

INTEGRITY LAW

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Chapter I **GENERAL PROVISIONS**

Article 1. Scope of the law

The present law regulates the integrity domain in the public sector at the political, institutional and professional levels, the responsibilities of the public entities, anticorruption authorities and other authorities competent to build, enhance and control integrity in the public sector, the important areas for integrity building in the private sector in interaction with the public sector, and the sanctioning for lack of integrity in the public and private sectors.

Article 2. Purpose of the law

The purpose of the present law is to build public integrity and zero-tolerance climate towards corruption within public entities in the Republic of Moldova by:

- a) increasing the society's confidence that the public entities and agents fulfill their mission in line with the public interest, including when interacting with the private sector;
- b) regulating the compulsory measures for ensuring and consolidating institutional and professional integrity;
- c) encouraging the denunciation by public agents manifestations of corruption, as well as ensuring their protection against retaliation;
- d) identifying and eliminating corruption risks within public entities;
- e) sanctioning public agents for manifestations of corruption, on one hand, and of the public entities' heads for lack of institutional and professional integrity.

Article 3. Concepts

For the purpose of the present law, the following concepts signify:

professional activity – exercise of service duties (rights and obligations) by the public agents in the way provided in the legislative, normative and department acts regulating the activity of public entities in which they are employed;

vulnerable activity – the professional activity of the public agent, the development of which within the public entity is threatened by corruption risks;

public agent – a person employed within a public entity and exercising a public position, a public position with special status, a position of public dignity, a person employed in the office of the person holding a position of public dignity or providing services of public interest as well as locally elected person;

anticorruption authority – as needed, the National Anticorruption Center, National Integrity Authority, Anticorruption Prosecutor's Office, Information and Security Service, Ministry of Internal Affairs;

head of public entity – person or collective body responsible for ensuring institutional integrity measures, as well as disciplinary sanctioning, within the limits of competences, of the integrity incidents;

corruption – use of position against the law for private interest purpose. In this respect, the used position may be within the public or private entities, directly by the holder of the respective position or indirectly by intermediaries, and the private interest may be of the position holder or that of other persons;

public entity – legal entity with the status of:

- a) public authority, central authority, specialized central public authority, local public authority, as well as the organizational structure under such authorities or from their area of competence;
- b) state, autonomous, independent, self-governing and/or regulatory authority, institution, body, organization, office or agency;
- c) Constitutional Court, court, Prosecutor's Office

d) state or municipal enterprise, joint stock company within which the state holds the majority of shares;

risk factor – a circumstance of any type, allowing, encouraging, provoking the occurrence of corruption manifestations within the public entities or perpetuating them;

favoritism – support provided by the public agent when exercising his function to the natural persons or legal entities when solving their problems, regardless of the motives, which is not provided by the normative acts and doesn't meet the elements of a conflict of interests or the elements of an offence;

integrity incident – corruption manifestation occurred in real circumstances, any other manifestation similar to the corruption manifestation, occurred during a professional integrity test;

undue influence – interference in the professional activity of the public agent from third parties manifested through pressure, threats or requests so as to determine the agent to perform professional activities in a certain manner, when this interference is illegal and is not accompanied by the promise, offer or giving, personally or through an intermediary, of any form of goods, services, privileges or advantages to which he/she is not entitled (does not meet the elements of an offence);

institutional integrity – professional integrity of all public agents from the public entity, which is built, controlled and enhanced by the head of the public entity, as well as zero tolerance to public agents' integrity incidents;

integrity in the public sector – political integrity and institutional integrity of all public entities from the Republic of Moldova, so as the public agents employed in these entities to perform their professional activity in strict compliance with the public interest;

integrity in the private sector – capacity of the commercial organizations to interact with public entities as well as between them, in a legal, transparent, and objective and based on freedom of competition;

political integrity – capacity of the electoral candidates, confident persons of the electoral candidates and of the persons holding an elective or exclusively political position to perform their activities in an ethical way, free of corruption manifestations, respecting the public interest, supremacy of the Constitution of the Republic of Moldova and of the law;

professional integrity – capacity of the public agent to perform its professional activities in an ethical way, free of undue influence and corruption manifestations, respecting the public interest, supremacy of the Constitution of the Republic of Moldova and of the law;

public interest – the general interest for developing the wellbeing of the society as a whole and for fulfilling the legitimate private interests, secured through the operation of public and private entities and by exercise of the service duties of the given entities' agents in strict conformity with the legal provisions, in efficient and saving way in terms of resources that are used;

private interest – the interest of individuals (personal or group), of the persons close to them or of the legal entities (department, corporate or client-based) to fulfill the rights and freedoms, including for obtaining goods, services, privileges, any form of advantages, the offer or the promise of such;

legitimate private interest – private interest enshrined by the Constitution, national legislation, and international treaties to which the Republic of Moldova is a party or which doesn't contradict their provisions, as well as the one which does not affect the general interest of developing the society's wellbeing and fulfilling the legitimate rights and freedoms of other persons;

corruption manifestations – corruption and related acts, as well as the corruption deeds specified under Chapter VI;

commercial organizations – commercial companies and individual entrepreneurs registered in the Republic of Moldova or abroad;

corruption risk – probability of corruption manifestation occurrence, affecting the achievement of the public entity's objectives;

service of public interest – totality of activities for serving the population in the public sphere within institutions, enterprises, organizations or other local, municipal, state structures or structures with majority state capital.

Article 4. Principles for enforcing the law

The present law shall be applied by observing the following principles:

- a) accountability of the public entities for building and enhancing the institutional integrity climate, as well as for sanctioning the lack of professional integrity;
- b) accountability of the anticorruption agencies for assessing and monitoring the institutional integrity, as well as sanctioning the lack of institutional integrity;
- c) fair balance between the human rights of the persons who are exponents of the public interest, although they do not know about their rights' affection by corruption manifestations of public agents, on one hand, and the human rights of the public agents admitting integrity incidents, on the other hand;
- d) building integrity in public sector and preventing the appearance of corruption manifestations;
- e) zero-tolerance to corruption within public entities and inevitability of the legal sanctioning for integrity lack in the public sector;
- f) presumption of professional integrity of public agents and institutional integrity of public entities;
- g) presumption of law subjects' good faith in the process of law provisions' fulfilment.

Article 5. Subjects of the law

The subjects exercising rights, obligations, and duties set forth in the present law are:

- a) public agents, electoral candidates and their persons of trust;
- b) public entities, heads of public entities,
- c) responsible anticorruption agencies, other public authorities with specific competences;
- d) natural persons and legal entities in the process of interacting with the public sector, including the commercial organizations, civil society organizations and mass-media.

Chapter II **INTEGRITY BUILDING IN THE PUBLIC SECTOR**

Article 6. Modalities for building integrity in the public sector

(1) Integrity in the public sector shall be built by:

- a) creating the political integrity climate;
- b) creating institutional integrity climate within public entities.

(2) The political integrity climate enhances the society's confidence for the institutional integrity of public entities, created as a result of electoral processes and for the professional integrity of the public agents holding elective positions and exclusively political positions.

Section 1 *Political Integrity Climate*

Article 7. Measures for ensuring political integrity

(1) The political integrity climate shall be built by ensuring:

- a) transparency in financing political parties and electoral campaigns;
- b) professional ethics and integrity of the persons holding an elective position or an exclusively political position.

(2) The responsibility for building political integrity belongs to the electoral candidates, political parties, persons holding an elective position or an exclusively political position.

(3) The failure to carry out the measures provided under para. (1) lead to compromising the political integrity climate and the integrity in the public sector, occurrence of corruption manifestations, affecting the public interest and attract the liability of electoral candidates, political parties, persons holding an elective position or an exclusively political position in the way set forth in the electoral legislation, the legislation on political parties, and Chapter VI of the present law.

Article 8. Transparency of political parties and electoral campaigns funding

(1) Funding of the political parties, electoral candidates and electoral campaigns shall be carried out observing the principles of transparency, under the conditions of the electoral legislation and the legislation on political parties.

(2) The verification of compliance with transparency of funding of the political parties, electoral candidates and electoral campaigns shall be carried out by the Court of Accounts and Central Election Commission, within the limits of the competences set in the special legislation.

(3) The supervision of the politically exposed persons' financial flows shall be carried out by the Office for Prevention and Combating of Money Laundering from the National Anticorruption Center, in line with the provisions of the legislation on prevention and combating money laundering and terrorism financing.

Article 9. Ethics and professional integrity of the persons holding an elective position or an exclusively political position

(1) The persons holding an elective position or an exclusively political position, as heads of public entities and/or as public agents, shall contribute to building the political integrity climate by applying the measures for ensuring institutional integrity provided in the present law, with the exceptions set forth in the special legislation regulating the activity of the respective public entities.

(2) The professional integrity of the persons holding elective positions or exclusively political positions shall be ensured according to the Law no.271/2008 on verifying the candidates and holders of public positions.

(3) Taking into account the risks inherent to the political environment, the Parliament or, when necessary, the Government shall adopt rules to regulate the ethical conduct of the persons holding elective positions or exclusively political positions, establishing as well the structures responsible for verifying the observance of the respective ethical rules and for sanctioning such rules' violation.

