

LEGISLATIVE DIGEST

Official Gazette no. 25-28 (4063-4066) of 03.02.2012

1. LAWS, DECISIONS OF THE PARLIAMENT, DECREES OF THE PRESIDENT

1.1. LAW NO. 245 OF 02.12.2011 ON AMENDMENT AND COMPLETION OF CERTAIN LEGISLATIVE ACTS

The analytical information on the law, which contains the initial draft and explanatory note, opinions of the parliamentary commissions, the chronological evolution of the approval of the draft etc. is available at URL

<http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/657/Default.aspx>

The amendments and completions operated through the law aimed at:

- i. the adjustment of the domestic legislation in the sphere of defeat of the corruption to the provisions of:
 - the United Nations Convention against Corruption, adopted on 31 October 2003 in New-York, Republic of Moldova ratified by the Law no. 158-XVI, 06.07.2007;
 - Criminal Law Convention on Corruption, adopted at Strasbourg on 27 January 1999 and ratified through the Law no. 428-XV of 30.10.2003; as well as the Additional Protocol to the Convention, as ratified through the Law no. 157-XVI of 06.07.2007.
- ii. Elimination of existing discrepancies among the provisions of the domestic legislation and the international anti-corruption standards as referred to above, and elimination of erroneous interpretation in the domestic legislation of the imperative norms of the said international conventions.

According to the draft, *The Criminal Code* has been modified through the ammendment of the art. 123, namely through introduction in it of the terms „public official”, „public official of high rank” and defining the key signs of said terms, to ensure the adjustment of the scope of these terms to the provisions of the UN Convention against Corruption. The articles 324, 325 and 326 have been completed in order to ensure extension of their scope toward the foreign public officials or foreign jury. There also have been completed the definitions of the criminal offences provided in articles 314 and 326, through inclusion into the definition of the “traffic of influence” criminal offence of the acts of promise, offer or granting goods or services to witness or victim in order to obtain deceitful statements from them.

On the other part, the *Criminal Procedure Code* has been completed with norms which allow the application of interim measures for criminal offences for which the law provides the eventual sanction in the form of special confiscation of goods (art. 202 para. 1, art. 203 para. 2, art. 205 para.1).

Finally the law has amended and completed the Law no. 90-XVI of 25.04.2008 on prevention and combating of corruption, namely the art. 2 by giving a more comprehensive definition of the corruption, the art. 4 by extending the list of active subjects’ in the criminal offences of corruption or corruptive behavior toward several categories of persons

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VICTOR
BURAC



40 SERGHEI LAZO STREET
MD2004 CHIȘINĂU MOLDOVA

TEL. [+ 00 373 22] 22 02 01
FAX [+ 00 373 22] 22 76 78
GSM [+00 373 691] 73 600
WEB WWW.BURAC.MD
EMAIL VICTORBURAC@BURAC.MD

provided in the UN Convention against Corruption and the Criminal Law Convention on Corruption, the art. 21 extended the protective mechanism toward witnesses and other participants in criminal proceedings via introduction of the words „and other persons who acknowledge to the competent authorities, including their superiors, about the risk of commitment of acts of corruption or associated acts, or about the facts of corruptive behavior”, etc.

1.2. LAW NO. 254 OF 09.12.2011 ON THE AMENDMENT AND COMPLETION OF CERTAIN LEGISLATIVE ACTS

The analytical information on the law, which contains the initial draft and explanatory note, opinions of the parliamentary commissions, the chronological evolution of the approval of the draft etc. is available at URL

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The law aimed at correlation of the art. 11 and 14 of the Law on wages no. 847-XV of 14 February 2002, taking into account that before the law had entered into force those two articles conflicted each other: the art. 11 stipulated that the state guarantees the minimum amount of wages in real sector, while at the same time the art. 14 obliged the state to negotiate the wages in some sectors of the economy, which use the accord tariff system for the category I of qualification, in an amount equal *or exceeding* minimum guaranteed salary in real sector. The new wording of the art. 14 para. 4 doesn't oblige anymore the state to increase the tariff salary for category I qualification together with the increase of the minimum guaranteed salary in the real sector. Under these circumstances the employers will have to increase the salary to those employees whose salary is less than the amount of the guaranteed salary established by the Government, and for other employees the wages shall be increased according to the the financial possibilities of the employing unit.

In furtherance of the Government prescription of 03 March 2011 on submission of proposals to optimize the salary conditions of directors of enterprises, organizations and financially-autonomous state institutions, through the approved law it is provede that the maximum amount of the salary of the directors salary as set forth in the art. 23 shall be reduced from 5 to 3 average monthly salary per unit. Furthermore the art. 24 of the Law on wages no. 847-XV of 14 February 2002 declares that the monthly compensation payment shall be reduced from 3 to 2 state minimum salaries (2x600=1800 MDL) for the state representatives in the management bodies of state enterprises. The amendments to the art. 111 of the Labor Code and the articles 2 and 3 of the Law on wages no. 847-XV of 14 February 2002 aim at abolishing the gaps identified in the decision no. 11 of 31 May 2011 of the Constitutional Court.

