

OPINION

on the draft Code on the Organization and Functioning of the Parliament of the Republic of Moldova

An analysis of the draft Code on the Organization and Functioning of the Parliament of the Republic of Moldova highlights the existence of conceptual and procedural issues that may affect the democratic balance, the deliberative nature of Parliament, the transparency of the legislative process, the effective participation of the parliamentary opposition, and institutional dialogue with civil society.

Overall, the draft aims to strengthen the regulatory framework governing the internal organization of Parliament and to systematize parliamentary procedures. At the same time, in its current form, the draft places a predominant emphasis on the administrative and procedural aspects of parliamentary activity, to the detriment of strengthening effective mechanisms for parliamentary pluralism, transparency, and democratic participation.

Although the draft enshrines the principles of legality, political pluralism, transparency of parliamentary activity, and the protection of the rights of the parliamentary opposition, a significant portion of the procedural mechanisms provided for in the draft risks leading, in practice, to a disproportionate concentration of procedural control in the hands of the parliamentary majority and the Standing Bureau.

In this context, it is relevant to present the findings and concerns of international bodies regarding democratic and parliamentary standards in the Republic of Moldova.

In recent years, the work of the Parliament of the Republic of Moldova has been closely monitored by the European Commission, the Venice Commission, the OSCE, and other European and international organizations, which have raised a number of criticisms and concerns regarding the functioning of the legislative process, transparency, and democratic balance.

One of the most frequent criticisms concerns the excessive use of fast-track procedures and the rapid adoption of legislative proposals without sufficient consultation and without adequate parliamentary debate. The Venice Commission has repeatedly drawn attention to the need to respect the deliberative nature

deliberative nature of Parliament and the risks posed by the rapid adoption of sensitive reforms without broad consultation and sufficient transparency.

At the same time, the European Commission emphasized in its 2025 Report on the Republic of Moldova the need to strengthen parliamentary oversight of the executive branch and to improve the democratic oversight function exercised by Parliament. The report highlights the importance of strengthening democratic institutions and accountability mechanisms in the context of the process of accession to the European Union.

Another significant criticism raised by European organizations and international civil society concerns the formal and insufficient nature of public consultations. The CSO Meter 2025 report shows that certain legislative acts were adopted without meaningful public participation and without adequate consultation with civil society and affected stakeholders.

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has emphasized in several documents the need to strengthen the transparency and inclusivity of the parliamentary and legislative process in the Republic of Moldova. The ODIHR recommended: improving public consultations; strengthening legislative transparency; ensuring the effective participation of stakeholders; and adhering to standards regarding democratic debate and political pluralism.

Furthermore, various opinions and recommendations issued by the Venice Commission express concerns regarding: excessive concentration of procedural control; the lack of sufficient safeguards for the parliamentary opposition; the accelerated use of legislative procedures; and the need to strengthen mechanisms for transparency and democratic participation.

In the context of elections and parliamentary proceedings, the OSCE Office for Democratic Institutions and Human Rights and the Parliamentary Assembly of the Council of Europe have also emphasized the need to strengthen political pluralism and ensure a balanced and inclusive parliamentary framework.

Overall, the main criticisms raised by European institutions and international bodies regarding the work of the Parliament of the Republic of Moldova concern:

- excessive use of fast-track procedures;
- insufficient or merely formal public consultations;
- limited transparency of the legislative process;
- the weak institutionalization of dialogue with civil society;
- insufficient safeguards for the parliamentary opposition;
- the need to strengthen the role of parliamentary over the Government;
- the risk of excessive concentration of procedural control in the hands of the parliamentary majority.

Relevant documents and sources:

European Commission – Moldova Report 2025:
https://enlargement.ec.europa.eu/moldova-report-2025_en

Venice Commission Report on Imperative Mandate and Similar Practices_
<https://www.coe.int/en/web/venice-commission/-/opinion-488>

Venice Commission: Parameters on the relationship between the parliamentary majority and the opposition in a democracy_
https://www.cepc.gob.es/sites/default/files/2021-10/Relationship-b-parlamentary-majority-v-opposition-in-democracy_0.pdf

Venice Commission – Opinions concerning Republic of Moldova -
<https://www.coe.int/en/web/venice-commission/moldova-republic-of>

ODIHR – Final Report on Moldova Parliamentary Elections 2025 -
<https://odihr.osce.org/odihr/662251>

ODIHR – Opinion on the Draft Code on the Organization and Functioning of Parliament -
<https://odihr.osce.org/sites/default/files/f/documents/c/5/596060.pdf>

CSO	Meter	Moldova	2025	Country	Report	-
https://csometer.info/sites/default/files/2026-03/ENG%20Moldova%202025%20Country%20Report%20final_0.pdf						
PACE	Election	Observation	Report	–	Moldova	2025 -
https://pace.coe.int/en/files/35722/html						

Therefore, the analysis of the draft highlights the existence of significant problems and risks in the current version of the Code. Instead of adequately addressing the criticisms and recommendations made by European and international bodies by strengthening democratic safeguards, transparency, and parliamentary procedural balance, certain proposed mechanisms risk exacerbating existing vulnerabilities in the legislative process and parliamentary functioning. The key issues identified are presented below:

Block 1: Transparency and Public Participation

1.1. Publication of the agenda for plenary sessions

Identified issue: Article 57(3) of the draft provides that the Standing Bureau shall draw up the draft agenda *no later than the day before the session*—a regression from the current Rules of Procedure (Article 39(3)), which requires publication *in the first half of the preceding week*.

