

**PARLIAMENT OF THE REPUBLIC OF MOLDOVA****LAW****On prevention and combating of corruption**

The Parliament adopts this organic law.

**Chapter I**  
**General provisions****Article 1.** Application and scope of law

This law determines the measures for prevention and combating of corruption, assuring the protection of rights and freedoms of persons, the public interests, the security of state and elimination of consequences of acts of corruption.

**Article 2. Main notions**

In the sense of this law the following notions are defined:

corruption – solicitation, pretending, promising, offer, transmission or acceptance directly or indirectly of any goods, illicit income or unmerited advantage for oneself or for any other person, affecting the normal exercise of a particular function in the public or private sector;

goods – any categories of material or non-material values, mobile or immobile, acquired by any means, as well as legal acts or other documents attesting one's rights or any entitlements thereupon;

illicit income – monies and entitlements, offers, services, privileges, goods or any other patrimonial advantages obtained directly or indirectly in result of committing an offence or any other illicit actions;

national public agent - person holding a responsible position or a person managing a commercial, public or any other non- governmental organization, as well as any person exercising a public function and/or rendering a public service;

foreign public agent – any elected or designated person holding a legislative, executive, administrative or judiciary mandate of a foreign state, or any person exercising a public function for a foreign state, including for a public organ or public enterprise, or any representative of any public international organization, i.e. international public officer or any person authorized by such an organization to act on its behalf.

### **Article 3. Legal framework**

(1) The legal relations in the field of prevention and combating of corruption are regulated by the present law, by other legislative acts, as well as by the international treaties to which the Republic of Moldova is a party.

(2) Measures for the prevention and combating of corruption can be regulated also by other normative acts issued in conformity with this law.

(3) In case of discordance between the regulations of this law and other international treaties to which the Republic of Moldova is party, the international treaties shall prevail.

### **Article 4. Subjects of corruption acts**

(1) This law refers to public agents, including the foreign ones, physical persons using their status against public interests and of the agents of the state that use their positions for the obtaining of illicit income, as well as the persons offering such advantages, including:

- a) The public agents after the expiry of their mandates, discharged or resigned;
- b) The trustees of election competitors;
- c) Notaries, auditors, their representatives in judiciary instances;
- d) Other persons as determined by the law.

(2) The signs characterizing any person as subject of disciplinary, civil, administrative or criminal responsibility are determined by the law.

## **Chapter II**

### **MEASURES FOR THE PREVENTION OF CORRUPTION**

### **Article 5. Corruption prevention guarantees**

The corruption prevention policies and practices represent a complex of legal, institutional, economic, social and moral measures implemented by the regulation of:

- a) organization of activities performed by public authorities and public agents;
- b) conduct of public agents;
- c) order of formation and administration of public finance;
- d) access to official information and active participation of civil society;
- e) private sector of national economy;
- f) prevention of legalization of illicitly obtained income;
- g) political activity and election process;
- h) other measures necessary for attaining the scopes of the present law.

**Article 6.** Organization of activities performed by public authorities and public agents

The normative acts regulating the public sector contain provisions that are aimed to assure:

- a) strict delimitation of authority of public organs and public agents based on the principles of transparency and objectiveness;
- b) hierarchical and public control upon the activities of public institutions and public agents;
- c) improvement of public service structure and procedure for resolving the problems related to the interests of private persons and corporate entities;
- d) material provision and social guarantees for the performance of activities, in line with the competence and responsibilities determined by the offices held;
- e) determination of social requirements, restrictions and interdictions, criteria of engagement or appointment necessary for the protection of constitutional regime, legal rights and interests of private persons and corporate entities;
- f) adequate equilibrium between the jurisdiction immunities provided to the various categories of public agents.

**Article 7. Conduct of public agents**

The exercise of public functions is assured by:

- a) establishment of conduct rules in line with the specifics of activity of each category of public agents;
- b) assurance of observation of deontological rules within the organs of public authorities, including by application of disciplinary and other measures to the persons violating the established norms;
- c) adoption of measures for easing the reporting by the public agents of acts of corruption that may become known to them in course of exercising their duties.

