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Provisional version

## Honouring of obligations and commitments by the Republic of Moldova

### Report<sup>1</sup>

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#### A. Draft resolution<sup>2</sup>

1. The Republic of Moldova joined the Council of Europe in 1995. In 2019, the Parliamentary Assembly highlighted efforts to “de-oligarchise” the country and depoliticise its judicial institutions in [Resolution 2308 \(2019\)](#) on the functioning of democratic institutions in the Republic of Moldova. Since then, some major developments have altered the country’s political landscape: in November 2020, Maia Sandu became the first female President of the Republic, elected on the back of a clear pro-European agenda. In July 2021, in the wake of a political and constitutional crisis, the President’s Action and Solidarity Party won a majority in a snap parliamentary election. For the first time in its history, the Republic of Moldova is governed by a stable parliamentary majority held by a single party. The elections also confirmed the electoral support for eradicating corruption and building efficient and transparent state institutions able to work in the public interest. At the same time, this unprecedented political situation places a responsibility on the ruling party to ensure that democratic principles, the rule of law and the protection of human rights are fully upheld.
2. Since the summer of 2021, the authorities have embarked on a far-reaching programme of reform, notably in the judiciary and the fight against corruption, to tackle the roots of state capture and thereby restore integrity and public trust in State institutions.
3. The authorities have made efforts to review the functioning of most State institutions and independent bodies and appoint new officials following parliamentary assessment procedures, triggering questions about the transparency and speed of the selection process. The Assembly understands that taking the necessary steps to quickly restore the proper and transparent functioning of democratic institutions is a huge challenge without any ready-made solution. However urgent and necessary the reforms may be, the Assembly urges the authorities to ensure that such changes are made in accordance with the rule of law and Council of Europe standards, are drawn up with the involvement of the parliamentary opposition and civil society so as to facilitate sound law-making and that they enable sustainable and strong institutions to be established. In this respect, it welcomes the Moldovan authorities’ close co-operation with the Council of Europe, in particular with the Secretary General’s High-Level Working Group on the reform of the judiciary and the Venice Commission, as well as their constructive approach to ensuring that the restructuring of the State, and in particular the judicial overhaul, are in line with Council of Europe standards.
4. The outbreak of the war in Ukraine on 24 February 2022 had major repercussions on the Republic of Moldova. New logistical and national and external security challenges compounded difficulties in dealing with the Covid-19 pandemic, energy crisis and high inflation rates and exacerbated existing tensions in Moldovan society. The country has seen a huge wave of refugee arrivals from Ukraine: over 700 000 have entered it since February 2022 and almost 100 000 have stayed there. This makes the Republic of Moldova the country that is hosting the largest number of refugees from Ukraine in relation to its population (2.6 million), presenting a major logistical challenge for the authorities and putting a considerable strain on their administrative bodies.

<sup>1</sup> Reference to Committee: [Resolution 1115 \(1997\)](#).

<sup>2</sup> Draft resolution unanimously adopted by the Committee on 14 December 2022.

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

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

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

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

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

10. Where democracy is concerned:

10.1. the Assembly welcomes the efforts undertaken to consolidate democratic institutions and strengthen them against the risk of foreign interference. It welcomes the adoption of a new electoral code on 9 December 2022 however without a broad political consensus. It welcomes the progress noted by the Venice Commission and the ODIHR in their [October 2022 joint opinion](#) and invites all stakeholders to implement the new electoral code in good faith and in line with the Venice Commission recommendations. It encourages moreover the authorities to implement GRECO's recommendations on the transparency of political party funding;

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

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

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

11. Where the rule of law is concerned:

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

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

11.3. the Assembly applauds the reforms set in motion to enhance the integrity of the judiciary and restore trust in judicial institutions. To this end, the authorities have introduced an integrity evaluation procedure to vet judges and prosecutors with a view to "cleansing" the system of those involved in large-scale corruption and organised crime. The Assembly shares the [Venice Commission's](#) position in this respect and calls on the authorities to ensure that the vetting of sitting judges is implemented in accordance with constitutional safeguards and due respect for judicial independence; it can only be justified in exceptional circumstances when ordinary methods of judicial accountability are not available;

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

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

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

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

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

11.9. with regard to corruption prevention in respect of judges and prosecutors, GRECO welcomed, in its December 2021 (fourth round) [interim compliance report](#), the significant progress made in terms of the composition of the Superior Council of Magistracy resulting from the constitutional amendments adopted in September 2021. On another positive note, legislation aimed at strengthening the

independence and effectiveness of the National Integrity Authority (NIA) and tightening the rules governing the declaration of assets and personal interests was adopted on 7 October 2021;

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

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

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

12. Where the protection of human rights is concerned:

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

12.2. the Assembly also commends the country for ratifying, on 31 January 2022, the Istanbul Convention on preventing and combating violence against women and domestic violence and for adopting, on 17 November 2022, Law 316/2022 ensuring the rights of victims in the case of crimes related to sexual life and family violence. In this respect, it notes with satisfaction the [Amicus Curiae Brief](#) adopted by the Venice Commission in December 2021 and the subsequent decision of the Moldovan Constitutional Court clearly reasserting that the Istanbul Convention does not seek to impose a certain lifestyle or interfere with the personal organisation of private life, but seeks only to prevent violence against women and domestic violence. The Assembly encourages the authorities to continue their efforts to implement the Convention, bring their legislation into line with it and adopt action plans on gender equality and on preventing and combating domestic violence and violence against women;

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

12.4. the Republic of Moldova is a multi-ethnic state. The Assembly commends the Moldovan people for ensuring that national minorities continue to live together peacefully despite unrest in the region and encourages the authorities to continue implementing the Framework Convention for the Protection of National Minorities (ratified in 1996) and the Strategy on the Consolidation of Interethnic Relations (2017-2027) "with a view to further developing a civic identity that is inclusive and firmly based on respect for ethnic and linguistic diversity as an integral part of Moldovan society", as recommended by the [Committee of Ministers](#) in July 2021;

12.5. the Assembly also welcomes the discussions that have been initiated on how to promote the use of minority languages in Moldovan public media and encourages the authorities to ratify the European Charter for Regional or Minority Languages, which the country signed in 2002.

13. Regarding the situation in the Transnistrian region of the Republic of Moldova, the Assembly welcomes the restrained attitude Chisinau and Tiraspol adopted at the beginning of the war in Ukraine by making an

appeal for calm. It calls on both sides to keep the lines of communication open, despite a tense situation exacerbated by provocative statements by Russian officials and by the de facto authorities in Tiraspol.

14. The Assembly reiterates its willingness to support the efforts of the OSCE 5+2 (and 1+1) discussions and the steps taken by the Moldovan authorities to strive for the protection of human rights in the region, in particular through implementing the judgments of the European Court of Human Rights, taking confidence-building measures and introducing the Council of Europe's human rights standards. In this respect the Assembly refers to the decision of the Committee of ministers of 6-8 December 2022 concerning the violations of the rights of children, parents and staff members of Latin-script schools during the periods 2002-2004 and 2013-2014 in the Transnistrian region of the Republic of Moldova. Ten years after the ECtHR Catan judgment, the Assembly, joining the Committee of Ministers, regrets the lack of any form of redress for the applicants and the continued failure of the Russian authorities to execute this judgment - which remains its unconditional obligation under the Convention- and calls for its implementation. The Assembly also reiterates its call on the Russian Federation to withdraw its troops from the Transnistrian region of the Republic of Moldova, whose presence pose a threat to the security of the country.

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