Section 2
Institutional Integrity Climate

Article 10. Measures for ensuring institutional integrity

(1) The institutional integrity climate shall be built by carrying out the following measures:

- a) employing and promoting public agents based on merit and professional integrity;
- b) respecting the incompatibility, restrictions in hierarchy and limitation of publicity regime;
- c) respecting the regime for declaration of assets and personal interests;
- d) respecting the regime of conflicts of interest;
- e) avoiding the favoritism;
- f) respecting the gifts' regime;
- g) non-admitting, denouncing and treating the undue influences;
- h) non-admitting, denouncing corruption manifestations and protecting the whistleblowers;
- i) intolerance towards integrity incidents;
- j) ensuring transparency in decision-making process;
- k) ensuring access to information of public interest;

l) managing transparently and accountably the public assets, reimbursable and non-reimbursable funds;

m) observance of ethical and deontological rules;

n) observing the regime of restrictions and limitations related to termination of the mandate, labor or duty relations, and migration to the private sector of the public agents (revolving doors).

(2) The responsibility for building institutional integrity within the public entities belongs to the head of the entity and to each public agents of these entities.

(3) The failure to fulfill the measures set forth in para. (1) lead to compromising the institutional integrity climate and the integrity in the public sector, occurrence of corruption manifestations, affecting the public interest and trigger integrity control measures in the public sector by the responsible anticorruption agencies or of other authorities with specific competences, as well as the liability of the heads of public entities and public agents, as provided in Chapter VI.

(4) The failure to carry out the measures set forth in para. (1), as provided in the present chapter and special legislation regulating the activity of different categories of entities and public agents lead to disciplinary liability, regardless of occurrence of other forms of legal liability (administrative, criminal).

Article 11. Employment and promotion of public agents based on merit and professional integrity

(1) The recruitment and promotion of agents within public entities shall be organized based on public competition, according to transparent and objective selection criteria, based on merit, professional qualification, capacity, competence and professional integrity, without admitting favoring of private interests and any form of discrimination based on sex, race, language, religion, political opinion or any other opinion, national or social origin, other discrimination forms in line with the provisions of the special legislation regulating the activity of different categories of public entities and agents.

(2) In order to ensure the employment and promotion of public agents on competition basis according to selection criteria set forth in para. (1), the head of the public entity has the following obligations:

a) adopts administrative acts for setting the rules meant for organization and performing the public competition within the entity, compulsorily fixing selection criteria based on merit and professional integrity (requesting the professional integrity record certificate, the information regarding the unresolved incompatibility states, the sanctioned conflicts of interest and the criminal record containing information on the deprivation of the right to hold public functions);

b) appoints the persons responsible for organizing and performing the public competition within the entity and ensures the necessary conditions for their activity;

c) ensures the display within the entity and publication on its web page or, as needed, in the mass-media sources of the information regarding the conditions for conducting the competition;

d) ensures the organization of every stage of the public competition, including the specific stages for the professional activity of the public agents within the respective entity;

e) issues the administrative act for appointing the winning candidate within the public competition.

(3) The provisions of para. (1) shall not be applied to the public agents holding an elective position or exclusively political position and to the persons employed in the office of the person holding a position of public dignity, whose appointment is carried out through expression of public trust (general or local elections) or provision of political trust (appointment of the Government, appointment of the persons employed in the office of the person holding a position of public dignity). Other derogations from the provisions of this article shall be allowed only to the extent provided in the special legislation regulating the status of different categories of public agents, without affecting the obligation to observe the selection criteria based on professional integrity set forth in para. (2) let. a).

Article 12. Compliance with the regime related to incompatibilities, restrictions in hierarchy and limitation of publicity

(1) For efficient and disinterested exercise of the public agent's duties, his/her professional activity performance shall be incompatible with other positions, qualities or activities, except for those established by the Constitution or organic laws. To avoid promotion of personal interests and ensure the respect of the public interest, the public agent holding a public position, including a public position with special status or a position of public dignity shall respect the restriction set for professional activity performance under the direct hierarchy of one of his/her relative or an affinity relative within the same public entity. The professional activity of the public agent holding a public position, including a public position with special status or a position of public dignity, as well as of other subjects of declaration of assets and personal interests, shall be subject to publicity limitations so as to avoid favoring of entities from the private sector. The head of the public entity shall observe the regime related to incompatibilities, restrictions in hierarchy and limitation of publicity, supplemented, when needed, with rules specific for every category of public agents, set forth in the special legislation regulating their activity.

(2) To ensure the observance of the regime set for incompatibilities, restrictions in hierarchy and limitations of publicity within the public entity, the public agent mentioned in par. (1) is obliged to undertake the following measures:

a) to solve the incompatibility situations within a deadline of one month since the start of his-her mandate, labor or duty relation, or, when the ceasing of the incompatibility situation within the set deadline does not depend on his/her will – to provide evidence of undertaking with good faith actions for eliminating such a situation. The responsibility for observing this obligation shall not depend on the execution by the head of the public entity of the obligation set in para.(3), let. a);

b) to undertake actions within a period of two months, so as to terminate the direct hierarchical relations with the direct relatives (parent, brother, sister, son, daughter) or affinity relatives (spouse, parent, brother or sister of the spouse) the concubine within the same public entity;

c) to avoid using for private interest the official symbols related to the exercise of the mandate, public position, or position of public dignity;

d) to not admit the use of his/her name in followed by his/her position of public agent, his/her voice or signature in any form of advertising in the favor of an economic agent or a national or foreign commercial product.

(3) To ensure the observance by the public agents mentioned in par. (1) regime set for incompatibilities, restrictions in hierarchy and limitations of publicity, the head of the public entity is obliged to undertake the following measures:

a) to inform the public agent, when starting the mandate, labor or duty relation, about the regime of incompatibilities, restrictions in hierarchy and limitations in publicity, and as the case may be, about other rules set forth for the given purpose in the special legislation regulating the activity of the respective category of public agents;

b) to not admit knowingly direct hierarchal relations between the public agents holding a public position, including a public position with special status or a position of public dignity and their direct relatives (parent, brother, sister, son, daughter) or affinity relatives (spouse, parent, brother or sister of the spouse) or the concubine within the public entity,

c) to transfer the public agent not fulfilling the obligation set forth in para. (2) let. b) to a position which would exclude such a subordination, or, if the transfer is not possible, to dismiss him/her from the held position;

d) to notify the National Integrity Authority about the public agent from the entity he/she leads, who did not solve the incompatibility situation within the deadline of one month since the start of his/her mandate, labor or duty relations;

e) to notify the National Integrity Authority about the public agent from the entity he/she leads, who does not observe the publicity limitations in the performed professional activity;

f) to start the disciplinary procedure against the public agent in respect of which was established the breach of the legal regime set for incompatibilities, restrictions in hierarchy and limitations of publicity and, upon the request of the National Integrity Authority, to terminate his/her mandate, labor or duty relations;

(4) The derogations from the provisions set forth in this article shall be allowed only to the extent in which they are provided in the special legislation regulating the special status of the public agent.

Article 13. Compliance with the regime for declaring assets and personal interests

(1) For the purpose of preventing unjustified and illicit enrichment of the public agents and of avoiding the conflicts of interest in their activity, as well as for making them accountable for such acts, the public agents are obliged to submit the declaration of assets and personal interests in line with the provisions of the Law no.133/2016 on declaration of assets and personal interests.

(2) The head of the public entity is obliged to ensure the organization of the procedures for declaring the assets and personal interests, in line with the provisions of special legislation, taking the following measures:

a) to appoint responsible persons for permanent update of the electronic Register of the subjects of declaration of assets and personal interests;

b) to appoint responsible persons for collecting the declarations of assets and personal interests;

c) to ensure the exercise by the persons responsible for collecting the declarations of assets and personal interests of duties in relation, especially, to provision of declaration forms, provision of consultancy on how to fill in and submit the declarations, verification of the form conditions for filling in the declarations, provision of the possibility to rectify in due time the declaration, reception and registration of declarations, issuance of the reception evidence, keeping the record of the public agents obliged to submit declarations, and keeping the record of submitted declarations;

d) to ensure the transmission to the National Integrity Authority, by the persons responsible for collecting the declarations of assets and personal interests, within the set deadline and in the format provided in the special legislation, including in electronic format, of the declarations of assets and personal interests of the public agents, the extracts from the record-keeping of the public agents obliged to submit declarations and from the record-keeping of submitted declarations, as well as the list of public agents who did not submit or had delays in submitting the declarations of assets and personal interests;

e) to hold disciplinary liable the person responsible for collecting declarations for not fulfilling the duties under let. c) and d);

f) to ensure the confidentiality of data with limited accessibility, of the declarations that are not public and to denounce the respective violations.

(3) The public agents have the obligation to submit the declaration of assets and personal interests within the deadline and according to the way provided in the special legislation:

a) when getting employed, appointed or when the mandate is validated;

b) annually;

c) upon the termination of the mandate, of labor or duty relations.

(4) For the purpose of ensuring the professional integrity specific for anticorruption authorities, the declarations of assets and personal interests of the public agents employed within these entities may be subject to additional verifications within the public entity they are part of, applying the consequences provided in the special legislation regulating the activity of the respective category of public agents. In this case, the applied consequences shall not be less severe than the consequences applied according to the general rules.

Article 14. Compliance with the conflicts of interest regime

(1) For the purpose of ensuring the serving of public interest with impartiality and objectiveness, the public agents, together with the head of public entity, and as the case, together with the National Integrity Authority, are obliged to identify and treat the conflicts of interests occurring in their professional activity, within the deadlines and according of the way provided in the Law no.133/2016 on declaration of assets and personal interests.

