

LEGISLATIVE DIGEST

Official Gazette no. 1-6 (4039-4044) of 06.01.2012

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

1.1. LAW NO. 180 OF 19.12.2011 ON NATIONAL INTEGRITY COMMISSION

According to the law, the National Integrity Commission (NIC) is an autonomous and independent public authority to implement the mechanism of (1) verification and control of statements of income and property that are to be submitted by public officials, judges, prosecutors and other public servants, and (2) of settlement of conflicts of interests. In case the during said verification and control the NIC shall depict evident discrepancies between submitted statements and the actual incomes or property received or appropriated during the reported period, it shall inform the criminal prosecution and fiscal authorities. The NIC is also in charge to depict and confirm the default in meeting the rules concerning the conflict of interest. Under the law the NIC is a collegial body consisting of 5 members assigned by the Parliament for a mandate of 5 years.

1.2. LAW NO. 181 OF 19.12.2011 ON AMENDMENT AND COMPLETION OF CERTAIN LEGISLATIVE ACTS

The law aimed at adjusting a number of Moldovan laws to the legislation concerning the prevention of conflict of interest of public officials. *Inter alia*, the law provided the followings:

1.2.1. The art. 23 of the Law no. 64-XII of 31.05.1990 on the Government was amended to detail the powers of the Government to annul the ministerial and departmental normative acts in case a final Report of the NIC (see the item 1.1. above - VB) acknowledges that said acts were issued in violation of the legislation on conflicts of interests.

1.2.2. The Laws no. 548-XIII of 21.07.1995 on the National Bank of Moldova (art. 27), no. 1349-XIII of 17.10.1997 on ombudsmen (art. 9), no. 1381-XIII of 21.11.1997 on enactment of Electoral Code (art. 20), no. 1525-XIII of 19.02.1998 (art. 4²), etc. were amended to provide termination of the mandate of the members of the Administrative Board of the National Bank of Moldova (supreme decision-making body – VB), and, respectively, ombudsmen, members of the Central Election Committee, director of the Administrative Board of the National Agency for Regulation in Energetic Sector, etc. in case when a final Statement of the NIC (see the item 1.1. above – VB) (1) acknowledged that the respective official approved a decision in default of the obligations to avoid conflict of interests, or (2) acknowledged the case of the incompatibility with the position.

1.2.3. The Law no. 1264-XV of 19.07.2002 on declaration and control of incomes and property of public officials, judges, prosecutors and other public servants was amended and completed (articles 1 through 14, i.e. all articles of the law – VB) to detail the mechanism of said declaration and control. All the annexes of the aforementioned law were approved in new form.

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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

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1.3. LAW NO. 231 OF 25.11.2011 ON APPROVAL OF THE STRATEGY OF THE JUSTICE SECTOR REFORM FOR THE YEARS 2011-2016

The Justice Sector Reform Strategy (JSRS) enacted by the law provides 7 priority sectors covered: judiciary system (3 strategic reforms), criminal justice (5 strategic reforms), access to justice and enforcement of court orders (3 main strategic reforms), integrity of the judiciary (3 main strategic reforms), role of the justice sector in the economic growth (3 main strategic reforms), human rights (5 strategic reforms), management of the justice sector (3 strategic reforms).

2. DECISIONS OF THE CONSTITUTIONAL COURT

2.1. DECISION NO. 27 OF 20.12.2011 ON THE CONSTITUTIONAL CONTROL OF CERTAIN LAWS AMENDING THE TERMS OF PROVISION OF SOCIAL PENSION

Through its decision the Constitutional Court (CC) recognized:

2.1.1. as contrary to the Constitution:

2.1.1.1. the art. II and items 7 and 9 of the art. III of the Law no. 56 of 09.06.2011 insofar these provisions amended the art. 46¹ of the Law no. 156-XIV of 14.10.1998 concerning state pensions of judges.

2.1.1.2. certain wordings of the art. 42 of the Law no. 156-XIV of 14.10.1998 concerning increased retirement stage for women (corroborated with reduced retirement age for women, until the year 2020).

2.1.2. as compliant with the Constitution:

2.1.2.1. the art. I items 2 – 7 insofar these provisions amended the art. 46¹ of the Law no. 156-XIV of 14.10.1998) and art. III item 9 and art. VIII of the Law no. 56 of 09.06.2011;

2.1.2.2. the provisions of the law no. 100 of 28.05.2010.

Overall, the CC recognized as unconstitutional the recent substantial amendments increasing the retirement age and principles of calculation and the resulting amount of state pension for judges (1), and those increasing the retirement stage (with keeping differential/diminished retirement age for women, until the year 2020 – VB) for women (2).

The CC ruling as referred in passage (1) of the aforementioned paragraph is in our viewpoint quite controversial, taking into account that

- (1) with respect to same amendments increasing the retirement age and principles of calculation and the amount of state pension to *prosecutors* and *deputies of the Parliament* the CC considered them compliant with the Constitution; and that
- (2) one of the argument invoked by the CC in support of its conclusion was that “the statistical data... do not confirm that the Moldovan economy is in the recession (! – leaving aside the evident fact that as from 2008 the global economy (including EU zone, and all Eastern Europe countries except, perhaps, Russian Federation) has entered into deep recession, it is curious to observe how and on what grounds the CC make economic assessment of that kind in its ruling – VB).