**Article 8. Formation and administration of public finance**

The system of public procurements and management of public finance is assured by:

- a) transparency and publicity of information on the procurement procedures;
- b) use of objective criteria for decision-making;
- c) guaranteed application of contestation means in cases of violation of established rules or procedures;
- d) establishment of procedures for the accumulation of income and coverage of costs in the budgets of all levels;
- e) efficient norms of accounting, audit and control;
- f) assurance of legal and scope-oriented use of public patrimony, rationally and efficiently.

**Article 9. Access to information and active participation of civil society**

The transparency of activities of public administration and stimulation of active participation of persons and groups not belonging to the public sector for the scopes of prevention and combating of corruption is consolidated by the following measures:

- a) access of wide public to the information on organization, functioning and decision-making processes in public administration regarding the related decisions and legal acts;
- b) publication of data and periodic reports about the corruption risks in the organs of public administration;
- c) information of society for the scope of creation of an intolerant atmosphere towards corruption, as well as implementation of relevant educational programs.

**Article 10. Private sector of national economy**

Prevention of corruption with involvement of private sector includes the following measures, especially:

- a) Non-admission of the use of improper procedures for the regulation of national economy, reduction of dependency of entrepreneurs from the administrative pressure at the issuance of licenses, authorizations and permits;
- b) assurance of compulsory publication of normative acts regulating the entrepreneurship activity;
- c) promotion of cooperation between the investigation subdivisions and private institutions;
- d) raising of responsibility of private institutions in order for the entrepreneurs to perform their activities in a correct, honorable and adequate manner, to prevent conflicts of interests and to encourage the application of good commercial practices by their enterprises, as well as in their contractual relations with the state;
- e) establishment of efficient norms in the field of accounting and audit, for the prevention of corruption by excluding the possibility of keeping unofficial accounting, registering non-existing costs, use of false documents, deliberate destruction of accounting documents, etc.

**Article 11. Prevention of legalization of illicitly obtained income**

The income supervision system includes:

- a) declaration of incomes by private individuals and corporate entities;
- b) rules of control upon financial operations effected by private individuals and corporate entities through the banking system, for the prevention and combating of money laundering;

c) norms for the declaration and control upon the incomes and property of public agents, state officials, judges, prosecutors, public officers and other persons holding responsible positions.

### **Article 12. Political activity and the election process**

Prevention of corruption in the political process comprises:

- a) organization of activity, control and supervision of political parties;
- b) establishment of adequate rules for the financing of political parties in order to exclude the possibility of influence of external and internal factors onto the decision-making process;
- c) organization of election process and loyal competition.

## **CHAPTER III ORGANS RESPONSIBLE FOR THE PREVENTION AND COMBATING OF CORRUPTION**

### **Article 13. The authority empowered to implement the present law**

The Center for Combating Economic Crimes and Corruption is the special authority empowered to perform prevention and combating of corruption and corruptive behavior, being also authorized to perform the following activities, inclusively:

- a) effect measures of operative investigation and criminal pursuit on acts of corruption;
- b) collection and analysis of data regarding corruptive behavior or acts of corruption, collaboration and exchange of data with the public administration authorities, information of competent organs regarding the causes and conditions that contribute to the commission of illicit actions;
- c) development of relations with the similar services of foreign states, elaboration of proposals for bringing the national normative acts in accordance with the relevant international provisions.

### **Article 14. Other authorized organs and persons in the prevention and combating of corruption**

(1) Exercise activities for the prevention and combating of corruption by implementation of relevant policies and practices within the limits of their competence, as defined by prevailing legislation:

- a) the Parliament;
- b) the President of the Republic of Moldova;
- c) the Government;
- d) the Prosecutor's Office;
- e) the Information and Security Service;

- f) the Court of Accounts;
- g) the ministries and other central and local public administration authorities;
- h) the civil society.

