, the support to specialised anti-corruption agencies, especially in their efforts to tackle high-level corruption and reform of tax legislation (cutting out possible tax benefits and exemptions used by oligarchic structures). Any specific Law on “oligarchs” should be adopted only in the wider context of such reforms (the aforementioned so-called “systemic approach”).

73. More specifically, as regards two of the measures proposed by the draft law, the prohibition of the financing of political parties, election campaigns, other political campaigns and rallies and demonstrations “with political demands” and the requirement on public officials to submit asset declarations, the Venice Commission considers that other legal avenues should be examined. The measures should be commensurate with the goal pursued of achieving a level playing field for all actors in society. As regards the financing of political parties and election campaigns, the Venice Commission understands the need to reduce the influence of “big

money" in the political sphere but considers that this aim could be better achieved by strengthening the rules on the transparency of donations combined with a general cap or even a blanket prohibition on donations by legal persons to avoid having multiple legal persons being used as vehicles to circumvent caps on individual donations.

74. When it comes to the requirement upon persons designated as "oligarchs" to submit asset declarations, the Venice Commission fully understands the need for greater transparency of beneficial ownership but considers that this should not just be the case for persons designated as "oligarchs". It finds that this goal could be better achieved through – for example – *erga omnes* rules on transparency of beneficial ownership of companies.⁵⁸ It is recalled that in respect of public officials, the European Court of Human Rights has found the interference with the right to privacy as a result of these asset and interest declarations justified. A particular consideration in this context was, however, the fact that the running for public office was voluntary and the financial situation of persons holding such office one of legitimate public interest.⁵⁹ In its written observations of 7 March 2023, the Ministry of Justice argued that the presentation of annual asset declarations by the persons designated as "oligarchs" is of particular interest to society and would counterbalance their right to the protection of their private life. The Ministry stressed that the criteria to be designated as an "oligarch" presuppose the fact that the relevant person takes part in public life to a significant extent, either in a legitimate or illegitimate manner. The Ministry of Justice however informed the Commission that, in light of the Venice Commission's observations, it intended to exclude the obligation to submit asset declarations for persons that are designated as "oligarchs" pursuant to the criterion of Article 4 § 1(c) of the draft law, i.e. family members or associated/affiliated persons of persons "involved in political life".

75. Regarding the requirement upon public officials to disclose the content of their communications with persons designated as "oligarchs" and/or their representatives, the Venice Commission finds the proportionality of this measure highly questionable. The contents of private conversations are at the very core of the right to privacy. Disclosure of conversations can be required in individual cases on the basis of a judicial warrant, but not as a blanket requirement outside judicial procedures. The Venice Commission also notes at a practical level that it is not unthinkable that certain public officials can be designated as "oligarchs" themselves or are family members of "oligarchs", causing an unworkable tidal wave of declarations. As such, the Venice Commission would urge the Moldovan authorities to reconsider this requirement. In its written observations of 7 March 2023, the Ministry of Justice informed the Commission that it took note of these concerns and that it decided to exclude the relevant provisions from the draft law.

76. Lastly, similar considerations apply to the requirement of giving up control of all media outlets within six months. In the Venice Commission's opinion, the absence of any less restrictive alternative measures and the unlimited nature of the sanction does not seem to strike a reasonable balance between the means employed and the aim pursued. The purpose of limitations of media ownership should not be to remove ownership altogether but to meet the anti-monopoly limits established by the relevant legislation and to neutralise undue influence on the political and electoral processes.

77. Summing up, the Venice Commission encourages the Moldovan authorities to explore other possible solutions to the problem of "oligarchisation" of the political sphere, which are commensurate to the goal to be achieved and do not involve the designation of certain persons

⁵⁸ See however CJEU, [WM v Luxembourg Business Registers](#), C-37/20 and C-601/20, 22 November 2022, finding that the provision of Directive (EU) 2015/849 whereby the information on the beneficial ownership of companies incorporated within the territory of the Member States is accessible in all cases to any member of the general public is invalid as it constitutes a serious interference with the fundamental rights to respect for private life and to the protection of personal data.

⁵⁹ ECtHR, [Wypych v. Poland](#) (dec.), no. 2428/05, 25 October 2005.

as “oligarchs” on the basis of vague criteria, following a procedure that, despite the improvements *vis-à-vis* the laws from which the draft law was inspired, is still flawed in several respects. In this regard, the Venice Commission encourages the Moldovan authorities to pursue the full implementation of its Action Plan.

V. Liability in case of non-disclosure of contacts with “oligarchs”

78. Regarding the requirement for public officials to disclose the content of their communications with persons designated as “oligarchs” and/or their representatives, the Venice Commission has already outlined above that it considers this requirement disproportionate and impractical.