Proposed legislative text:

Article 57, paragraph (3), is amended to read as follows:

“The Standing Bureau shall draft the agenda for the plenary session no later than Thursday of the week preceding the week in which the session is scheduled. The draft agenda shall be published on the Parliament’s official website immediately after its preparation, indicating the draft legislative acts included, their sponsors, and the stage of consideration. Subsequent amendments to the approved agenda shall be published immediately and shall be justified.”

Justification: A minimum of 5–7 calendar days prior to the session allows civil society, the media, experts, and citizens to analyze the included topics, formulate positions, and convey them to deputies or

committees. Publishing the agenda one day in advance makes public participation formal, not substantive. This approach is standard in European parliaments—the Bundestag publishes the agenda at least one week in advance, and the European Parliament two weeks in advance.

1.2. Convening and publishing the agenda of standing committee meetings

Identified issue: Art. 79(1) regulates *who* convenes the committee meeting, but does not specify *how far in advance the meeting* must be convened and the agenda published. In practice, meetings are frequently announced the evening before they take place.

Proposed legislative text:

In Article 79, a new paragraph, (1'), is inserted after paragraph (1), with the following text:

“The notice convening the standing committee meeting, accompanied by the provisional agenda and the draft legislative acts or documents to be examined, shall be published on the official website of Parliament at least 72 hours prior to the meeting. In exceptional, duly justified cases, this period may be reduced to 24 hours, with mandatory notification of the public through Parliament’s communication channels. The reduction of the period shall be recorded in the minutes of the meeting, with an indication of the reason.”

Justification: The 72-hour notice period represents a reasonable minimum, adopted in the practice of European Parliament committees and recommended by the Inter-Parliamentary Union. It allows both committee members and representatives of civil society and the media to prepare and, if necessary, request participation or submit written positions.

1.3. The public nature of standing committee meetings

The identified issue: The current Rules of Procedure explicitly guarantee the public nature of committee meetings. The draft of the new Code removes this guarantee, replacing it with a permissive provision (Art. 83(1)—the committee *may* invite representatives), and Art. 9(5) makes access conditional on rules approved by the Standing Bureau—a body controlled by the majority.

Proposed legislative text:

Article 83 is supplemented with a new paragraph, (1'), with the following wording:

"The meetings of the standing committees are public. Access by media representatives and interested persons to the meetings of the standing committees is guaranteed under the terms of this Code and may not be restricted by rules approved by the Standing Bureau. The committee may decide, by a majority vote of its members and with an explicit statement of the reason, to hold a meeting or discuss an agenda item in closed session, exclusively in cases where the subject under consideration contains information classified under the law. The decision to close the meeting shall be recorded in the minutes and published on the Parliament's website."

At the same time, Article 9, paragraph (5), is amended as follows:

"Media representatives and interested persons shall have access to the meetings of the working bodies of Parliament and the plenary sessions of Parliament, in accordance with this Code. The Standing Bureau shall approve technical and organizational rules regarding physical access to the premises of Parliament, without being able to restrict the right of access to the public meetings of the committees and the plenary."

Justification: The public nature of committee meetings is a minimum standard of parliamentary transparency, enshrined in PACE Resolution 1601/2008 and in the Inter-Parliamentary Union's Guide on Parliamentary Transparency. The unconditional delegation of access regulation to the Standing Bureau creates the risk of arbitrary restrictions on the public, which is incompatible with the Republic of Moldova's EU accession commitments.

Furthermore, the public nature of committee meetings is expressly mentioned in the OSCE/ODIHR Preliminary Opinion on the draft Code of Parliamentary Procedures, namely: *"to include in the draft code clear provisions requiring that all committee meetings be open to the public, except in limited, well-defined, and strictly justified circumstances, while ensuring that parliamentary records are freely and publicly available and accessible, along with other documents related to committee work, including agendas, witness testimony, transcripts, and recordings of committee proceedings; [paragraph 137]"*

1.4. Deadline for the submission of recommendations by civil society

Issue identified: Art. 175, para. (8) sets a deadline of 10 working days for recommendations—reducible to 3 days in urgent cases—during

The deadline for amendments by members of parliament is 30 days. This imbalance renders public participation in the legislative process meaningless.