Finally the Law completed the Labor Code with a new chapter IX “Labor security and health” in order to ensure the compliance with the provisions of the Law on labor security and health no. 186-XVI of 10 July 2008.

VICTOR
BURAC



40 SERGHEI LAZO STREET
MD2004 CHIȘINĂU MOLDOVA

TEL. [+ 00 373 22] 22 02 01
FAX [+ 00 373 22] 22 76 78
GSM [+00 373 691] 73 600
WEB WWW.BURAC.MD
EMAIL VICTORBURAC@BURAC.MD

- 1.3. THE LAW NO. 260 OF 19.12.2011 ON AMENDMENT AND COMPLETION OF THE LAW NO. 1549-XV OF 19 DECEMBER 2002 ON DACTYLOSCOPIC STATE REGISTRATION.

The analytical information on the law, which contains the initial draft and explanatory note, opinions of the parliamentary commissions, the chronological evolution of the approval of the draft etc. is available at URL

<http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/657/Default.aspx>

The law aimed at adjusting the provisions of the law no. 1549-XV of 19.12.2002 to the provisions of other legal acts: for example, the definitions of “material support” and “informational massive” given in the art. 2 were updated to adjust them to the provisions of the legislation on operation of informational systems. The amendments to the art. 12 detailed the exclusive competence of the Ministry of Internal Affairs to record, classify and keep dactyloscopic information; in the art. 15 the term of record keeping was increased to 80 years or until asknowledgement of the death of the data subject.

- 1.4. THE LAW NO. 277 OF 27.12.2011 ON THE AMENDMENT AND AND COMPLETION OF CERTAIN LEGISLATIVE ACTS.

The analytical information on the law, which contains the initial draft and explanatory note, opinions of the parliamentary commissions, the chronological evolution of the approval of the draft etc. is available at URL

<http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/861/Default.aspx>

During the last years the Republic of Moldova, on the one hand, has ratified a set of international instruments which regulate the sphere of prevention and fight against corruption, and, on the other hand, joined the group of states against corruption (GRECO), whose recommendations are mandatory for application and the degree of implementation of said recommendations is periodically discussed on GRECO plenary sessions. However, both the UN Convention against Corruption (art. 33) and the Civil Law Convention against Corruption (art. 9) demands from member-states to facilitate and encourage communication about the facts of corruption committed by officials, as well as to protect employees against unjustified sanctions both in private sector and in public one, in cases when they communicate good-faith information. Besides, during the evaluation in GRECO cycle I, the Republic of Moldova has been addressed a recommendation “to introduce clear rules that would encourage any public agent to report about cases of corruption and to establish an adequate protection of informer” (“persons who ring the bell”).

Based on the foregoing, the enacted law ammended a set of legislative acts, namely the Law no. 90-XVI of 22.02.2008 on prevention and fight against corruption, the Law on the Code of behaviour of the public officer no. 25-XVI of 22.02.2008, and the Contraventional Code which from now on stipulates sanctions for the failure to comply with the aforementioned legal provisions. These amendments expressly listed the persons and bodies which have to be contacted by public officer that has good-faith right to report about committed infringements, set forth the protective measures which he

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VICTOR
BURAC



40 SERGHEI LAZO STREET
MD2004 CHIȘINĂU MOLDOVA

TEL. [+ 00 373 22] 22 02 01
FAX [+ 00 373 22] 22 76 78
GSM [+00 373 691] 73 600
WEB WWW.BURAC.MD
EMAIL VICTORBURAC@BURAC.MD

can be applied, namely the good-faith presumption and the confidentiality of the officer's identity and transfer. Also there has been established that the public officer shall have the right to notify nongovernmental organizations and mass-media when reporting to internal public institution/authority shall be ineffective. Finally, the para. 2 has been excluded from the art. 18 of the Law no. nr.90/2008 since the release from criminal and contravention liability is not the object of regulation of the Law against corruption, but rather of specialized laws (Criminal Code and Contravention Code).

Due to absence of efficient incentives for reporting the cases of corruption (it is to be noted in this context that the art. 121 para. 2 of the Code of Behavior of the Public Officer establishes that the public officer cannot be disciplinary sanctioned(!) for reporting – it expresses the general spirit of the law: VB) and the absence of any severe sanctions for the failure to ensure protective measures for informers (according to art. 314¹ of Contravention Code for this infringement the law provides a fine of 1000 to 3000 MDL – VB), the impact of the law would be extremely limited.