(2) The public agent has the following obligations related to identification and treatment of conflicts of interest, which shall be fulfilled under the special legislation conditions:

a) to declare in writing, within a deadline of three days, to the head of the public entity, about the real conflict of interest occurred within his/her professional activity, explaining the nature of the conflict of interest and the way in which it influences or may influence the impartial and objective fulfilment of his/her duties;

b) to avoid the consumption of the conflict of interest by abstaining from exercising his/her duties to the extent in which they are threatened by the conflict of interest, until the settlement of the respective conflict.

(3) The head of the public entity, has the following obligations related to the identification and treatment of conflicts of interest, which shall be fulfilled under the special legislation conditions:

a) to not knowingly admit that the public agents from the entity he/she leads to fulfill their service duties being in situations of a real conflict of interest;

b) to ensure the record keeping of the declarations of conflict of interest and to appoint the person responsible for this;

c) to solve the declared conflict of interest in at most 3 days since the date he/she was informed about it, applying the settlement options provided in the special legislation, taking into consideration the interests of the public entity, the public interest and the legitimate interests of the public agent, the level and type of the position held by him/her, the nature of the conflict of interest, as well as other factors;

d) to address the National Integrity Authority, when being unable to solve the conflict of interest declared by the public agent;

e) to declare to the National Integrity Authority his/her own real conflicts of interest, under the conditions provided in para. (2) let. a) and to ensure the fulfillment by the public agents of the obligations set forth in para.(2) let. b);

f) to inform every semester, in writing, the National Integrity Authority about the consumed conflicts of interest that were discovered and the undertaken measures.

Article 15 Avoidance of favoritism

(1) For the purpose of ensuring the serving of the public interest with impartiality and objectivity, the favoritism practices within the public entities are inadmissible.

(2) The public agent is obliged to not admit favoritism in his/her professional activity;

b) to observe the obligations appointed to him/her in line with the provisions set forth in art.13, whenever the situation leading to favoritism meets the elements of a conflict of interest.

(3) The head of the public entity is obliged:

a) to not knowingly admit favoritism practices in the professional activity of the public agents from the entity he/she leads;

b) to denounce the cases of favoritism to the National Anticorruption Center.

Article 16. Compliance with the gifts' regime

(1) To avoid the appearance of corruption manifestations in the activity of the public entities, the heads of such entities and the public agents shall be prohibited to request or to accept gifts (goods, services, favors, invitations or any other advantage) meant for them personally or their families, if the offer or provision of such gifts is directly or indirectly related to the performance of their professional activity (inadmissible gifts). The request or acceptance of

inadmissible gifts shall constitute corruption acts, according to the criminal legislation and the provisions of Chapter VI from the present law.

(2) The interdiction provided in para. (1) shall not apply to the gifts provided as sign of politeness or received with the occasion of certain protocol actions (admissible gifts). Money in national or foreign currency, which are in circulation, except for the jubiliar or commemorative metallic coins, financial means and tools of payment are not considered to be admissible gifts. All admissible gifts shall be declared and recorded in a public register, kept by every public entity. The admissible gifts whose value does not exceed the limits set by the Government may be kept by the person who has received them or may be sent to be managed by the public entity, in both cases after the declaration. The admissible gifts of a value which exceeds the set limits shall be sent to be managed by the public entities after they are declared. If the person announces his/her intention to keep the admissible gift, the value of which exceeds the set limit, he/she shall be entitled to repurchase it, paying into the budget of the public entity the value difference over the set limit. The categories of admissible gifts, way of declaration, record keeping, maintenance, use and repurchase shall be regulated by the Government.

(3) If the public agent is offered an inadmissible gift under the conditions set in para. (1), he/she has the following obligations:

- a) to refuse the gift;
- b) to be sure to have witnesses, including among his/her colleagues, if possible;
- c) to report immediately this attempt to the responsible anticorruption agency;
- d) to announce the head of the public entity;

e) to transmit the gift to the head of the public entity when the gift is offered without his/her knowledge (left in the office, in the anti-chamber, etc.), at the same time with undertaking the action set forth in let. d);

g) to exercise the professional activity in the appropriate way, especially the activity for which he/she was offered the gift.

(4) If the public agent is offered an admissible gift, under the conditions set in para. (2), he/she has the following obligations:

a) to hand over the gift to the Commission for record keeping and evaluation of gifts from the public entity, within the deadline of 3 days since its reception or since the moment he/she returns from the duty trip, during which the gift was received;

b) to declare the circumstances in which the gift was offered, clarifying the intention to keep it or to hand over into the public entity's administration;

c) to repurchase it back, if he/she decided to keep it, paying to the budget of the public entity the difference between the value of the gift, assessed by the Commission for record keeping and evaluation of gifts, and the established limit.

(5) The head of the public entity has the following obligations related to ensuring the observance of gifts' regime:

a) to adopt the administrative acts for setting the rules for organization of activities related to observance of the gifts' regime within the public entity;

b) to appoint the members of the commission for record keeping and evaluation of gifts and to ensure the necessary conditions for their activity;

c) to ensure the registration in a special register, including the electronic one, of all the gifts received by the public agents, with their description, specifying if they are admissible or inadmissible, the circumstances in which they were handed over. In case of admissible gifts, the value assessed by the evaluation commission shall be indicated as well, and a note about sending them to the entity's administration is made or, as the case may be, their restitution to the public agents, being specified the data about their repurchase. In case of the inadmissible gifts, there shall be indicated the data about their transmission as evidence to the responsible anticorruption agency, notified about this fact according to the conditions set in para.(3) let. c) ;

d) to ensure the collection into the public entity's budget the sums from the repurchase, under the conditions of para. (4) let. c), of the admissible gifts;

- e) to hand over to the responsible anticorruption agencies the inadmissible gift that was handed over him/her under the conditions set in para. (3) let. e);
- f) to ensure the adequate performance of the professional activity of the public agents to whom inadmissible gifts were offered;
- g) to ensure the publication, on the web page of the public entity, of the special register for gifts' record-keeping;
- h) to hold disciplinary liable the public agents who violate the gifts' regime in the entity he/she leads.

Article 17. Non-admission, denunciation and treatment of undue influences

(1) For the purpose of ensuring the serving of the public interest with impartiality and objectively, the professional activity of the public agent should be performed outside of any undue influences. The mechanism for denunciation and treatment of undue influences shall be regulated by the Government.

(2) The head of the public entity has the following obligations related to non-admission, denunciation and treatment of undue influences:

- a) to adopt the administrative acts for setting the rules for organization of activities related to denunciation and treatment of undue influences by the public agents;
- b) to ensure the record keeping, in a special register, of cases of undue influence exercised against the public agents;
- c) to ensure the possibility to denounce the cases of undue influence cases, under confidentiality conditions;
- d) to ensure the necessary conditions for legal performance of activity by the public agent and to verify the way in which the duties for which the undue influence occurred are performed;
- e) to undertake measures for preventing the cases of undue influence through direct involvement in their settlement;
- f) to hold disciplinary liable the public agents performing their professional activity without rejecting the undue influences which they are subjected to or without denouncing the undue influences which they cannot reject by themselves.

(3) The public agent subjected to undue influence is obliged to:

- a) reject expressly the undue influence;
- b) perform legally the activity for which the undue influence has occurred;
- c) in case of impossibility to reject expressly the undue influence and if his/her professional activity is affected as a result of such influence, to come up with a written denunciation, within three working days, to the responsible person from the public entity, appointed by the head of the public entity, about the exercise of undue influence;
- d) come up with a denunciation about the exercise of undue influence to the National Anticorruption Center, if the source of the undue influence is the head of the public entity or if, after the submission of the denunciation within the conditions set in let. c), the head did not fulfill his/her duties set forth in para. (2) let. d) and e).

(4) In case of public agents from the National Anticorruption Center, the duty provided in para. (3) let. d) shall be carried out by submission of a denunciation to the Information and Security Service, and in case of the public agents from the Information and Security Service– to the Parliamentary Committee for Security, Defense, and Public Order.

Article 18. Non-admission, denunciation of corruption manifestations, and protection of whistleblowers

(1) For the good functioning of the public entity in line with its legal mandate for serving the public interest and for ensuring the non-impact on human rights, on the image and reputation of the public entity, the head and the public agents shall not admit and shall denounce without any delays the attempts of their involvement in corruption manifestations. The public agents who know about the corruption manifestations, illegal practices and ethics-missing practices which threat the

public interest, which occur within the public entities they are part of and/or within the private entities they have service relations with, but in which they don't have direct involvement, are entitled to submit a notification to the head of the public entity or, as the case may be, to the responsible anticorruption agency, to other competent public authorities.

(2) The head of the public entity has the following obligations for not admitting corruption manifestations and ensuring their denunciation:

a) to send without any delay, to the National Anticorruption Center, the information communicated by the public agents regarding the corruption manifestations in which there was an attempt to involve them, if such information meets the elements of a crime or minor offence and if such information was not communicated to the directly to the Center by the respective public agents;

b) to ensure the adequate carrying out of professional activity by public agents in relation to whom attempts were taken to get them involved in corruption manifestations;

c) to ensure for administrative measures to be taken so as to prevent other attempts of involving the public agents in corruption manifestations, similar to those that were denounced;

d) to hold disciplinary liable the public agents who have omitted to denounce the attempts of getting them involved in corruption manifestations;

e) to provide to the National Anticorruption Center, upon its request, the information on denunciation of corruption manifestations by public agents.