Proposed legislative text:

Article 175, paragraph (8) is amended to read as follows:

"The deadline for interested parties to submit recommendations is 30 working days from the date of publication of the draft legislative act on the Parliament's official website. The standing committee may set a longer deadline depending on the complexity of the draft. In the event of the application of the emergency procedure under the conditions of Articles 71–72 of this Code, the deadline for submitting recommendations may not be less than 10 working days. By way of exception, in cases of force majeure, expressly declared by a decision of the Standing Bureau, the minimum deadline may be reduced to 5 working days, with the obligation to publicly justify the urgency. The recommendations received shall be published in full on the Parliament's website and included in the summary provided for in Article 176, with an explicit indication of how they were taken into account or the reasons for their rejection."

Justification: Aligning the deadline for civil society recommendations with the deadline for amendments by members of Parliament (30 days) eliminates unjustified procedural discrimination. The European Commission's Better Regulation standards provide for a minimum of 12 weeks for public consultations at the European level, and Law No. 239/2008 on transparency in the decision-making process in the Republic of Moldova already provides for 15 working days as a minimum standard—the new Code should at least meet and exceed this standard, not reduce it.

1.5. The minimum interval between approval in committee (second reading) and the vote in plenary

Identified issue: The bill does not specify a minimum time period between the approval of the bill for its second reading in the standing committee and its vote in the plenary session of Parliament. In practice, the plenary vote sometimes takes place on the same day or the following day, without members of Parliament or the public having access to the final draft of the bill.

Proposed legislative text:

In Article 88 (or the article governing the second reading in plenary), a new paragraph is inserted with the following wording:

"The vote in the plenary session of Parliament on the bill under consideration in the second reading may not take place before the expiration of a period of 5 working days from the date of approval of the report for the second reading by the standing committee responsible for the matter. During this period, the committee shall publish on the Parliament's official website the consolidated version of the bill, as approved for the second reading, together with a summary of the recommendations and amendments considered. The 5-day period may be reduced to 2 working days exclusively in the case of bills considered under the urgent procedure, subject to the conditions set forth in Articles 71–72. Under no circumstances may the final version of the bill put to a vote be made available to members of Parliament and the public less than 24 hours before the plenary session."

Justification: The 5-business-day period serves several purposes simultaneously: it allows members of the House who are not on the committee to read the final version of the bill and make an informed decision; it allows civil society and the media to verify whether the approved amendments correspond to those published in the summary; it prevents the introduction of last-minute changes between the committee vote and the plenary vote, a practice identified as a risk by the Venice Commission in several opinions on accelerated legislative processes. This rule is standard in the Nordic parliaments (Finland, Sweden) and in the European Parliament, where there is always a regulated interval between the committee vote and the plenary vote.

Use of accelerated and simplified procedures

Articles 72, 73, and 74 of the draft regulate emergency review procedures, priority review, and the simplified procedure.

The draft allows for: shortening the deadlines for the examination of draft legislative acts; the submission of amendments within a shorter timeframe; the examination of drafts in two readings during the same session; and the examination of certain drafts under a simplified procedure without going through all the ordinary procedural stages.

The conceptual problem lies in the fact that exceptional procedures are formulated in relatively broad terms and are not accompanied by sufficient procedural safeguards to prevent their excessive use.

In a democratic parliamentary system, expedited procedures must be exceptional mechanisms, applicable only in objective situations that are well-founded and strictly justified by the need for urgent legislative action.

In its current form, the draft does not define clearly enough: the specific criteria for applying the accelerated procedure; the limits on the use of simplified procedures; the categories of bills that should not be considered under such procedures; and the additional procedural safeguards to protect the deliberative nature of Parliament.

There is a risk that the frequent application of these procedures could lead to a reduction in the time allocated for parliamentary debates, a reduction in the opportunities to draft and analyze amendments, a decrease in the participation of civil society and stakeholders, a deterioration in the quality of the legislative process, a reduction in legislative transparency, and a reduction in the opportunities for legal and technical review of bills.

In particular, examining bills in two readings during the same session can significantly reduce the possibility of an in-depth analysis of legislative proposals and limit the ability of members of Parliament to assess the actual impact of proposed amendments.

At the same time, the frequent use of expedited procedures may undermine the deliberative nature of Parliament and turn parliamentary debate into a procedural formality, to the detriment of democratic dialogue and the quality of the legislative act.

Furthermore, the short deadlines for submitting and reviewing amendments may disproportionately affect the ability of the parliamentary opposition and civil society to participate effectively in the legislative process.

In the absence of additional safeguards and clear restrictive criteria, there is a risk that exceptional mechanisms will become routine parliamentary practices, which could undermine democratic balance and public trust in the legislative process.

1. 6. Lack of objective criteria for triggering the emergency procedure (Art. 71)

The issue: Art. 71 does not define what constitutes a situation justifying the emergency procedure. The initiation of depends exclusively on the will of the Government or of

President of the Republic, without any verifiable substantive conditions. The Speaker of Parliament initiates the procedure by simple resolution, without any obligation to provide justification and without any parliamentary review of its appropriateness.