79. Pursuant to the draft law, persons designated as “oligarchs” and their representatives⁶⁰ are required prior to the meeting or communication to notify the public official that they or the persons they represent are included in the register, but failure to do so does not exempt a public official from liability for failing to file a declaration of contacts.⁶¹ This would constitute, according to Article 14 § 7 of the draft law, a ground for disciplinary liability. The Venice Commission considers that the term “disciplinary liability” should be clarified or at least refer to a relevant legal act where the specific sanctions, for the different categories of public officials listed in Article 4 § 1(a) of the draft law, are to be found. Lastly, the Commission considers that in any case, disciplinary sanctions for failing to declare a contact with an “oligarch” even when the public officials were not aware of meeting a representative of an “oligarch”, seem an excessive consequence that can leave open the door for abuses.

VI. Conclusions

80. Limiting the influence of “oligarchs” in political, economic and public life is certainly a priority for a state wishing to achieve a democratic system governed by the rule of law, and the Venice Commission supports the goal of eliminating or at least reducing this negative influence. Nevertheless, de-oligarchisation is a very complex issue, and the choice of the means to achieve it is of decisive importance if the system is to be effective while respecting democracy, the rule of law and fundamental rights.

81. The Venice Commission supports the intent of the draft law to attempt to eradicate or reduce the influence of “oligarchs” over public life. The Commission has identified two approaches as to the means of addressing this complex issue; a multi-sectorial, systemic approach, which has a preventative effect and targets numerous fields, such as legislation relating to media, monopoly, political parties, elections, taxes, corruption and money laundering, etc.

82. Another approach that can be called “personal” seeks to target the persons who may qualify as “oligarchs” through specific criteria, such as wealth, media ownership, etc. by limiting their means to influence economic, political, and public life. The personal approach has thus a rather punitive character and entails the risk of violation of several human rights unless strong guarantees of due process are put in place, and protections against violation of political pluralism and the rule of law.

83. The Venice Commission favours a more systemic approach, which includes the strengthening of the legislation and the institutions that work in the various sectors, in order to enable an efficient cooperation and mutual assistance between them. While the Venice Commission considers the “personal approach” as generally problematic, it does not

⁶⁰ “Representatives” are defined in Article 2 of the draft law as “a natural person which organizes and attends meetings, liaises with public officials by telephone, in writing or by electronic means on their own behalf and/or on behalf of a person included in the Registry of Persons with Excessive Economic and Political Influence in Public Life (Oligarchs)”.

⁶¹ Article 14 §§ 3 and 8 of the draft law.

categorically exclude all the elements of such an approach, notably insofar as they relate to illegal or criminal acts. The Commission wishes to stress once more that this approach requires to put in place strong procedural guarantees to prevent violations of both human rights and the rule of law.

84. Turning to the draft law, the Venice Commission notes at the outset that it contains a series of improvements *vis-à-vis* the other laws by which it was inspired. Among others, the involvement of a 3/5 majority of the Parliament and of the judiciary in the procedure to designate a person as an “oligarch” and the existence of a list of basic fair trial rights in the procedure before the NDC are welcome developments. However, an analysis of the measures of the draft law demonstrates that these may lead to violations of fundamental rights protected under the ECHR. In this interim opinion, the Venice Commission outlines how, in particular, the process of storing and processing personal data on persons potentially designated as “oligarchs” by the NDC, the stigmatisation associated with the publication of information on persons designated as “oligarchs” in the register of the Parliament, the requirement for persons designated as “oligarchs” to submit declarations of assets to the National Integrity Authority and the requirement upon public officials to declare their contacts with persons designated as “oligarchs” and/or their representatives may constitute an infringement of their rights under Article 8 ECHR. Similarly, the Commission considers that prohibiting persons designated as “oligarchs” from financing political parties, election campaigns, other political campaigns and rallies and demonstrations "*with political demands*" may infringe their rights under Articles 10 and 11 ECHR. Lastly, the requirement of giving up control of all media outlets may impinge upon the right enshrined in Article 1 of Protocol 1 to the ECHR.

85. The Venice Commission is aware that enjoyment of the rights notably under Articles 8, 10, and 11 ECHR, and 1 of Protocol 1 to the ECHR is not absolute and can be restricted. In analysing whether the restrictions of these rights of persons designated as “oligarchs” can be justified, the Venice Commission first of all recognises the reality and prominence of the phenomenon of so-called “oligarchisation” and does not dispute that this undermines democracy and the rule of law. As such, the Venice Commission considers that there is a legitimate aim for interference into Articles 8, 10 and 11 ECHR and 1 of Protocol 1 to the ECHR. However, the vagueness of the criteria used to designate a person as an “oligarch”, the broad discretion of the NDC in interpreting and applying these criteria, some deficiencies identified in the decision-making process, as well as the lack of proportionality and consideration for other less-intrusive measures make it difficult to justify these restrictions. While the ultimate decision on this is for a court to make, the Venice Commission finds that the measures proposed by the draft law as it stands are difficult to reconcile with Articles 8, 10, 11 ECHR and 1 of Protocol 1 to the ECHR.