(3) The head of the public entity has the following obligations for ensuring the protection of whistleblowers:

a) to adopt administrative acts for setting the rules for organization of activities for denunciation of corruption manifestations, for lodging integrity warnings, and for ensuring the protection of public agents;

b) to appoint the specialized structure responsible for registration of integrity warnings;

c) to ensure personally or, as the case may be, through the specialized structure, the confidential registration of integrity warnings lodged by public agents in the public entity's register of integrity warnings;

d) to ensure the examination of the integrity warning and to communicate the results of the respective examination within, at most, 30 days since the moment it is registered under the conditions of let. c);

e) to send to the National Anticorruption Center or, as the case may be, to other responsible anticorruption agency or competent public authority, the information contained in the integrity warning regarding the corruption manifestations and/or illegal and ethics-missing practices threatening the public interest, which occur within the public entities and/or private entities with which the public agent – whistleblower, has service duties with, if they meet the elements of a crime or a minor offence;

f) to ensure the protection measures for the whistleblower who invokes real risks for revenge actions to occur against him/her from the person whose actions or inactions he/she denounces in the warning, namely: treating the warning as being lodged with good faith by the public agent, until the contrary is proved; protection of personal data of the whistleblower, under the reserve of guaranteeing a fair trial, under the special legislation in this domain; ensuring the transfer to another job, with the consent of the whistleblower; non-application of disciplinary sanctions related to the integrity warning lodged with good faith;

g) to hold disciplinary liable the persons responsible from the specialized structure for non-ensuring the registration and examination of integrity warnings of the public agents, for non-communication of the integrity warning examination results within the set legal deadline, as well as for non-ensuring the protection of personal data of the whistleblower;

h) to hold disciplinary liable the public agents for whom the bad faith has been demonstrated when lodging the integrity warnings containing false information;

i) to support the consequences for holding disciplinarily, administratively or criminally liable, in case of non-ensuring the protection measures and knowingly admission of revenge actions against the public agent who has lodged an integrity warning.

(4) The public agent has the following obligations:

a) to refuse expressly the attempt of his/her involvement in the corruption manifestations and to warn, if possible, the person about the illegal nature of his/her attempt;

b) to get ensured with witnesses, including from among his/her service colleagues, if possible;

c) to inform without any delay the National Anticorruption Center about the attempts of his/her involvement in corruption manifestations, if they meet the elements of a crime or minor offence;

d) to inform without any delay the head of the public entity about the attempts of his/her involvement in corruption manifestations, if they represent some other types of violation than the criminal or administrative ones;

e) to perform his/her professional activity in an adequate way, especially the activity for which attempts were made to get him/her involved in corruption manifestations.

(5) The public agent is entitled to lodge with good faith an integrity warning, including regarding the violation of the obligations to be carried out by the head of the public entity, under the conditions set in para. (1), being obliged to be subject to the consequences set forth in para. (3) let. h), when it is proved with evidence that he/she has included with bad faith false information in the lodged warning. If the warning was lodged with good faith, the public agent shall be entitled to be ensured the protection measures set forth in para. (3) let. f), to challenge the non-application of these measures and to request the responsible anticorruption agency or, as the case may be, other competent public authorities to hold liable, according to para.(3) let. i), the head of the public entity who has undertaken revenge actions against him/her.

(6) The procedure for lodging, examining, keeping the integrity warnings and sanctioning of the heads of public entities for not taking protection measures, for undertaking revenge actions against the good-faith whistleblowers, as well as the procedure for sanctioning the bad-faith public agents who knowingly lodge integrity warning containing false information, shall be regulated by the legislation regarding the protection of whistleblowers, institutional integrity assessment, protection of personal data, special laws regulating the activity of the public entity, Labor Code, Contravention Code and Criminal Code.

Article 19. Intolerance for integrity incidents

(1) The heads of public entities public agents shall ensure the credibility and public support for the mandate of the entity they are part of or, as the case may be, for the activity of which they are responsible for by manifesting the spirit of intolerance to integrity incidents within public entities. The integrity incidents which constituting a misbehavior are regulated by special laws applicable to the respective categories of public agents or, as the case may be, by the Labor Code. The integrity incidents representing minor offences and crimes are provided in the Contravention Code and Criminal Code.

(2) The head of the public entity has the following obligations:

a) provide his/her own example to the public agents in respecting the public interest and non-admitting integrity incidents in the professional activity;

b) adopt administrative acts regarding the disciplinary status applicable to the public entity, if it is not approved by laws or normative acts;

c) create the structure responsible for examining the misbehaviors, if this is not the duty of other competent public authorities;

d) ensure the disciplinary sanctioning of all the integrity incidents representing disciplinary misbehaviors admitted by the public agents;

e) notify the responsible anticorruption agency about the integrity incidents representing minor offences and crimes, committed by public agents, including based on art.12-18.

(3) The public agent has the following obligations:

- a) refuse his/her involvement in the integrity incidents and denounce such attempts, including the ones related to offering inadmissible gifts, exercising undue influences and involvement in corruption manifestations, according to the provisions of art.16-18;
- b) include with good faith information in the integrity warnings he/she chosen to lodge under the conditions set in art.18;
- c) support the non-involvement in the integrity incidents of other public agents, if possible.

Article 20. Ensuring transparency in the decision-making process

(1) The performance of the public entity's activity in a transparent, accountable way in relation to the citizens and with citizens' involvement shall be ensured by creating possibilities for participation of citizens, of associations established in line with the law and of other interested stakeholders (herein ad after in this article – interested stakeholders) in the decision-making process of the public entity. The rules related to the procedures for ensuring transparency in the decision-making process of the public entity and the derogations from such rules, shall be set forth in the Parliament's Rules of Procedure, the Law no.239/2008 on transparency in decision-making process, and the normative acts of the Government.

(2) The head of the public entity has the following obligations:

- a) establish mechanisms for cooperation and partnership with the society by adopting internal rules regarding the information, consultation, and participation procedures in developing and adopting decisions, by drawing up the general list of interested stakeholders, as well as by appointing the public agents responsible for ensuring transparency of the decision-making process in the public entity;
- b) ensure the information of the public about the organization of the decision-making process through:
 - publication of information regarding the public entity's annual programs (plans) of activity;
 - publication of information regarding the internal rules that were adopted, the general list of interested stakeholders, as well as the information regarding the public agents appointed in line with let. a);
 - information of the public, through written announcements, regarding the initiation of decision making or, as the case may be, regarding the withdrawal of the draft decision from the development process;
 - making available to the interested stakeholders the draft decision, and related materials;
 - publication of the annual report on assurance of transparency in the decision-making process within the public entity;
- c) ensure the reception and examination of the recommendations coming from interested stakeholders so as to use them in developing draft decisions;
- d) ensure the consultation of the opinions expressed by the interested stakeholders in examining the draft decisions;
- e) ensure the announcement and organization of public meetings where the decisions are adopted;
- f) ensure the information of the general public about the decisions adopted in usual regime, as well as in emergency regime, presenting the respective reasoning;
- g) sanction disciplinary the public agents who didn't fulfil the obligations set forth under let. a)-f), entrusted to them according to the internal rules that were adopted and special legislation in the area.

Article 21. Ensuring access to information of public interest

(1) To make more efficient the process of informing the population and the control performed by citizens over the activity of the public entities, fostering the formation of opinions and active participation of population in the decision-making process, the access to information of

public interest regarding the activity of the public entity shall be guaranteed. To this end, the head of the public entity and the public agents shall ensure free access to official information, including the active, correct and timely information of citizens about issues of public interest and problems of personal interest for them.

(2) The head of the public entity has the following obligations:

- a) provide premises for documentation, accessible to applicants;
- b) appoint the public agents responsible for carrying out the procedures set for supply of official information and ensure their training;
- c) adopt regulations regarding the rights and obligations of the public agents in the process of supply of documents and official information.

(3) The head of the public entity and the public agents appointed as responsible for carrying out the procedures set for supply of official information, depending on assigned responsibilities, have the following obligations:

- a) provide assistance and necessary support to the applicants so as to search for and identify information;
- b) ensure effective access to held registers of information, which will be completed in line with the legislation on registers;
- c) ensure the organization of meetings and sittings in a public manner, in line with the legislation regulating the activity of the public entity;
- d) ensure the publication of information regarding the public entity's structure and address, public entity's functions, directions, and forms of activity subdivisions and their competences, their working program, mentioning the days and hours for hearing of the public agents responsible for supply of official information and documents, regarding the final decisions related to the main examined problems;
- e) ensure the examination of requests of access to information, observing the deadline for supply of information within 15 working days, with the possibility to extend it by other 5 working days, after the prior information of the applicant about the respective extension;
- f) make public the acts of the public entity, adopted in line with the legislation regulating the activity of respective entity;
- g) keep, in the period provided by the law, the acts of the public entities which they are part of, the acts of the public entity whose successor is the respective entity, acts setting forth the legal status of the entity;
- h) ensure protection of information available for the public entity from unauthorized access, destruction, or modification;
- i) keep updated the information and documents at his/her disposal.

(4) The head of the public entity and the public agent shall be entitled to disseminate urgently among the general public the information he/she acquired within the activity of the public entity, if such information may prevent or decrease the danger for people's life and health or occurrence of any type of prejudices, may stop the spreading of inaccurate information or decrease the negative consequences deriving from dissemination of such information, or if such information has a special social importance. In this case, the information shall be carried out in line with the provisions of the Law no.982/2000 on access to information and the legislation on protection of whistleblowers.