Proposal:

Article 71 is supplemented with a new paragraph (5), with the following wording:

“The emergency procedure may be requested exclusively in the event of one of the following objective situations, which must be expressly stated in the request addressed to Parliament: a) an imminent risk to national security, public order, or public health; b) an international legal obligation with a fixed deadline for immediate implementation; c) a force majeure situation with a direct impact on the functioning of the state. The request to apply the emergency procedure is subject to approval by the plenary session of Parliament by a majority vote of the elected deputies, prior to the initiation of the procedure. The resolution of the Speaker of Parliament ordering the emergency procedure shall be published on the official website of Parliament and shall include a detailed justification of the urgency.”

1.7. The absence of any minimal public consultation in the emergency procedure (Art. 72 in conjunction with Art. 175)

The issue: Article 72 contains no reference to the obligation to conduct public consultation. Article 175(8) provides that, in urgent cases, the deadline for civil society recommendations is reduced to a minimum of three working days—which is acceptable as a general rule—but the code does not require the committee to apply even this minimum deadline in the emergency procedure. Combined with the possibility that the first and second readings may take place in the same session (Art. 72, para. (4)), there is a real risk that civil society will be completely excluded from the process.

Proposal:

A new paragraph (6) is added to Article 72, with the following wording:

“Even in the context of the emergency procedure, the standing committee responsible for the substance of the matter shall ensure the publication of the draft legislative act on the official website of Parliament immediately after the initiation of the procedure and shall grant a period of at least 5 days working days for the submission of recommendations by to

civil society and other interested parties. By way of exception, in the situations provided for in Art. 71(5)(a), the deadline may be reduced to 24 hours, with the obligation to organize, within the same period, at least one online public hearing. The recommendations received, including those submitted after the deadline but before the plenary vote, shall be included in the summary provided for in Article 91."

1.8. The possibility of examining the bill in the first and second readings during the same session, without safeguards (Art. 72, para. (4))

The **issue**: Article 72(4) allows the first and second readings to take place during the same plenary session, without any additional conditions and without any mandatory debate between readings. This means that a bill can be definitively adopted within a few hours of entering the legislative process, without members of the Chamber who are not on the committee having had the opportunity to review the text.

In Germany, the United Kingdom, France, and at the European Parliament, even in the most expedited procedures, there is a minimum time interval between readings—the procedural rules of the Bundestag require at least one day between the first and second readings, even in emergency situations; the EP Rules of Procedure stipulate that shortening procedures requires the explicit consent of the plenary by a qualified majority.

Proposal:

Article 72(4) is amended to read as follows:

"A draft legislative act considered under urgent procedure may be examined in the first and second readings during the same plenary session only with the prior approval of Parliament by a majority vote of the elected deputies and only in the situations provided for in Article 71(5)(a). In all other cases of urgency, there must be an interval of at least one working day between the first and second readings, during which the text adopted in the first reading is published on the Parliament's website."

1.9. Absence of an annual cap or a mechanism to control the frequency of use of the emergency procedure (Articles 71–72)

The issue: The Code contains no mechanism to limit the frequency with which the Government may request the urgent procedure. In the parliamentary practice of the Republic of Moldova, the urgent procedure has come to be applied systematically, becoming the rule rather than the exception. The new Code does not remedy this dysfunction.

Proposal:

A new paragraph (6) is added to Art. 71, with the following text:

“The Parliament Secretariat shall prepare a quarterly report on the use of the emergency procedure and priority consideration, which shall be published on the Parliament’s official website and submitted to the Standing Bureau. The report shall include: the number of bills considered under the emergency procedure, the initiator of the request, the reasons cited, the duration of the procedure, and the legislative acts adopted. The Standing Bureau submits a consolidated annual report to the plenary session of Parliament. If more than 30% of the draft laws adopted in a parliamentary year have followed the emergency procedure, the standing committee responsible for parliamentary procedures conducts an analysis and submits recommendations to the plenary session.”

1.10. Simplified procedure (Art. 74) — unjustified expansion and lack of safeguards

The issue: Article 74(3) allows for the adoption of resolutions “resulting from parliamentary debates or initiated during plenary sessions” under a simplified procedure, without a committee report. This provision is extremely vague—practically any decision can be “initiated during a plenary session”—and paves the way for the adoption of legislative acts without any preliminary review, consultation, or public participation.

Proposal:

Article 74, paragraph (3) is amended to read as follows:

“By way of exception, decisions of a strictly procedural nature or concerning the internal organization of Parliament, arising directly from the conduct of the plenary session, may be adopted without a committee report, provided that they do not produce legal effects vis-à-vis third parties and do not involve the commitment of budgetary resources. The list of categories of decisions that may be adopted in this manner shall be approved by the Standing Bureau and published on the Parliament’s website.”

Article 74 is supplemented with a new paragraph (5), with the following content:

“The simplified procedure shall not apply to draft organic laws, draft laws with budgetary implications, or draft laws that restrict the fundamental rights and freedoms of citizens, regardless of the form of the legislative act.”

The Insufficient Institutionalization of Public Consultations

Although the draft enshrines the principle of transparency in parliamentary activity and the public nature of Parliament’s work through Articles 9 and 11, the provisions regarding public consultations and civil society participation remain insufficiently developed and insufficiently institutionalized.

