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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

EXCERPTS FROM

A. THE CONSTITUTION

B. THE LAW ON THE STATUS OF JUDGES

C. THE CRIMINAL CODE

OF MOLDOVA

**Constitution of the Republic of Moldova
amended and supplemented on 5 July 2000**

Amended by:

1. Law no. 351-XV of 12 July 2001 ("Monitorul Oficial" no. 90-91/699 of 2 August 2001)
2. Law no. 1469-XV of 21 November 2002 ("Monitorul Oficial" no. 169/1290 of 12 December 2002)
3. Law no. 1470-XV of 21 November 2002 ("Monitorul Oficial" no. 169/1292 of 12 December 2002)
4. Law no. 1471-XV of 21 November 2002 ("Monitorul Oficial" no. 169/1294 of 12 December 2002)
5. Law no. 344-XV of 25 July 2003 ("Monitorul Oficial" no. 170-172/721 of 8 August 2003)

CHAPTER IX – JUDICIARY

FIRST SECTION Courts of law

Article 114. Carrying out of justice

Justice shall be carried out in the name of law only by the courts of law.

(Article 115 paragraph 1 and Article 116 amended by the Law no. 1471-XV of 21 November 2002)

Article 115. Courts of law

- (1) Justice shall be carried out by the Supreme Court of Justice, courts of appeal and courts of law.
- (2) For certain categories of cases special law courts may operate under the law.
- (3) The foundation of extraordinary courts shall be forbidden.
- (4) The structure of the law courts, their ambit of competence and legal proceedings shall be laid down by organic law.

Article 116. Status of judges

- (1) Judges sitting in the courts of law shall be independent, impartial and irremovable under the law.
- (2) Judges sitting in the courts of law shall be appointed, under the law, by the President of the Republic of Moldova upon proposal submitted by the Superior Council of Magistrates. Judges who successfully passed the contest shall be firstly appointed for a 5-year term of office. After the expiration of the 5-year term of office, the judges shall be appointed to this position until reaching the age limit fixed under the law.
- (3) The Presidents, Vice-Presidents and judges of the Supreme Court of Justice shall be appointed by Parliament following a proposal submitted by the Superior Council of Magistrates. They must have a working tenure as judge of at least 10 years.
- (4) Judges shall be promoted and transferred only at their own consent.
- (5) Sanctioning of the judges shall be carried out pursuant to the law.
- (6) The office of judge shall be incompatible with the exercise of any other public or private remunerated position, except for the didactic and scientific activity.

LAW ON THE STATUS OF JUDGES
No. 544-XIII of 20.07.95

Republished: Official Monitor of the Republic of Moldova no. 117-119/946 of 15.08.2002

Official Monitor of the Republic of Moldova no. 59-60/664 of 26.10.1995

Law no. 140-XV of 21.03.2003 on amending Art. 11

(Official Monitor of the Republic of Moldova no. 67-69/293 of 11.04.2003)

Article 19. The Inviolability of Judges

(1) The personality of judge shall be inviolable.

(2) The inviolability of a judge shall be extended to his/her dwelling place and workplace, vehicles and telecommunication means, which he/she uses, his/her correspondence, goods and personal documents.

(3) Judge shall not be held liable for his/her opinions expressed while exercising his/her official functions, as well as for judgments he/she passed in his/her official capacity, unless he/she has been found guilty of criminal abuse by a final sentence.

(4) Criminal proceedings may be instituted against a judge only by the Prosecutor General upon the consent of the Superior Council of Magistracy under conditions of the Criminal Procedure Code. In case of committing the offenses specified in Art. 324 and 326 of the Criminal Code of the Republic of Moldova, the consent of the Superior Council of Magistracy for initiation of criminal proceedings is not required.

(5) A judge shall not be detained, brought by force, arrested, searched without the consent of the Superior Council of Magistracy. The consent of the Superior Council of Magistracy is not necessary in case of a flagrant crime and the offenses specified in Art. 324 and Art. 326 of the Criminal Code of the Republic of Moldova.