(5) The rules on ensuring access to official information of public interest and derogations related to official information with limited accessibility are established by the Law no.982/2000 on access to information, as well as by the special laws regulating the activity of public entities. The assurance by the heads of public entities and the public agents of the fulfilment of the right of access to information is made by respecting the legal limits with the purpose of protecting confidential information, private life of persons, state, commercial or bank secret and with the purpose of national security. The provisions of the legislation on state, commercial or bank secret can not be invoked to create obstacles for responsible anticorruption agencies in order to receive or collect information on corruption and related acts, which represent crimes or minor offences.

The supply of such information is made according to the legislation in force and cannot be qualified as disclosure of state protected information.

Article 22. Transparent and accountable management of public assets, reimbursable and non-reimbursable finances

(1) For the purpose of rational, efficient and sustainable harnessing of public resources, established as a result of the society's work with the contribution of the taxpayers, as well as of the means from external funds, the head of the public entity and the public agents ensure the management of budgetary and extra-budgetary allocations, administrate the public assets based on the good-governance principles, guarantee transparency for public procurements, implement the financial management and control system and organizing the internal audit in public sector.

(2) In conjunction with the organization and implementation of the financial management and control system, the head of the public entity has the following obligations:

a) to organize the internal audit and to ensure the necessary resources for the audit to be efficient;

b) to provide organizational and functional independency of the internal audit unit, including by placing it under his/her direct subordination;

c) to ensure the independency of the internal audit unit in carrying out and reporting internal audit activities;

d) to authorize the internal audit unit personnel, via an order, on performing the internal audit mission;

e) to request in writing from third parties the information necessary for performing the internal audit, upon the request of the head of the internal audit unit;

f) to approve the internal audit charter, strategic plan and annual activity plan for internal audit;

g) to appreciate, based on self-assessment, the organization of the financial management and control system and to issue annually, for the previous year, a declaration of good governance.

(3) To guarantee the transparency of public procurement procedures, the head of the public entity, which meets the conditions of contracting authority, has the following obligations:

a) to ensure the establishment of a working group for public procurements out of public agents, including public agents who are specialists with professional experience in the area of public procurements, within the limits of the entity's staffing number. The head of the public entity is entitled to establish several working groups, depending on the object of procurement, as well as to outsource from outside the public entity, as consultants, specialists, and experts in the area in which procurements are performed, whom to ensure, in the cases expressly set forth in the legislation, the right to vote within the working group;

b) to ensure the inclusion of civil society representatives in the composition of the working group separately for every procurement procedure, if a written application was lodged in this respect at least two days before the deadline for submission of bids;

c) to provide the civil society representatives, included in the working group, conditions for the exercise of the right of consultative vote or the right for separate opinion, within the deliberative act of the respective group;

d) to ensure the strict record-keeping of the applications submitted by the civil society, and if more applications are submitted requesting the admission of a number of representatives of the civil society, which would exceed one third as compared to the number of members with the right for deliberative vote – to ensure their appointment by drawing of lots. At the same time, the head of the public entity has the right to decide on including civil society representatives in the composition of the working group without the set threshold;

e) to ensure the autonomous, impartial, and law-based exercise of the duties assigned to the members of the working group, which they could perform free of any undue influences and conflicts of interest;

f) to hold disciplinary liable the public agents from the working group, if they did not reject, report, and have admitted the exercise of undue influences on them, according to the provisions of art.17 para. (2) let. f);

g) to conclude public procurement contracts awarded by the working group with the economic operators;

h) to assume the responsibility for executing and managing public procurement contracts within the deadlines and conditions set in such contracts.

(4) The working group for public procurements, established by the public entity is obliged to ensure the efficiency of public procurements, objectiveness and impartiality within the public procurement procedures, publicity and transparency of public procurement procedures and to send, upon the request of the Public Procurement Agency, any information regarding the conclusion and execution of public procurement contracts. To this end, the working group for public procurements shall:

a) develop annual and quarterly plans for public procurements;

b) develop announcements and/or invitations within public procurement procedures;

c) develop award documentation and other documents applicable in the public procurement procedures;

d) initiate and carry out public procurement procedures;

e) ensure wide participation of economic operators in the public procurement procedures;

f) examine, assess and compare the bids of the economic operators submitted under the public procurement procedures;

g) award public procurement contracts;

h) conclude reports regarding the results of the public procurement procedures and submit them to the Public Procurement Agency;

i) monitor the public procurement contracts;

j) preserve and keep the record of all the documents concluded and applied within the public procurement procedures.

(5) The provisions of the present article shall be supplemented with the provisions of Law no.229/2010 on internal public financial control, Law no. 181/2014 on public finance and budgetary-fiscal responsibility, Law no.131/2015 on public procurements, with the provisions from the normative acts of the Government, and department acts of the Ministry of Finance, are applied correspondingly to the public entities and shall establish obligations for the heads of the respective public entities and public agents, to the extent in which they derive from the provisions of the mentioned laws and acts.

Article 23. Compliance with ethical and deontological norms

(1) For the purpose of establishing an environment of mutual respect and trust between the citizens and the public entity, and aiming to create and maintain the prestige, to increase the performance, to eliminate bureaucracy and corruption manifestations within the public entity, the heads and public agents shall promote ethical and deontological rules within the public entity and shall inform the public about the ethical and professional conduct the citizens are entitled to expect from the head and the public agents of the public entity when performing their professional activity.

(2) The head of the public entity shall have the following obligations:

a) to establish and implement ethical and deontological norms, taking into account the peculiarity of the activity, national and international standards in the area, or if the adoption of the respective rules is assigned to another responsible authority, shall develop and suggest for adoption drafts of such ethical and deontological norms;

b) to ensure the training of public agents regarding the ethical and deontological norms;

c) to provide public agents with their own example regarding the observance of ethical and deontological norms in the performed activity;

d) to publish on the web page of the public entity the adopted ethical and deontological norms;

e) to create or, if applicable, appoint the subdivision responsible for monitoring the observance by the public agents of the ethical and deontological norms;

f) to hold to disciplinary liability the public agents violating the ethical and deontological norms, and if the committed violations involve elements of an offence or crime, to notify the responsible anticorruption authority.

(3) The public agents are obliged to know and to respect the ethical and deontological norms adopted within the public entity.

(4) The ethical and deontological norms adopted within the public entity shall be applied complementary to the provisions of the Law № 25/2008 on the Code of Conduct of the Public Official, as well as the special legislation regulating the activity of the respective categories of public agents.

Article 24. Compliance with the legal regime of restrictions and limitations related to termination of the mandate, labor or service relations, and the migration of public agents to the private sector.

(1) To ensure the operation of the public entity in the public interest and out of any conflicts of interest the persons who have exercised a public function, including a public function with special status, or a public dignity function, as well as other persons subject to declaring property and personal interests, who have migrated to the private sector (hereinafter former public agents), the heads of public entities, the public agents who are subject to the declaration of property and personal interests and responsible anticorruption authorities shall ensure the observance of the regime of restrictions and limitations related to termination of mandate, labor or service relations, (hereinafter referred to as the legal regime of post-employment restrictions and limitations), completed, if needed, with specific rules for every category of public agents, provided in the special legislation regulating the activity of the respective category.

(2) The public agent who is subject to the declaration of property and personal interests, is obliged to communicate in writing, within three working days, to the head of the public entity of their employment or, where appropriate, to the National Authority of Integrity about all the job offers they intend to accept if these jobs can generate a conflict of interest;

(3) The former public agent referred to in par. (1) is obliged to take the following measures to ensure compliance with the legal regime of post-employment restrictions and limitations:

a) To avoid gaining benefits unforeseen by the law or the individual employment contract, due to the previously held function, including through the office information obtained in the exercise of that function;

b) to avoid, for over one year, getting employed in commercial and noncommercial organizations, if during the last year of activity within the public entity, prior to the termination of the mandate, labor or service relations, they held responsibilities for direct supervision and/or control over these organizations;

c) to avoid, for over one year, concluding commercial contracts with the public entity in which they have worked over the last year prior to the termination of the mandate, labor or service relations;

d) to avoid, for over one year, exercising the duties of representing the interests of individuals and legal entities against the public entity in which they have worked during the last year prior to the termination of the mandate, labor or service relations.

(4) The head of the public entity is obliged to undertake the following measures for ensuring the observance of the legal regime of post-employment restrictions and limitations:

a) to order the necessary administrative actions, in order to avoid, for a period of one year, the conflicts of interest within the public entity in relation to the employment of the former public agent, referred to in par. (1), in commercial and noncommercial organizations, after the termination of their mandate, labor or service relations;

b) to avoid, for over one year, concluding commercial contracts with the commercial organization in which the former public agent, referred to in par. (1) or their related persons, hold capital shares or work in management or revision structures.

c) to order the necessary administrative actions so that, for one year, the representation by the former public agent, referred to in par. (1), of the interests of individuals and legal entities against the public entity they lead is rejected.

Chapter III **INTEGRITY CONTROL IN THE PUBLIC SECTOR**

Article 25. Measures of integrity control in the public sector

(1) The efficiency of building the institutional and professional integrity climate shall be subject to verifications performed by the heads of public entities, anticorruption authorities, civil society, and mass-media.

(2) The heads of the public entities shall be responsible for applying the following integrity control measures in the public sector:

- a) avoiding corruption risks in the development of draft legislative, normative, and departmental acts (future risks);
- b) managing corruption risks (existing risks).