Article 9 establishes the public nature of Parliament’s activities and enshrines the principle of transparency in decision-making, including access to information of public interest and access for interested persons to the meetings of Parliament’s working bodies. At the same time, these provisions are predominantly general and declaratory in nature and do not establish detailed procedural mechanisms regarding the organization and conduct of public consultations.

At the same time, Article 43(1) provides that standing committees contribute to the conduct of public consultations during the review of draft legislative acts. However, the article does not establish:

- minimum timeframes for conducting consultations;
- clear procedures regarding stakeholder participation;
- the publication of the schedule for consultations and parliamentary hearings;
- requirements regarding the publication of received contributions and the results of consultations.

Furthermore, Article 41(g) grants the Standing Bureau the authority to propose methods for public debate on draft legislation, but the draft does not establish clear and uniform criteria for the application of these mechanisms.

The main problem is that public participation mechanisms remain predominantly optional and dependent on administrative practice or the political will of the parliamentary majority and committee leadership.

In the absence of clear and uniform procedural obligations, there is a risk that:

- public consultations will be organized selectively;
- civil society participation remains merely formal;
- certain important projects be examined without sufficient public dialogue;
- contributions from stakeholders not being analyzed in a transparent and predictable manner.

At the same time, the draft does not establish clear obligations regarding: the publication of summaries of the recommendations received; the justification for accepting or rejecting proposals made during consultations; the publication of the minutes of consultations and hearings; and institutional feedback mechanisms for stakeholders participating in consultations.

This situation may affect the transparency of the legislative process, public trust in Parliament's work, the quality of the public policy-making process, and the participatory nature of the parliamentary process.

At the same time, the lack of clear institutional feedback mechanisms reduces the level of procedural accountability and may create the perception that public participation is purely formal, with no real impact on the decision-making process.

In the context of European standards on good governance and participatory parliamentarism, public consultations must represent not merely an optional tool for dialogue, but an institutionalized and predictable mechanism for democratic participation.

Proposals for Improvement

To strengthen transparency and democratic participation, it is recommended that Articles 9, 41, and 43 be supplemented with additional provisions regarding:

- establishing clear minimum timeframes for conducting public consultations;
- the mandatory publication of the contributions received and a summary thereof;
- the obligation to report on how the recommendations made were analyzed;

- justifying the rejection of proposals made by stakeholders;
- strengthening mechanisms for institutionalized dialogue with civil society, academia, local public authorities, and professional organizations;
- publication of the schedule of parliamentary consultations and hearings;

Implementing such mechanisms would contribute to increasing legislative transparency, strengthening public trust in Parliament, and bringing the parliamentary process closer to European standards regarding good governance and democratic participation.

BLOCK 2: Rights of the Opposition

2.1. Disproportionate concentration of procedural control over the parliamentary agenda (Art. 41(e), Art. 59, Art. 60)

Analysis of the issue

Article 41(e), as well as Articles 59 and 60 of the draft, grant the Standing Bureau and the presiding officers of plenary sessions extensive powers regarding the drafting, amendment, and management of the Parliament's agenda.

According to the draft, the Standing Bureau plays a central role in setting legislative priorities, the pace of bill review, and the framework for parliamentary debates. At the same time, the mechanisms for amending the agenda allow for procedural interventions even during plenary sessions.

The conceptual problem lies in the fact that the draft does not establish sufficient procedural safeguards to ensure an effective balance between the parliamentary majority and the opposition in the process of setting and managing the parliamentary agenda.

The draft establishes a model in which the Standing Bureau effectively controls the entire parliamentary agenda through three cumulative levers:

- **Art. 41(e)** — The Standing Bureau *drafts* the agenda (even though the text adds the phrase “in agreement with the leaders of the parliamentary groups”);
- **Art. 59, para. (2)** — the agenda may be *amended* at the request of the Standing Bureau — that is, the same body that draws it up may also amend it, without procedural constraints;
- **Art. 60** — The chair of the meeting may propose an amendment to the agenda *at any meeting, on their own initiative*, without any restrictions on its application.

The structural problem is that the phrase “by mutual agreement” in Art. 41(e) is not accompanied by any enforcement mechanism—what happens if there is no agreement? Who decides? In the absence of an explicit answer, the power remains with the Standing Bureau, that is, with the majority.

The consolidated European model—the Bundestag (Ältestenrat), the European Parliament (Conference of Presidents), the French National Assembly (Conférence des présidents)—clearly separates the drafting of the agenda (a collegial body with proportional representation of all groups) from its ad hoc amendment (procedurally restricted, with equal rights for the opposition).

Proposals for legislative text

Article 41(e) is amended to read as follows:

“e) submits to Parliament for approval the draft agenda, drawn up by mutual agreement with the chairs of the parliamentary factions, in accordance with the principle of proportional representation. If no agreement is reached within the Conference, each parliamentary faction shall have the right to include at least one item on the agenda for each week of plenary sessions, in proportion to its share in Parliament;”

Article 59 is supplemented with a new paragraph (6), with the following content:

“Amendments to the approved agenda may be proposed no later than 24 hours before the session to which they apply, except in the emergency situations provided for in Articles 71–72. Each proposed amendment shall be put to a separate vote by the plenary, with each parliamentary faction having the right to speak once, for one minute, before the vote. Draft organic or constitutional laws may not be added to the agenda on the day of the session.”