[Art. 19 modificat prin Legea nr. 153 din 05.07.2012, în vigoare 31.08.2012]

[Art. 19 modificat prin Legea nr. 247-XVI din 21.07.2006, în vigoare 10.11.2006]

[Art. 19 was amended by Law no. 191-XV of 08.05.03, effective as of 31.05.03]

[Art. 19 was amended by Law no. 373-XV of 19.07.2001]

[Art. 19 was amended by Law no. 1027 of 06.12.96]

CRIMINAL CODE
of the Republic of Moldova
adopted by Law nr. 985-XV on April 18, 2002
(in force as of 24.05.2009) //Official Monitor 128-129/1012, 13.09.2002

Chapter XV
CRIMES AGAINST STATE POWER, INTEREST OF STATE SERVICES AND THE SERVICE
OF THE AUTHORITIES OF THE PUBLIC ADMINISTRATION

Article 324. Passive Corruption

(1) The act of an official person or a foreign public person, who pretends, accepts or receives in person or through an intermediary goods, services, privileges or benefits in any form, which do not due to him /her, for himself /herself or for another person or acceptance of their offer or promise to them of carrying out or not doing so or to delay or expedite the fulfilment of an act while discharging his /her function or contrary to it is to be punished by imprisonment from 3 to 7 years with a fine in the amount of 1000 up to 3000 conventional units and with deprivation of the right to hold certain positions or to perform certain activity for a term of 2 to 5 years.

(2) The same actions, committed:

[Letter a) excluded by the Law no. 277-XVI of 18.12.2008, in force since 24.05.2009]

a¹) by an international civil servant;

b) by two or more persons;

c) with extortion of goods or services listed in par. (1);

d) in big proportions

is to be punished by imprisonment from 5 to 10 years with a fine in the amount of 1000 up to 3000 conventional units and with deprivation of the right to hold positions certain functions or to perform certain activity for a term of 2 to 5 years.

(3) Actions stipulated in paragraph (1) or (2), committed:

a) by an official of public dignity;

b) in especially big proportions;

c) in the interest of an organized criminal group or a criminal organization, is to be punished by imprisonment from 7 to 15 years with a fine in the amount of 1000 up to 3000 conventional units and with deprivation of the right to hold certain positions or to perform certain activity for a term of 3 to 5 years.

[Art.324 amended by the Law no. 78 of 12.04.2012, in force since 25.05.2012]

[Art.324 amended by the Law no. 245 of 02.12.2011, in force since 03.02.2012]

Article 326. Traffic of influence

(1) Demanding, accepting or receiving, directly or through an intermediary, money, securities, services, privileges, other goods or advantages for himself / herself or for another person, by a person who has influence or who claims to have influence on a public person, an official of public dignity, foreign official, international public servant to perform or not to make it or to delay or expedite the performance of an act in the exercise of his /her office, whether or not such actions were committed, is to be punished by a fine in the amount of 500 up to 1500 conventional units or by imprisonment for up to 5 years but the legal entity shall be punished by a fine of 2000 up to 4000 conventional units with the deprivation of the right to perform a certain activity.

(1¹) The promise, offering or giving to a person, either personally or through an intermediary, of goods, services, privileges or benefits listed in par. (1), for themselves or for another person when that person has or claims to have an influence on a public person, persons holding office of public dignity, public foreign officials, an international servant with the aim stated in para. (1),

is to be punished by a fine in the amount of 500 up to 1500 conventional units or by imprisonment up to 3 years but the legal entity shall be punished by a fine in the amount of 2000 up to 4000 conventional units with the deprivation of the right to perform a certain activity.

(2) The actions stipulated in para. (1) and (1¹), committed :

b) by two or more persons;

c) by receiving goods and advantages in big proportions;

d) followed by the promised influence and achievement of the intended result,

is to be punished by a fine in the amount of 1000 up to 3000 conventional units or by imprisonment for a term of 2 to 6 years but the legal entity shall be punished by a fine in the amount of 3000 up to 8000 conventional units with the deprivation of the right to perform a certain activity.

(3) The actions stipulated in paragraphs (1), (1¹) or (2), committed:

a) by receiving goods or advantages in especially big proportions;

b) in the interest of an organized criminal group or a criminal organization;

is to be punished by imprisonment for a term of 3 to 7 years with a fine in the amount of 500 up to 1500 conventional units years but the legal entity shall be punished by a fine in the amount of 5000 up to 10000 conventional units with the deprivation of the right to perform a certain activity or liquidation of the legal entity.

(4) A person who has promised, offered or given goods or services listed in par. (1) is released from criminal liability if they have been extorted or if the person denounced himself /herself without knowing that they the prosecution was aware of offense he had committed.

[Art.326 amended by the Law no. 78 of 12.04.2012, in force since 25.05.2012]

[Art.326 amended by the Law no. 245 of 02.12.2011, in force since 03.02.2012]

[Art.326 amended by the Law no. 277-XVI of 18.12.2008, in force since 24.05.2009]