(2) The coordination of activities of public administration authorities empowered to combat corruption is performed by the Coordinating Council on Combating Corruption and Criminality instituted under the President of the Republic of Moldova.

(3) The public administration authorities periodically evaluate the legal instruments and administrative measures in order to determine their adequacy for the prevention and combating of corruption and organize:

a) internal control upon the observation of legal provisions by the public agents for the sake of prevention of corruption acts;

b) reception of data from different sources (audience, anonyme letters, via help lines, via electronic mail, etc.) related to the commission of corruptive behavior facts or corruption acts by the officers, their examination and undertaking of necessary measures, including presentation of relevant materials to the specialized organ;

c) periodic presentation of informational reports on the undertaken measures, including the ones performed in common with other organs, as well as proposals for the improvement of existing situation to the Center for Combating Economic Crimes and Corruption.

## **CHAPTER IV RESPONSIBILITY FOR CORRUPTION ACTS**

### **Article 15. Corruption behavior facts**

Corruption behavior facts are considered the following actions provided by the present law:

a) implication into the activity of any other organ, enterprise, institution or organization independently on their types of property or legal organizational structure, when such implication is not a part of their competence, with abuse of authority, resulting in the appearance of conflict of interests;

b) participation with right of vote or decision at the examination and solution of problems related to one's own personal interests or one's relatives' interests;

c) provision of any support not provided by the normative acts to the entrepreneurial or any other activity of private character, or the capacity to be the responsible for the businesses of third parties in the public administration authority in which simultaneously one holds a function, or in the subordinated public administration authority, or in the controlled public administration authority;

d) unjustified preference of particular private persons or corporate entities in the elaboration and issuance of decisions;

e) benefiting from privileges to obtain for himself or any other persons any credits and loans, to procure securities, real estate or other goods by making use of one's service position;

f) abusive use of public goods provided for the exercise of service duties in one's own private interests;

g) abusive use of any information obtained in the course of discharge of one's service duties for the sake of one's personal interests or of the personal interests of any other persons to whom such information can not be divulged;

h) refusal to provide to the private persons or corporate individuals the information allowed by normative acts, unjustified delay in presentation or presentation of selective or erroneous information;

i) use of public material and financial resources for purposes other than determined by the relevant regulations, for one's private scopes or for the interests of other persons;

j) acceptance of gifts or benefiting of any other interests from any private person or corporate entity as remuneration for the performance of one's service duties or by virtue of one's social state, as well as offering them to other persons holding responsible offices, except for signs of symbolic consideration, souvenirs granted in conformity with protocol norms and international courtesy;

k) violation of other restrictions imposed by professional deontological codes and other similar norms.

### **Article 16. Responsibility for corruption acts**

(1) The public agents, including the foreign ones, the private individuals and corporate entities shall bear liability, pursuant to the provisions of Criminal Code, for the deliberate commission of corruption acts.

(2) Corruption acts, as incriminated by the legislation are the following:

- a) Active corruption;
- b) Passive corruption;
- c) Traffic of influence;
- d) Bribe taking;
- e) Official bribery;
- f) Acceptance of illicit remuneration of all kinds;
- g) Corruption of foreign public agents.

(3) In direct connection with corruption acts are the actions committed for the purpose of:

- a) Abuse of authority or abuse of service duties;
- b) Excess of authority or abuse of power;
- c) Falsification of public acts;
- d) Legalization of illicitly obtained income;
- e) Opposition to the performance of justice;

- f) malversation;
  - g) infliction of material damages by frauds or abuse of trust;
  - h) destruction or deterioration of property;
  - i) protectionism;
  - j) falsification of voting results.
- (4) Participation and attempt at corruption acts results in liability as determined by the law.

**Article 17. Other forms of responsibility**

The private individuals or corporate entities, as the case may be, bear civil, disciplinary, or administrative responsibility for the violation of the provisions of this law, inclusively:

- for the commission of an act of corruption or any fact of corruptive behavior, if such actions do not contain all the constitutive elements of the violation;
- failure to observe the restrictions and prohibitions set out in the normative acts that regulate the special status of public agents;
- violation of legal provisions on the declaration of income and property.