(3) The National Anticorruption Center shall be responsible for applying the following integrity control measures in the public sector:

- a) corruption proofing expertise;
- b) evaluation of institutional integrity, including professional integrity testing and management of the professional integrity record of the public agents, except for the public agents provided in par. (5) let. b of this article, under the conditions of Law №. 325/2013 on institutional integrity assessment.

(4) The National Integrity Authority shall be responsible for applying the following integrity control measures in the public sector:

- a) control of declarations of personal assets and interests;
- b) control of the observance of the legal regime on conflicts of interest;
- c) control of the legal regime of incompatibilities, restrictions and limitations.

(5) The Information and Security Service shall be responsible for applying the following integrity control measures in the public sector:

- a) verification of public positions' holders and candidates under the Law № 271/2008 on the verification of the holders and candidates for public positions;
- b) testing the professional integrity of own public agents and those from the National Anticorruption Center, and managing their professional integrity records.

(6) The civil society and mass-media shall exercise measures of civic implication and public control over all the areas of public interest, especially through:

- a) participation in public entities' decision-making processes;
- b) ensuring access to information, request of official information held by the public entities and adequate information of the society regarding the topics of public interest;
- c) conclusion and publication of articles, studies, analyses, surveys, monitoring, reports and other types of information about corruption phenomenon, corruption risks, corruption manifestations, integrity incidents within public entities, national, sector and institution policies for integrity promotion in the public sector.

Section 1 *Integrity Control ensured within Public Entity*

Article 26. Elimination of corruption risks in the process of developing draft acts

The head of the public entity and public agents responsible for developing draft legislative, normative, and departmental acts shall not admit and shall exclude factors that determine the occurrence

of corruption risks, the promotion of private interests in detriment of the public interest, and prejudicing the legitimate interests of persons and/or prejudicing the public interest when developing the draft acts.

Article 27. Management of institutional corruption risks

(1) The management of corruption risks is the process undertaken within the public entity to assess internally the corruption risks, so as to identify and manage the corruption risks related to the professional activity.

(2) The head of the public entity shall be responsible for ensuring the management of corruption risks in the context of implementing the standards of ethics and professional integrity set forth in the law №229/2010 on internal public financial control.

(3) The process of corruption risks' management within the public entity shall be documented in a special register, which includes:

- a) the description of the vulnerable activity/specific activity objective of the public entity;
- b) the corruption risk that impedes the achievement of the activity/specific objective;
- c) the value of the risk (seriousness/importance of the risk);
- d) the reaction to the risk and the action of the public entity;
- e) who is responsible for the action;
- f) the deadline/period of implementation of the action.

Section 2

Integrity Control ensured by the National Anticorruption Center

Article 28. Corruption proofing expertise

(1) Corruption proofing expertise is the identification in the draft legislative and normative acts of corruption risks, of factors that generate them, as well as the submission of recommendations for their removal. The categories of factors that determine the occurrence of corruption risks relate to the deficiencies of the project in terms of formulation, legislative coherence, transparency and access to information, the exercise of rights and obligations of the person, the exercise of duties of a public authority, of control mechanisms, of accountability and sanctions.

(2) The public agencies and entities entitled to legislative initiative, other public entities that develop and promote draft legislative and normative acts (hereinafter referred to as – authors), as well as the Parliament's Secretariat, in the case of legislative initiatives of deputies, shall submit for corruption proofing expertise the draft acts, except for:

- a) policy documents;
- b) individual acts for personnel reshuffle;
- c) decrees of the President of the Republic of Moldova
- d) Government decrees;
- e) Government decisions for approving draft laws and decrees of the President of the Republic of Moldova;
- f) international treaties, acts for awarding full powers and expressing the consent of the Republic of Moldova to be bound by the international treaty.

(3) In the case of drafts of departmental and interdepartmental normative acts of the public entities, normative acts of the authorities of the autonomous territorial units with special legal status and of the local public administration authorities, corruption proofing expertise shall be carried out by their authors in accordance with the methodology provided in paragraph (9). Upon request, the National Anti-Corruption Center provides methodological support to authors for the correct application of the methodology.

(4) The corruption proofing expertise, with the exceptions set out in paragraph (2) and (3), shall be carried out by the National Anticorruption Center only for the final draft, based on the proposals and objections expressed during the endorsement of the draft and/or consultation with

stakeholders. In the case of drafts initiated by the Government, these are considered finalized before being sent to legal expertise, and in the case of initiatives by other categories of authors – after the registration of projects in the Parliament.

(5) The corruption proofing expertise report shall present the analysis of risks of corruption of the legislative process, the general and detailed analysis of the corruption risks for the draft provisions and conclusions.

(6) The deadline for performing corruption proofing expertise shall be 10 working days from the moment the draft is sent to the National Anticorruption Center. In the case of voluminous or complex drafts, the term for performing corruption proofing expertise may be extended up to 30 working days, with the notification of the authors.

(7) The author or, in the case of draft legislative acts included in the legislative procedure, the Standing Committee notified of the matter submits the draft for repeated corruption proofing expertise if it conceptually differs, in the version submitted for adoption, from the previously proofed draft. In this case, repeated corruption proofing expertise is carried out within a maximum of 10 working days.

(8) The author may request repeated corruption proofing expertise in the following cases:

a) all objections and recommendations from the previous corruption proofing expertise report have been accepted;

b) within the joint working group of the representatives of the author and of the National Anticorruption Center for the elimination of the divergences on the draft subject to corruption proofing expertise, the members of the group reach a common position regarding the draft, so that the risk factors and corruption risks identified in the previous corruption proofing expertise report are fixed. Within the group, the views of both parties are discussed with inclusion of arguments and compromise solutions in a report;

c) the draft subject to corruption proofing expertise has not been adopted for the period of one year and the author believes that the context of its promotion has changed in the meantime;

d) the draft was restituted to the author following the establishment of a new legislature after the general parliamentary elections, of a new Government or following the change of the management of the draft's author public entity.

(9) Corruption proofing expertise shall be carried out based on the Methodology for performing corruption proofing expertise for draft legislative and normative acts, approved by the National Anticorruption Center Board, which sets forth the objectives and the stages of the corruption proofing expertise, the description of the typology of risk factors that determines the emergence of corruption risks and the detailed structure of the anticorruption expertise report. The methodology shall be published on the web page of the National Anticorruption Center.

(10) The corruption proofing expertise report, signed by the expert who has concluded it, shall be sent to the draft author and published on the web page of the National Anticorruption Center.

Article 29. Institutional integrity assessment, professional integrity testing and professional integrity record

(1) The institutional integrity assessment is the process of external assessment of the corruption risks within the public entity, for the purpose of identification of corruption risks with the help of analytical and practical methods (professional integrity testing), description of the factors determining the identified risks and their consequences, as well as for the provision of recommendations for diminishing them. The responsibility for assessing the institutional integrity of public entities shall belong to the National Anticorruption Center, in accordance with the provisions of art. 25 par. (3) let. b).

(2) The identification of the corruption risks shall be based on examining the practices for building the institutional integrity climate, the integrity incidents committed by the public agents of the public entity, the information sent by citizens, materials from mass-media, analytical sources, as well as of the ways in which the human rights are affected by the identified risks.

(3) Within the professional integrity test, the testers shall create and apply virtual and simulated situations similar to those from the service activity, materialized through dissimulated operations, conditioned by the activity and conduct of the tested public agent, for passive follow-up and establishing the reaction and conduct of the respective public agent, determining thus the level in which the institutional integrity climate is affected and the corruption risks within the public entity. The public agents subject to professional integrity testing shall be selected randomly, depending on the identified corruption risks. The activity of professional integrity testing shall be carried out under judicial control.

(4) The description of corruption risks identified and, where applicable, confirmed, during the professional integrity test and the analysis of the risk factors increasing the probability for materialization of these risks shall be performed taking into account the external, internal, operational, and individual risk factors.

(5) The evaluation of the institutional integrity shall conclude with the submission of recommendations, the application of which would allow the public entity to reduce the corruption **manifestations** among the public agents and to improve the institutional integrity climate.

(6) The integral report regarding the results of the institutional integrity assessment shall be sent to the head of the public entity, and in case of negative results of the professional integrity test, the report is accompanied by the materials confirming these results. The National Anticorruption Center shall publish on its web page the depersonalized version of the report on the results of the institutional integrity assessment, or, in the cases provided in the Law №325/2013 on institutional integrity assessment, the full version of the report.

(7) The professional integrity record of the public agents shall ensure the record keeping of the professional integrity test results, necessary for getting employed in public entities. The registration of the information in the professional integrity record shall be based on assessing the professional integrity test results by the court. The information about the negative result of the professional integrity test shall be kept in the record for one year or, as the case may be, 5 years, depending on the type of violations admitted in the professional integrity test.

(8) The detailed procedure for institutional integrity assessment, professional integrity testing, drafting of reports on the results of the institutional integrity assessment, actions to be undertaken by public entities as a result of receiving such reports, as well as the management of the professional integrity records shall be regulated by the Law №325/2013 on institutional integrity assessment, by the regulation approved by the Government and the methodology approved by the National Anticorruption Center.

Section 3

Integrity Control ensured by the National Integrity Authority

Article 30. Control of assets and personal interests

(1) The control of assets and personal interests shall include the verification of declarations of personal assets and interests, data and information regarding the existing property, as well as of property modification occurred during the exercise of mandates, public functions and positions of public dignity,

(2) The control of the assets and personal interests of the public agents who are subject to declaring assets and personal interests is carried out by the National Integrity Authority in accordance with the provisions of the legislation regulating the statute of the Authority and the legislation on the declaration and control of assets and personal interests.