86. Given the issues and high risks identified above, the Venice Commission considers that the "personal approach" taken in the draft law under consideration which defines and stigmatises persons on the basis of unclear criteria, carries a high risk that it will lead to human rights violations without achieving the aims pursued.

87. The Venice Commission makes the following key recommendations:

a) as regards specific improvements to be made in the draft law:

- Clarification of key provisions and procedures, in particular:
 - Further clarifying and delineating various eligibility criteria, such as "being involved in political life" (Article 4), "exerting excessive influence or pressure on state authorities/politically connected persons" (Article 5), and "exerting significant influence on mass media" (Article 6), and to ensure that these criteria a) do not potentially apply

- to a large range of people⁶² and/or b) leave limited discretion to the decision-making body;
- Eliminating the criterion of Moldovan nationality (Article 3 § 1), in order not to excessively restrict the applicability of the draft law;
 - Further clarifying and delineating the exclusion criteria, such as "irreproachable commercial reputation" (Article 16), to limit the discretion of the decision-making body; and
 - Better defining how information is to be collected and retained (and ultimately destroyed, if not used), paying due attention to the case-law of the European Court of Human Rights on Article 8 of the ECHR.
- Inclusion of full procedural safeguards, in particular:
 - Specifying the procedural timelines for persons potentially designated as "oligarchs" and their representatives to provide further explanations and to prepare for meetings of the NDC where decisions on the designation of a person as an "oligarch" are to be taken;
 - Providing a right to be heard at such meetings also when the person in question has not received the notification of the NDC or is unable to attend the meeting of this body for valid reasons;
 - Providing for further procedural guarantees in the procedure before the Parliament;
 - Ensuring that an appeal against designation as an "oligarch" is an effective remedy with suspensive effect, guaranteeing that no information on this designation is made public until the appeal has been decided on; and
 - Clarifying the scope of the review of the SCJ, entrusting the latter with the possibility of declaring the designation null and void, to avoid lengthy proceedings and to uphold certainty of the law.
 - Ensuring the proportionality of certain consequences of designation as an "oligarch":
 - Removing the total prohibition for persons designated as "oligarchs" from financing political parties, election campaigns and rallies and demonstrations "with political demands" (possibly replacing this with a lower cap on donations and/or measures ensuring that current caps are not being circumvented, for example a prohibition on donations from legal persons);
 - Removing the requirement on persons designated as "oligarchs" to submit asset and interest declarations (possibly replacing this with other measures to provide for more transparency of beneficial ownership);
 - Removing or revising the requirement for certain public officials to declare their contacts and communications with persons designated as "oligarchs" and/or their representatives, in particular, by deleting the requirements on the disclosure of the content of these communications; and
 - Revising the requirement of giving up control of all media outlets within six months.

88. The Venice Commission notes that on 7 March 2023 the Ministry of Justice submitted a note containing comments and explanations on the draft interim opinion. In this regard the Commission highly appreciates the constructive attitude of the authorities and their responsiveness to the Commission's recommendations. The Venice Commission welcomes the intention of the authorities to submit a revised draft law taking into account several of its recommendations, but at this stage it reserves its position on it.

⁶² For example, persons who have in the past financed a political party or election campaign (regardless of the amount), are a relative of a high-level official or have financed a rally or demonstration (given that these often involve "political demands").

b) as regards other general de-oligarchisation measures to be adopted:

89. The Venice Commission encourages the Moldovan authorities to pursue the work undertaken by preparing and starting to implement the Action Plan and it encourages them to pursue the work undertaken hitherto. It considers that several of the goals contained therein, such as, *inter alia*, the reforms undertaken to strengthen the independence and the efficiency of the judiciary, the tackling of the concentration of media ownership and non-transparent media financing, the strengthening of the capacities and responsibilities of the specialised body of the Central Electoral Commission regarding the oversight and control of political financing, the strengthening of institutional capacities to monitor the behaviour of persons with excessive influence over economic life, the arrangement of a legislative package on asset recovery and a comprehensive framework for the fight against financial crime and money laundering, are the correct way forward.

90. Finally, the Venice Commission calls on the Moldovan authorities to embrace other international recommendations in order to eliminate the excessive influence of vested interests in economic, political, and public life.

91. The Venice Commission looks forward to continuing the constructive dialogue on this important piece of legislation and, in this regard, remains at the disposal of the Moldovan authorities for any further assistance.