**Article 18. Exemption from responsibility**

(1) The public agents that in the discharge of their duties become informed of any acts of corruption or facts of corruptive behavior are obliged to report them to the superior authorities that are obliged to undertake the necessary measures or in their turn report to the designated authority.

(2) The public agents that with good faith renounced from the acts of corruption or facts of corruptive behavior are exempted from disciplinary, administrative or criminal responsibility as set out in the prevailing legislation.

**Article 19. Guarantees for the exercise of service duties**

(1) The provisions related to the independence of operations of diverse categories of public agents can not constitute an impediment for holding them liable in cases of commission of corruption acts or protectionism.

(2) The jurisdiction immunities of public agents in regard of criminal pursuit shall constitute an adequate equilibrium with the possibility of effective investigation and judgment of corruption acts.

(3) Before the determination of the criminal character of the fact, the public agent can be sanctioned for the actions constituting violation of service discipline or suspended in office. Bringing to disciplinary responsibility doesn't release the public agent from criminal responsibility.



## **CHAPTER V COMBATING OF CORRUPTION**

### **Article 20. Measures for the combating of corruption**

The authorities empowered to combat corruption, have the following competence and duties:

- a) performance of operative investigation activities;
- b) performance of criminal pursuit;
- c) adoption of procedural retention measures and preventive punishment;
- d) assurance of confidentiality in the criminal process;
- e) application of state protection measures for the security of process participants and other persons;
- f) performance of activities for the removal of conditions that contributed to the commission of breaches and other violations of law;
- g) assurance of international legal assistance.

### **Article 21. Limitation of action of secrets protected by the law**

The legal provisions on state, banking, commercial or professional security can not constitute obstacles for the reception by the public organs for the combating of corruption of any information in cases when there are signs of corruption acts or any fact of corruptive behavior. Disclosure of such information, as set out by the law, doesn't constitute a divulgation of secrets protected by the law.

### **Article 22. Removal of consequences of corruption acts**

(1) The adopted decisions, the concluded contracts and any other actions or any clauses of any conventions whose objects may be an act of corruption, are null and void from the very moment of their adoption and do not have any legal effect for none of the parties, independently on their knowledge of such acts.

(2) Any part of any convention whose conclusion was affected by an act of corruption can reclaim the implementation of such convention, as determined by the law, without affecting one's right for compensation of damages.

## **CHAPTER VI INTERNATIONAL COOPERATION**

### **Article 23. International cooperation and assistance**

(1) For the purposes of this law the international cooperation in the fields of prevention and combating of corruption is performed based on the principles of

reciprocal assistance, in full accordance with the legislation of the Republic of Moldova and international treaties to which the Republic of Moldova is party.

(2) The Center for Combating Economic Crimes and Corruption and the other authorities responsible for combating corruption, ex officio or based on respective solicitations, can send, receive or effect exchange of information with the foreign services with similar functions, based on the principles of reciprocal assistance and confirmation of similar requirements of confidentiality, as set out in the mutual cooperation treaties.

## **CHAPTER VII FINAL PROVISIONS**

**Article 24.** From the date of entrance of this law into force is cancelled the Law no. 900-XIII dated 21st July 1996 on the combating of corruption and protectionism (Official Monitor of the Republic of Moldova, 1996, no. 56, art. 542), with all subsequent changes and additions.

**Article 25.** The Government:

In terms of two months:

Will present to the Parliament the proposals for bringing the existing legislation in accordance with this law;

Will bring its normative acts in accordance with the present law;

Will assure the revision of their normative acts by the central administrative authorities and ministries;

Will undertake other measures for the appropriate application of this law, for the study and application of this law by the subjects of law.

### **Chairman of Parliament**

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*The translation from Romanian into English was performed by the translator Rulevschi Dumitru at the Translation Bureau "Partenia-Service" Ltd.*

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Signature \_\_\_\_\_

Semnătura