Article 60 is amended and shall read as follows:

“The Chair of the session may propose an amendment to the agenda during the session exclusively in the case of bills declared urgent under the conditions of Articles 71–72 of this Code or in the case of exceptional situations of force majeure. The proposal shall be immediately put to a vote by the plenary, without debate, by a simple majority of the deputies present. Amendments to the agenda made during the session shall be recorded in the stenographic record, indicating the reason given.”

Justification: Limiting ad hoc changes to the agenda and establishing a collegial mechanism for its drafting transforms the agenda from a tool of the majority into a tool of the entire Parliament. This reform is explicitly recommended by PACE Resolution 1601/2008 and constitutes the standard in all EU member parliaments with a well-established democratic tradition.

2.2. Standing subcommittees — lack of safeguards for the opposition (Art. 42(7))

Analysis of the issue

Article 42(7) provides that standing committees *may* establish subcommittees, determining their powers, composition, and leadership by their own decision. The provision is laconic and completely devoid of procedural safeguards.

The issue identified is that, under current practice, there are two notable standing subcommittees—both chaired by the opposition—which represents a sound practice for balancing procedural power. The draft of the new Code does not adopt this practice nor does it institutionalize it in any way. Consequently, once the Code is adopted, the composition and leadership of the subcommittees will be determined exclusively by the majorities within each committee, effectively eliminating the opposition’s presence in leadership roles at this level.

A rule that allows for everything without guaranteeing anything is, in practice, a rule that allows the majority to decide everything.

Proposed legislative text

Article 42, paragraph (7), is amended and shall read as follows:

“Standing committees are entitled to establish subcommittees, designating their responsibilities, composition, and leadership by a decision adopted by a majority vote of the committee members. The composition of the subcommittees shall respect the principle of proportional representation of the parliamentary factions within the committee. The leadership of the subcommittees shall be distributed among the parliamentary factions represented on the committee, with priority given to opposition factions, in at least half of the subcommittees established within the same standing committee. The chair of the standing committee shall inform the Standing Bureau and the plenary of Parliament regarding the formation of the subcommittee, its composition, and its leadership within 5 working days of its establishment. The list of active subcommittees and their composition shall be published on the official website of Parliament.”

Justification: Subcommittees perform specialized functions that have a direct impact on the content of draft laws and parliamentary oversight reports. Excluding the opposition from their leadership renders the parliamentary minority’s right to influence the legislative process at the technical level—not just the political level—meaningless. The practice already established in the Parliament of the Republic of Moldova deserves to be institutionalized, not abandoned.

2.3. Reversal of the Logic of Debates and Blocking of Time Extensions (Art. 101, para. (4))

Analysis of the issue

Article 101(4) sets a 60-minute time limit for the question-and-answer session during the first reading and allows for an extension of that time *“by a majority vote of the members present.”*

There are two distinct and serious problems:

The first problem—the reversal of procedural logic. The current rules (Art. 108) operate on the principle of *concluding debates*—the debate continues until its conclusion is proposed and voted on. The new draft reverses this logic: the debate *automatically stops* after 60 minutes, with the possibility of extension. This means that the time limit becomes the rule, and the debate—an exception dependent on the majority’s consent. On complex or controversial bills, precisely when the opposition would need time the most, the extension could be blocked by the majority.

The second problem—extension by a vote of the majority present. A vote of the majority present to extend the debates means that the majority decides when the opposition can speak and when it cannot. This is a configuration incompatible with the minimum standards of democratic parliamentarism, where the minority's right to debate is procedurally protected *against* the majority, not *by* it.

The same mechanism appears in Article 110(3) for the third reading—the same structural problem.

Proposed legislative text

Article 101(4) is amended and shall read as follows:

“The question-and-answer session during the first-reading debate shall take place without a predetermined time limit. The chair of the session may propose the conclusion of the question-and-answer session after all members who have requested the floor have exhausted their right to a maximum of two questions each, in accordance with paragraph (3). The proposal to conclude the debates shall be adopted by a majority vote of the members present, under the conditions of Article 109. By way of exception, for bills included on the agenda of sessions with a large number of items, the Standing Bureau may establish, prior to the session, a framework for debates by topic, in accordance with Article 57, paragraph (11), with the consent of the parliamentary factions, including those of the opposition.”

Article 110, paragraph (3), is amended accordingly:

“The debate on the third reading shall take place without a predetermined time limit. The conclusion of the debates shall be proposed and voted on under the conditions of Article 109 of this Code.”

BLOCK 3: Other Important Aspects of Parliamentary Activity

3.1 Rules on party switching raise questions of constitutionality

Article 10(2) expressly prohibits changes to the political composition of Parliament during the term of office. Article 21 prohibits switching from one caucus to another or the creation of new caucuses by parties without parliamentary seats. Article 21(2) provides that a member of Parliament who loses their membership in

faction becomes an “independent deputy” and may only act outside of parliamentary factions.