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3. DECISIONS OF THE GOVERNMENT

- 3.1. DECISION NO. 1009 OF 26.12.2011 ON APPROVAL OF THE NATIONAL ACTION PLAN OF IMPLEMENTATION OF THE MIGRATION AND ASYLUM STRATEGY FOR THE YEARS 2011-2015

The National Action Plan (NAP) provides the inventory of regulatory, policy and institutional intervention tools to be employed by the Government in 5 priority areas, namely (1) development of international cooperation in migration and asylum sector, (2) legal migration, (3) migration and development, (4) migration and security: combating the illegal migration and human trafficking, and (5) control of migration.

- 3.2. DECISION NO. 1011 OF 27.12.2011 ON APPROVAL OF THE NATIONAL ACTION PLAN OF EMPLOYMENT OF LABOR FORCE FOR THE YEARS 2011-2015

The National Action Plan (NAP) provides the inventory of regulatory, policy and institutional intervention tools to be employed by the Government in 11 priority areas of employment of labor force.

- 3.3. DECISION NO. 1034 OF 29.12.2011 ON APPROVAL OF THE REGULATION ON NATIONAL STATISTIC BUREAU, ITS STRUCTURE AND COMPOSITION OF ITS BOARD

Through the decision the Government approved the new Regulation of the National Statistic Bureau (NSB - Annex 1 to the decision), the structure of the NSB (Annex 2), List of entities subordinated to the NSB (Annex 3), List of affiliated entities of the NSB (Annex 4) and the Nominal composition of the Board of the NSB (Annex 5).

- 3.4. THE DECISION NO. 1038 OF 31.12.2011 ON CONSTITUTION OF THE COMMISSION TO SELECT THE LAW FIRM TO REPRESENT THE REPUBLIC OF MOLDOVA IN THE LITIGATION *FRANCK CHARLES ARIF VS. MOLDOVA* PENDING AT THE INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES (ICSID) OF WB GROUP

The name of the decision is self-speaking: taking into account the magnitude of the claims brought about by Mr. Arif (founder of the Moldovan Duty Free Operator *Le Bridge*) – more than 50 mln. Euros – the Government decided to launch a bid for selection of an international law firm to represent Moldova in said litigation, and for this purpose created a bid commission composed of 6 members – representatives of the relevant ministries (justice, finance, economy) and other central public authorities (Government, Centre for Combating Economic Crimes and Corruption, Agency of Public Acquisitions).

- 3.5. THE DECISION NO. 1 OF 02.01.2012 ON APPROVAL OF THE AMENDMENTS TO THE ANNEXES 1 AND 2 OF THE GOVERNMENT DECISION NO. 246 OF 08.04.2010

The decision approved the updated versions of the Annexes 1 and 2 of the Government decision no. 246 dated 08.04.2010, which listed the Foreign Technical Assistance Projects (FTAPs) that fall under the

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

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scope of international treaties for the purpose of tax (income tax and VAT) and custom exemptions with respect to goods and services destined for the implementation of these FTAPs.

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

4.1. THE DECISION OF THE NATIONAL COMMISSION OF FINANCIAL MARKET NO. 59/9 OF 30.12.2011 ON APPROVAL OF THE STRUCTURE AND PERSONNEL

By this decision the National Commission on Financial Market (NCFM) approved its personnel (122 units) and organizational structure for the year 2012.

4.2. THE DECISION OF THE CENTRAL ELECTION COMMITTEE NO. 1023 OF 09.12.2011 ON THE APPROVAL OF THE STRATEGIC PLAN OF THE CEC FOR THE YEARS 2012-2015

The Strategic Plan of the CEC for the next 3 years lies on 10 pillars, including institutional development, implementation of e-voting, improved access to election process, improved legislation framework for elections, increased transparency in the election process etc.

4.3. THE DECISION OF THE CENTRAL ELECTION COMMITTEE NO. 1023 OF 09.12.2011 ON APPROVAL OF THE STRUCTURE AND PERSONNEL OF THE CEC

By this decision the CEC approved its personnel and organizational structure for the year 2012.

4.4. THE DECISION OF THE NATIONAL BANK OF MOLDOVA NO. 317 OF 29.12.2011 ON THE APPROVAL OF INTEREST RATES AND NORMS OF MINIMUM RESERVES

Through the decision the NBM approved as from 06.01.2012 the following:

4.4.1. *Interest Rates* (per annum)*:

4.4.1.1. Basic rate (rate applied on the main short-term monetary policy operation): 8.5 per cents;

4.4.1.2. Interest rate on overnight credits: 11.5 per cents;

4.4.1.3. Interest rate on deposits overnight: 5.5. per cents.

*The rates are available on the site of the NBM at www.bnm.org and the chronologic evolution of rates is available at URL www.bnm.md/en/fm_base_interes.

4.4.2. *Norm of minimal reserves* (per total from the overall value of deposits in MDL and foreign currency): 14.0 per cents.

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