Article 31. Control of conflicts of interests, incompatibilities, restrictions, and limitations

(1) The control of conflicts of interests, incompatibilities, restrictions, and limitations of the public agents who are subject to declaring assets and personal interests shall be carried out by the National

Integrity Authority in accordance with the provisions of the legislation regulating the statute of the Authority and the legislation on the declaration and control of assets and personal interests..

(2) At the request of the heads of public entities, the National Integrity Authority issues, within 15 working days from the date of filing the request, the information about the unresolved incompatibilities and the conflicts of interest in respect of which there is a sanctioning decision in force.

Section 4

Integrity Control ensured by the Security and Information Service

Article 32. Verification of holders and candidates for public positions

(1) The verification of holders and candidates for public positions shall be carried out by the Security and Information Service in accordance with the Law No. 271 /2008 on the verification of Holders and candidates for public positions.

Article 33. Assessment of institutional integrity, professional integrity testing, and the professional integrity record of the public agents from the National Anticorruption Center and Security and Information Service

(1) The Security and Information Service shall perform the institutional integrity assessment of the National Anticorruption Center, while the Security and Information Service shall be assessed by its Internal Security Subdivision, under the conditions set forth in art. 29 of the present Law and the Law № 325/2013 on institutional integrity assessment.

(2) When the institutional integrity of the Security and Information Service is assessed, the Internal Security Subdivision has the possibility to go through all the stages or only through the stage of testing the professional integrity of the public agents within the respective Service.

(3) The professional integrity record of the public agents from the National Anticorruption Center and Security and Information Service shall be kept by the Security and Information Service in line with the provisions of the Law № 325/2013 on institutional integrity assessment and the Regulation adopted by the Government.

Section 5

Integrity control ensured by other competent authorities

Article 34. Integrity control duties of other competent authorities

The control over the enforcement of the legislative provisions in important areas for ensuring the integrity climate in the public sector shall be carried out by the following competent authorities:

a) Central Election Commission – for verifying the financing of political parties and electoral campaigns;

b) Service for Preventing and Combating Money Laundering – for financial monitoring of the politically exposed persons;

c) State Chancellery – for verifying the observance by the specialized central public authorities of rules of conduct within public service, of legislation in the field of personnel policies, as well as of the legislation in the field of insuring transparency in the decision-making process;

d) Court of Accounts – for external public audit of public patrimony administration, for the way in which the resources of the state budget are formed, managed, and used, including the resources allocated to political parties;

e) Ministry of Finance – for preparing and certifying the internal auditors within public entities, as well as for monitoring the implementation of internal public financial control standards;

f) Public Procurements Agency – for observing the public procurement legislation;

g) Financial Inspection – for verifying the economic-financial activity of public entities, including through operative investigations and documents' analyses.

Chapter IV **STRENGTHENING INTEGRITY IN THE PUBLIC SECTOR**

Article 35. Measures for strengthening integrity in the public sector

(1) If public agents encounter difficulties in implementing measures for ensuring political and institutional integrity, as well as for applying the integrity control measures in the public sector, the heads of the public entities may apply, as appropriate, the following measures for strengthening integrity:

- a) to organize trainings, activities for awareness raising among public agents and citizens;
- b) to develop and apply guidelines, methodologies, etc.;
- c) to adopt and implement integrity plans.

(2) The public agents may request for the application of integrity strengthening measures and shall comply with the measures applied within the public entity.

(3) Upon the request of the heads of the public entities, and public agents, the National Anticorruption Center, the competent authorities, and, as appropriate, the civil society, mass-media shall provide the necessary support to public entities for strengthening their integrity.

(4) The National Anticorruption Center, competent authorities, representatives of civil society and mass-media may suggest support for public entities for enhancing their integrity, providing the respective support with the prior approval of the heads of the given entities. The public awareness campaigns among citizens, the guidelines and methodologies for citizens regarding sensitive aspects related to public agents' integrity may be initiated and disseminated by the National Anticorruption Center, the competent authorities, the representatives of the civil society and mass-media without the approval of the public entities.

Article 36. Integrity plan

(1) The integrity plan is the internal plan approved by the head of the public entity following the institutional integrity assessment, as a result of the institutional integrity assessment, through which the institutional integrity environment may be developed and/or enhanced during the implementation period.

(2) After receiving the report on the results of the institutional integrity assessment identifying corruption risks within the public entity, the public entity, shall adopt, within one month, an integrity plan and shall implement it within two months since the data the plan is adopted. The integrity plan shall ensure, at least, the fulfilment of the recommendations and minimum requirements formulated in the given report.

(3) Upon the expiration of the implementation deadline of the integrity plan, the public entity shall conclude a report regarding the implementation of this plan, which is published on its web page and shall send it to the responsible anticorruption authority, which has assessed the institutional integrity.

(4) The procedure for adopting and implementing the integrity plan, and the detailed consequences for failing the integrity plan are provided in the Law № 325/2013 on institutional integrity assessment.

Chapter V

BUILDING INTEGRITY IN THE PRIVATE SECTOR

Article 37. Measures for building integrity in the private sector in relations with the public sector

(1) The business environment's integrity climate in relations with the public sector shall be built by:

- a) respecting the public procurement procedures;
- b) respecting the publicity limits set out for the public agents;
- c) respecting the restrictions and limitations set out for the former public agents;
- d) respecting the ethical rules in business;
- e) implementing internal control systems;
- f) transparency of shareholders, founders, administrators, and effective beneficiaries of commercial organizations;
- g) transparency of the private sector business with the state.

(2) The responsibility for building integrity climate of the business environment rests with the administration of commercial organizations.

(3) The failure to fulfill the measures set in par. (1) can lead to the undermining of the integrity climate in private sectors and, where appropriate, in the public sector, upon the occurrence of corruption manifestations, and can impact upon the public interest,

Article 38. Compliance with the restrictions and limitations set out for the former public agents

Commercial organizations are obliged to:

a) avoid, for a period of one year, the employment of former public agents, referred to in art. 24, who has held, over the last year, before the termination of their mandate, labor or duty relations, direct duties to supervise and/or control the respective commercial organizations;

b) avoid for a period of one year to empower with representation duties in relations with a public entity, the person who over the last year worked within the respective public entity.

Article 39. Business ethics

(1) The Codes of Ethics in the private sector shall establish the principles and the rules governing the management processes and correct conduct in business environment. The business ethics shall imply the observance of the commercial organization's interests, as well as the partners, consumers, and society as a whole, prohibiting damage causing to competitors, which would not fit the limits set by the legislation on competition.

(2) The Codes of Ethics shall be adopted at the level of business professional associations, being taken over and developed at the level of the commercial organization, in line with the provisions of the **Republic of Moldova's legislation and international business principles**, set out by the international business codes of ethics.

Article 40. Internal control systems

(1) The internal control systems shall provide a mechanism for ensuring the integrity of financial statements, as well as the integrity of financial activities in business. Internal controls shall be organized for financial management, and the internal control system results shall be reflected in procedures and guidelines for respecting them.

(2) The internal control system shall ensure:

- a) a mechanism for preventing and detecting frauds and errors;

b) policies and procedures for registering transactions which allow for the drafting of financial statements in line with the national accounting standards;

c) protection of goods and information held by commercial organizations, with the exceptions provided in the law.

(3) The internal control systems shall be organized at the commercial companies' level, being taken over or developed in line with the provisions of the Republic of Moldova's legislation and international business principles.

Article 41. Transparency of shareholding, founders, administrators, and effective beneficiaries of commercial organizations

(1) For the purpose of ensuring societies' confidence for private sector's integrity, the information in shareholding, founders, administrators, and effective beneficiaries of commercial organizations shall be considered of public interest, and the holders of such information shall ensure on-line access to it.

(2) The commercial organizations which are founders, share-holders, or holders of interests within legal entities registered in jurisdictions which do not implement international standards of transparency including on the shareholding structure, founders, administrators, etc., the individuals who are citizens of these jurisdictions, or natural persons and legal entities whose effective beneficiaries are other individuals are registered in the Republic of Moldova only in the case of presenting a written confirmation of the identity of effective beneficiaries, according to the legislation on preventing and combating money laundering.

(3) The Service for Preventing and Combating Money Laundering shall publish in the Official Monitor of the Republic of Moldova and on their web page the list of jurisdictions which do not implement international transparency standards, also periodically updated this information.

Article 42. Transparency of the private sector business with the state

(1) The assets from the public sector, as well as assets those belonging and/or managed by state-owned enterprises, municipal enterprises or companies with state capital or local public administration capital may be transferred to the private sector through such procedures as: public-private partnerships, through privatization, concession or conclusion of other types of commercial contracts, under conditions of transparency and free competition, observing the provisions of the legislation on transparency in decision-making process.

(2) The State, central and local public authorities, state-owned enterprises, municipal enterprises or companies controlled by them (state business area) cannot conclude commercial contracts involving the natural and legal persons referred to in art. 41 par. (2). If there is no contractual restriction for subsequent subcontracting, the individuals and legal entities, residents or non-residents, which have concluded commercial contracts in the state business area shall be subject, for a period of 5 years, to subcontracting prohibition, with involvement the natural and legal persons referred to in art. 41 par. (2) regardless of the number of signed subcontracts.

Chapter VI

SANCTIONING LACK OF INTEGRITY IN THE PUBLIC AND PRIVATE SECTORS

Article 43. Liability for lack of integrity

(1) Lack of integrity in the public and private sectors leads to the committing of corruption and related acts, and administrative, disciplinary, civil or criminal liability, as appropriate.