This regulation raises serious constitutional questions. Art.

68 of the Constitution of the Republic of Moldova proclaims the representative mandate: “In exercising their mandate, members of Parliament are in the service of the people. Any binding mandate is null and void.” The Constitutional Court has consistently ruled that this provision protects the independence of members of Parliament from any external constraint—including from the party that nominated them. An absolute ban on changing party affiliation, combined with the demotion of those who violate it to the status of “unaffiliated members of parliament who may act only outside of parliamentary groups,” effectively transforms the representative mandate into an imperative mandate vis-à-vis the party—precisely what the Constitution prohibits. In this regard, see also the Venice Commission’s Report on the Imperative Mandate and Similar Practices (<https://www.coe.int/en/web/venice-commission/-/opinion-488>).

In their current form, these provisions may lead to an excessive limitation of the deputy’s autonomy, the consolidation of political control exercised by parliamentary groups over deputies, the impairment of freedom of opinion and political expression within Parliament, and the risk of internal political pressure being exerted on deputies.

The Venice Commission has consistently emphasized that the parliamentary mandate must remain free and representative, and that anti-defection measures must not lead to an excessive restriction of members’ independence.

Proposed legislative text

Article 21, paragraph (2), is amended and shall read as follows:

“A member of Parliament who ceases to be a member of a parliamentary group, regardless of the reason specified in paragraph (1), becomes an independent member of Parliament. An independent member of Parliament shall exercise his or her parliamentary mandate freely and in accordance with the Constitution and shall enjoy all the individual rights of a member of Parliament provided for in this Code, including the right to speak in plenary sessions, to submit amendments, to ask questions and make interpellations, to serve on standing committees as an alternate member, and to access all institutional information and resources of the Parliament. An unaffiliated member of Parliament does not benefit from

collective resources allocated to parliamentary factions and is not represented by a faction in the collegial bodies of Parliament."

Article 21, paragraph (3) is amended and shall read as follows:

"The transfer of a deputy from one parliamentary faction to another, as well as the creation of new parliamentary factions by deputies who are not members of parties that obtained seats in Parliament following the elections, are not permitted during the same parliamentary session in which the change took place.

3.2. Insufficiently regulated procedure for sanctions regarding refusal to take the oath

Article 18(4) provides that refusal to take the oath results in the automatic termination of the deputy's mandate.

Although taking the oath is a solemn act and an important condition for exercising a parliamentary mandate, the current wording of the article raises questions regarding the applicable procedural safeguards.

While Article 18(4) provides that "refusal to take the oath results in the revocation of the mandate"—nowhere in the code is there a procedure for such revocation: who formally establishes it, who decides it, is there a means of appeal, what happens if the refusal is ambiguous (silence, absence, modified wording of the oath)? The sanction exists, but the enforcement mechanism does not. This is a technical-legal loophole.

Proposed legislative text

Art. 18, paras. (3) and (4) are amended and supplemented as follows:

"(3) An explicit refusal—including unjustified absence from all sessions to which the deputy was summoned to take the oath within 30 days of the validation of the mandate—shall be noted by the chair of the session, recorded in the minutes, and published on the official website of Parliament. An explicit refusal is constituted by a verbal or written statement in which the member indicates that he or she does not intend to take the oath, or by the taking of an oath with content substantially different from that provided for in paragraph (1).

(3¹) Mere absence from the constituent session shall not be deemed a refusal to take the oath. A member of Parliament who is absent for objective reasons—illness attested by a medical certificate, force majeure, or absence on official parliamentary business—shall take the oath in accordance with paragraph (5), without any penalty.

(4) A finding that a deputy has explicitly refused to take the oath under the conditions set forth in paragraph (1) shall be subject to confirmation by Parliament in the plenary session immediately following, by open vote, with a simple majority of the elected deputies. The termination of the deputy's mandate as a result of the refusal to take the oath shall take effect as of the date of confirmation by the Constitutional Court.

“(5) A deputy who was not present at the constituent session shall take the oath at the first plenary session in which he or she participates and, in any case, no later than 30 calendar days from the date of the constituent session.

A member of Parliament who fails to take the oath within the 30-day period for unjustified reasons may not exercise any parliamentary rights until the oath is actually taken: they may not participate in votes, speak in plenary sessions or committees, and are not included in the calculation of the quorum. This prohibition applies by operation of law, without the need for a decision by Parliament, and is automatically lifted on the date the oath is taken.

If the member fails to take the oath within 60 calendar days of the date of the constituent session, without a justification accepted by the Standing Bureau, the chair of the session shall report the situation to the plenary session of Parliament, and Parliament shall decide on the revocation of the mandate by a majority vote of the elected members, while guaranteeing the right of the member in question to make a statement before the vote. The Parliament's decision regarding the revocation of the mandate takes effect upon its confirmation by the Constitutional Court.”