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2. DECISIONS OF THE GOVERNMENT

2.1. DECISION NO. 44 OF 26 JANUARY 2012 ON THE APPROVAL OF THE ACTION PLAN FOR 2012 ON IMPLEMENTATION OF STRATEGIC PROGRAM OF TECHNOLOGICAL MODERNIZATION OF ADMINISTRATION (E-TRANSFORMATION)

The decision been approved the list of actions which are to be taken for technological modernization of administration, including approval of respective laws (on reequipment of information in public sector and on e-administration), of normative acts to ensure the inclusion of IT competences in in the operation of the public authorities, etc. The plan contains 29 activities with indication of responsible entities and terms of implementation.

2.2. DECISION NO. 56 OF 31 JANUARY 2012 ON THE AMENDMENT OF THE ACTION PLAN OF SUPPORT OF GYPSY POPULATION OF THE REPUBLIC OF MOLDOVA FOR THE YEARS 2011-2015, APPROVED BY THE GOVERNMENT DECISION NO. 494 OF 08 JULY 2011

Through the decision there has been approved the new edition of aforementioned action plan and the measures for its implementation. Tha plan contains 10 areas of intervention, with indications of responsible entities and terms of implementation.

2.3. DECISION NO. 57 OF 31 JANUARY 2012 ON THE APPROVAL OF THE ORDER OF DISTRIBUTION OF MEANS OF THE SUBVENTION FUND FOR AGRICULTURAL PRODUCERS FOR THE YEAR 2012

According to the decision, the fund for subventions to agricultural producers for 2012 has been approved in the amount of 400 mln. MDL. Among the destinations for 2012 (8 items) a number of priority sectors sustained in the last years are missing, ex. support for promotion and development of ecologic agriculture, compensation of

40 SERGHEI LAZO STREET
MD2004 CHIȘINĂU MOLDOVA

TEL. [+ 00 373 22] 22 02 01
FAX [+ 00 373 22] 22 76 78
GSM [+00 373 691] 73 600
WEB WWW.BURAC.MD
EMAIL VICTORBURAC@BURAC.MD

energetic expenses for irrigation and draining, support for users of plant products (pesticide) and fertilizers (mineral fertilizers) etc. As in past years, the decision approved the Regulation on the order of distribution of means of the fund (Annex no. 1), the List of compensated agricultural risks (Annex no. 2) and the List of cultures and animal/bird species whose insurance is to be compensated (Annex no.3).

3. DECISIONS OF THE MINISTRIES AND OTHER CENTRAL PUBLIC ADMINISTRATION AUTHORITIES

3.1. THE ORDER OF THE CUSTOMS SERVICE NO. 37-O OF 26 JANUARY 2012 ON AMENDMENT AND COMPLETION OF THE ORDER OF THE CUSTOMS SERVICE NO. 267-O OF 2 OCTOBER 2009 ON THE MODEL, ORDER OF COMPLETION AND USE OF THE ASCERTAINING ACT.

The order operated a set of modifications, namely it modified terminology (the term “ascertaining act” was substituted for “regularization decision”), modified the procedure and terms for issue of the regularization decision (p. 5 of the order), the number of copies (p. 6) and the order of approval (p. 7). Also, it approved the regularization decision model (Annex 1) and the order of its completion (Annex 2).

3.2. THE DECISION OF THE NATIONAL BANK OF MOLDOVA NO. 15 OF 26 JANUARY 2012 ON THE INTEREST RATES OF NATIONAL BANK MOLDOVA AND REGARDING THE NORMS OF COMPULSORY RESERVES

By the decision the NBM enacted as from 03.02.2012 the following:

3.2.1. *Interest rates* (annual)*:

3.2.1.1. Basic rate applied on the main short-term monetary policy operation: 6.5 per cent;

3.2.1.2. Interest rate for overnight credits: 9.5 per cent;

3.2.1.3. Interest rate for overnight deposits: 3.5 per cent.

* The respective rates are available on the NBM website at URL http://www.bnm.md/files/index_19199.pdf

3.2.2. *Norms of compulsory reserves* (per total from the aggregated value of deposits in moldavian lei and foreign currency): 14.0 per cent.

3.3. THE DECISION OF THE NATIONAL BANK OF MOLDOVA NO. 17 OF 26 JANUARY 2012 ON THE LEVEL OF BASIC INTEREST RATE OF NATIONAL BANK OF MOLDOVA FOR LONG-TERM CREDITS

By the decision the NBM enacted as from 03.02.2012 the reduction of the basic rates* for long-term credits extended by the NBM, from 7.0 to 6.0 per cent per annum.

* Respective rates are available on the NBM website at URL http://www.bnm.md/files/index_18942.pdf

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40 SERGHEI LAZO STREET
MD2004 CHIȘINĂU MOLDOVA

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FAX [+ 00 373 22] 22 76 78
GSM [+00 373 691] 73 600
WEB WWW.BURAC.MD
EMAIL VICTORBURAC@BURAC.MD