(2) The responsibility for identifying and examining corruption manifestations belongs to the Anticorruption Prosecutor's Office, National Anticorruption Center, National Integrity Authority, and

Ministry of Internal Affairs bodies, in line with the provisions of the Criminal Procedure Code and Contravention Code.

Article 44. Corruption acts

(1) Corruption acts represent offences and crimes committed in the public and private sectors, which shall be sanctioned according to the provisions set forth in the criminal Code and contravention Code.

(2) The following corruption acts are crimes:

- a) active corruption;
- b) bribe giving;
- c) corruption of voters;
- d) passive corruption;
- e) bribe taking;
- f) receiving illicit remuneration for carrying out works related to population servicing;
- g) traffic of influence;
- h) event manipulation;
- i) arranged bets;
- j) illegal financing of political parties or electoral campaigns, violation of financial means' administration within political parties or electoral funds;

k) conflict of interest;

l) abetting personal assets and interests;

m) illicit enrichment;

n) embezzlement of public patrimony;

o) embezzlement of means from foreign funds;

p) use of means from internal loans or foreign funds contrary to their destination;

(3) The following corruption acts are offences:

a) receiving illegitimate reward or material assistance (if the deed does not meet the constitutive elements of a crime);

b) favoritism (if the deed does not meet the constitutive elements of a crime);

c) use of undeclared funds, not-compliant funds, or funds coming from abroad for financing political parties;

d) use of means from internal loans or external funds contrary to their destination, obtaining fraudulently means from foreign funds, appropriation of public assets and means from foreign funds (if the deed does not meet the constitutive elements of a crime).

Article 45. Acts related to corruption acts

(1) The acts related to corruption acts represent crimes and offences committed in the public and private sectors, the sanctioning of which is provided in the criminal Code and contravention Code.

(2) The following acts related to acts of corruption, that were committed together or directly related to an act of corruption, are crimes:

a) the exercise of public sector duties in a conflict of interest situation;

b) the exercise of service duties in the private sector in a conflict of interest situation;

c) abuse of power or abuse of office (in the public sector);

d) abuse of office (in private sector);

e) excess of power or exceeding the office duties;

f) negligence in office;

g) falsification of voting results;

h) obtaining fraudulently means from foreign funds;

i) forgery of public documents;

j) forgery of accounting documents;

k) the concealment of assets and personal interests by subjects of the declaration in the public sector;

- l) the concealment of assets and personal interests by subjects of the declaration in the private sector;
- m) Illicit enrichment;
- n) violation of the confidentiality regime for the information in the declarations of assets and personal interests;
- o) violation of crediting rules, loan granting policies or insurance benefits / damages provision rules;
- p) bank mismanagement or fraudulent management;
- q) obstructing bank supervision.

(3) The following acts related to acts of corruption are offences:

- a) favoritism (if the act does not meet the constitutive elements of the offense);
- b) exercise of service duties in a situation of conflict of interests;
- b) excess of power or excessing office duties (if the act does not meet the constitutive elements of the offense);
- c) abuse of power or abuse of office (if it does not meet the constitutive elements of a crime);
- d) excess power or exceeding service duties (if the act does not meet the constitutive elements of a crime);
- e) excess of power related to permissive documents;
- f) violation of the legal regime of incompatibilities, restrictions in hierarchy, publicity limitations;
- g) violation of the legal regime of restrictions and limitations related to the termination of the mandate, labor or duty relations, and migration to the private sector of the public agents (revolving doors);

(4) Any other crimes and/or offences committed together or in direct link with a corruption act are corruption-related acts.

Article 46. Corruptible deeds

(1) The corruptible deeds are offences and disciplinary deviations.

(2) The following corruptible deeds are offences:

- a) failure to take measures to ensure integrity within public entities
- b) abetting a corruption act or an act related to corruption acts or failure to undertake the necessary measures;
- c) violation of rules for initiating and carrying out public procurement procedure;
- d) failure to ensure protection measures for the public servant;
- e) violation of rules for submitting the statement of personal assets and interests;
- f) non-declaration or non-settlement of the conflict of interest;
- g) refuse to comply with the decision for settling the conflict of interest;

(3) The corruptible deeds referring to all the other types of violation of obligations set for the public agents, heads of public entities, former public agents, commercial organizations, registrars of legal entities and anticorruption authorities provided in the present law and in the laws containing regulations on ensuring integrity in the public and private sectors.

Article 47. Eliminating the consequences of corruption acts, acts corruption-related acts, corruptible deeds, and repairing the damages

(1) In case corruption, and corruption-related acts are committed, the undue goods, services, privileges or advantages transmitted for determining the crime perpetration or for rewarding the offender, or the undue goods, services, privileges or advantages acquired for perpetrating the offence, if they are not returned to the injured party and to the extent in which they are not used for paying the damages to the injured party, shall be seized, and if such items are not found, the convicted shall pay the equivalent value. In all cases, it is compulsory to undertake assurance measures.

(2) The registration of the commercial organization violating the provisions of art.41 par.(2) shall lead to its liquidation with its radiation from the State Register and disciplinary liability for the registrar. The liquidation and the deletion of the commercial organizations from the State Register also takes place if the information on the identity of the effective beneficiaries, presented at the registration according to art. 41 par. (2) is incorrect or false.

(3) The adopted decisions, concluded contracts, other actions or any convention clause, the object or cause of which is a corruption, or corruption-related act shall be subject to absolute nullity.

(4) The legal acts concluded between commercial organizations and the public entities by violation of representation limitations established for the former public agents, set forth in art. 38 let. b), as well as concluded acts by legal entities registered in the Republic of Moldova contrary to the provisions set forth in art.41 par.(2) shall be subject to absolute nullity, except in cases where their cancellation would harm the public interest.

(5) Any contract party whose consent was prejudiced by an act of corruption, or an act related to acts of corruption, may claim, as established by the law, for termination/cancellation of the respective contract, without affecting its entitlement to compensation.

(6) The person who suffered from a prejudice resulting from an act of corruption or an act related to acts of corruption, shall be entitled to repairing the respective damage in line with the provisions of the criminal, contravention, or civil legislation, as appropriate.

(7) After repairing the damages from the corresponding budget account, the respondent shall have the right to recourse against the guilty person in the amount of the paid damages.

Article 48. Responsibility and reparation of damages

(1) The person who has suffered damages resulting from an action set forth in art.256, 324-335¹ of the Criminal Code shall be entitled to get during the trial the reparation of material and/or moral damages in line with the provisions of the Criminal Procedure Code. If the person did not request for a civil action to be initiated within the criminal proceedings, the damages shall be paid in line with the provisions of the Civil Code. If the person suffered damages resulting from action set forth in art.312-330¹ of the Contravention Code, the competent authority shall be entitled, upon the request of the victim, to order for reparation of damages caused by the offence, if there are no divergences regarding the damage extent.

(2) After repairing the damages from the respective budget account, the respondent shall start a recourse action against the guilty person to the extent of paid damages. The person who suffered damages resulting from a corruption act, or an act related to acts of corruption, committed by the subjects set forth in art.5 let. a) shall be entitled to request for damages to be paid by the public entity whose public agent has committed the corruption act, or corruption-related act.

(3) The Ministry of Justice or the prosecutor, as appropriate, shall initiate the recourse action against the person who has committed the corruption act, or an act related to acts of corruption, if the authorities which were supposed to pay the damages did not fulfill obligations.

Article 49. Investigation of corruption, and corruption-related acts

(1) The responsible anticorruption authorities are invested according to the set competences with the following duties for investigating corruption, and corruption-related acts:

- a) to perform special investigation measures;
- b) to carry out the criminal proceedings;
- c) to apply the procedural measures of constraint, safety, and other security measures;
- d) to ensure confidentiality in the criminal process;

e) to apply state protection measures to ensure the security of the trial participants and other persons, including the ones who inform the competent authorities and the supervisors about the possible perpetration of corruption acts, and corruption-related acts, and corruptible deeds;

f) to apply measures to eliminate the conditions which have contributed to perpetration of crimes and other violations of the legislation, and to undertake actions for reparation of damages;

g) to perform international legal assistance.

(2) The duties provided in par.(1) shall be carried out to the extent in which they comply with the Constitution, Criminal Procedure Code, legislation on special investigation activity and special laws regulating the activity of the responsible anticorruption authorities.

Chapter VII FINAL AND TRANSITORY PROVISIONS

Article 50.

(1) The present law shall enter into force at the date of its publication in the Official Monitor of the Republic of Moldova. The provisions of art. 13 par. (2) lit. b) -f) shall apply until the electronic submission of the declarations of assets and personal interests is implemented.

(2) Within a period of 6 months, the Government:

a) shall submit to the Parliament proposals for harmonization of the legislation in force with the present law;

b) shall make its normative documents compliant with the present law;

c) shall ensure the drafting of the normative acts necessary for enforcing the present law;

d) shall ensure that central public entities review their departmental acts;

e) shall undertake other measures for enforcing the present law, for the law subjects to study and apply it.

(3) Upon the date of entry into force of the present law, the Law No. 90-XVI on the prevention and combating of corruption, published in the Official Monitor of the Republic of Moldova, 2008, № 103-1056 art. 391 with subsequent modifications and additions.

PRESIDENT OF THE PARLIAMENT

Andrian CANDU

№. 82, Chisinau, 25 may 2017