3.3. Excessive Concentration of Procedural Powers in the Hands of the Speaker of Parliament

Article 37 of the draft grants the Speaker of Parliament a very broad range of procedural and administrative powers, including: coordinating the work of Parliament and its working bodies; introducing bills into the legislative process; designating the committees responsible for substantive review; coordinating the Parliamentary Secretariat; and issuing administrative provisions and orders.

The conceptual problem lies in the fact that the draft concentrates a very large amount of procedural and administrative control in the hands of a single political office, without establishing sufficient mechanisms for checks and balances and procedural oversight.

In a democratic parliamentary system, the office of the Speaker of Parliament must combine the role of institutional coordination with the obligation of procedural neutrality and the guarantee of the rights of all parliamentary factions.

In its current form, the bill does not provide sufficient safeguards regarding:

- the possibility of challenging procedural decisions;
- limiting the discretionary nature of certain powers;
- protecting equal treatment between the majority and the opposition.

In practice, this concentration of powers may lead to disproportionate influence over the parliamentary agenda, excessive control over the procedural flow of legislative bills, and a reduction in the autonomy of Parliament's working bodies.

At the same time, the combination of political and administrative powers may affect the perception of the neutrality of the Parliamentary Secretariat and the parliamentary administrative apparatus.

Proposed amendments:

Proposal regarding the limitation of administrative powers over the Secretariat

Current text, Art. 37, para. (4)

"The Speaker of Parliament coordinates the work of the Parliament Secretariat..."

Issue:

The wording is too broad and may suggest direct political control over the administrative apparatus.

Proposed improvement:

Article 37(4) is amended and shall read as follows: “The Speaker of Parliament exercises general administrative coordination of the Parliamentary Secretariat, in accordance with the principles of political neutrality, professionalism, and the functional autonomy of the parliamentary civil service.”

A new paragraph is proposed for Article 37:

“In exercising his procedural powers, the Speaker of Parliament shall act impartially and ensure respect for the rights of the parliamentary majority and the opposition.”

Another proposal concerns the limitation of the phrase “other rights”

Current text of Art. 37, para. (1), subparagraph (k)

“other rights provided for (...) or in accordance with the decisions of Parliament.”

Issue:

The wording is too broad and open-ended, allowing for a very broad and unpredictable expansion of powers.

It is proposed to remove the phrase: “or in accordance with the decisions of Parliament.”

It is necessary to introduce a minimal procedural challenge mechanism, which is currently lacking

It is proposed to supplement Article 37 with a new paragraph:

“The exercise of the powers of the Speaker of Parliament may not lead to an unjustified limitation of the rights of the parliamentary opposition provided for in this Code.”

Conclusions

The draft Code on the Organization and Functioning of Parliament represents an important step toward systematizing and modernizing the parliamentary regulatory framework.

At the same time, an analysis of the draft highlights the need for significant strengthening of guarantees regarding: parliamentary pluralism; the deliberative nature of Parliament; procedural balance between the majority and the opposition; transparency of the legislative process; effective participation of civil society; limiting the excessive use of accelerated and simplified procedures; and strengthening the function of parliamentary oversight over the executive.

In their current form, certain procedural mechanisms risk leading to a disproportionate concentration of parliamentary oversight in the hands of the parliamentary majority and the Standing Bureau, as well as undermining the participatory and deliberative nature of the legislative process.

At the same time, the insufficient institutionalization of public consultations and the broad use of fast-track procedures may undermine the transparency, predictability, and quality of legislation.

Strengthening the democratic, participatory, and deliberative nature of Parliament is an essential condition for the functioning of the rule of law and for bringing the Republic of Moldova closer to European standards regarding democratic parliamentarism, political pluralism, and good institutional governance.

At the same time, we consider it important to note that the draft Code does not regulate a number of institutional and procedural aspects essential for the proper functioning of Parliament and for strengthening the democratic guarantees of the exercise of the parliamentary mandate.

In particular, the draft does not contain sufficient provisions regarding:

- the regime of parliamentary and the related exercise of a deputy's mandate;

- mechanisms for challenging and reviewing measures or sanctions imposed on members of parliament in the course of their parliamentary activities;
- the existence of an independent internal mechanism or body competent to examine appeals regarding disciplinary sanctions and other procedural measures imposed on members of parliament.

In this context, we note that European standards in parliamentary matters, including the recommendations of the Venice Commission and GRECO, emphasize the importance of clear, impartial, and effective mechanisms for challenging disciplinary measures imposed on members of parliament, particularly those ordered by the Speaker of Parliament or other parliamentary bodies during plenary sessions.

The absence of such safeguards may give rise to risks regarding the disproportionate or arbitrary nature of certain sanctions, insufficient protection of the rights of the parliamentary opposition, and a lack of effective procedural oversight over restrictive measures imposed on members of parliament.

In this context, we express our hope that these important issues will be the subject of distinct and detailed regulations within a separate legal framework or through subsequent amendments to the parliamentary framework, in accordance with European standards regarding the protection of the parliamentary mandate, political pluralism, and the proper functioning of democratic institutions.