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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**LAW**

**ON PROFESSIONAL INTEGRITY  
TESTING NO. 325 OF 23 DECEMBER 2013**

**OF THE REPUBLIC OF MOLDOVA**

**L A W**  
**on professional integrity testing**

**no. 325 of December 23, 2013**

*Official Gazette no.35-41/73 of February 14, 2014*

Pursuant to Art.72 para.(3) letter r) of the [Constitution of the Republic of Moldova](#),  
The Parliament adopts this organic law.

**Chapter I**  
**GENERAL PROVISIONS**

**Article 1. Regulation object**

This law establishes the purpose, principles, means, methods, procedures and legal effects of testing professional integrity within public entities.

**Article 2. Testing purpose**

Professional integrity testing is made in order to:

- a) ensure professional integrity, prevent and fight against corruption within public entities;
- b) verify the public agents' manner to observe work obligations and duties, and the conduct rules;
- c) identify, assess and remove the vulnerabilities and risks which could determine or favor corruption acts, corruption related acts or deeds of corruptive behavior;
- d) reject inappropriate influences in exercising the work obligations or duties of public agents.

**Article 3. Principles**

The professional integrity testing of public agents is made subject to the mandatory observance of the following principles:

- a) legality;
- b) observance of the fundamental human rights and freedoms, of human and professional dignity;
- c) unbiased, equitable and non-discriminatory treatment of the public agents subject to testing;
- d) presumption of the good faith of testing subjects;
- e) non-admission of the impairment of the authority, prestige and image of public entities and public agents.

**Article 4. Concepts**

For the purpose hereof, the following concepts shall have the following meanings:

*public agents* – the employees of the public entities provided in the annex forming an integral part hereof;

*professional integrity* – the person's capacity to exercise their legal and professional obligations and duties honestly and impeccably, proving a high moral standard and maximum correctness, and to exercise their activity impartially and independently, without any abuse, respecting public interest, the supremacy of the Constitution of the Republic of Moldova and of law;

*professional integrity testing* – the process of planning, initiating, organizing and performing professional integrity tests;

*professional integrity test* – the creation and application by the tester of certain virtual, simulated situations, similar to those in the work activity, materialized through dissimulated

operations, conditioned on the activity and behavior of the tested public agent, in order to passively monitor and establish the reaction and conduct of the tested public agent;

*professional integrity tester* – person authorized hereunder and under special laws with duties and competences to test professional integrity;

*inappropriate influence* – illegal attempts, actions, pressures, threats, interferences or requests of third persons in order to determine public agents to perform or not, delay or accelerate the performance of, certain actions in the exercise of their functions or contrary to them;

*justified risk* – risk without which the socially useful purpose to objectively set the public agent's conduct within the professional integrity test cannot be reached, and the professional integrity tester who risks took measures to prevent damages of the interests protected by law.

**Article 5. Subjects of professional integrity testing**

(1) The subjects of professional integrity testing shall be public entities, public agents and professional integrity testers.

(2) Professional integrity tests shall apply to the public agents employed within the public entities provided in the annex.

(3) Professional integrity tests are made by the employees of the National Anti-corruption Center and of the Information and Security Service.

**Article 6. Rights and obligations of public agents**

(1) Public agents shall be entitled to be informed of the manners to legally challenge the disciplinary sanctions applied as a result of professional integrity testing results.

(2) Public agents shall have the following obligations:

a) not admit in their activity any corruption acts, corruption related acts and deeds of corruptive behavior;

b) immediately denounce to the competent bodies any attempt of being involved in the actions provided under letter a);

c) communicate any inappropriate influence to the leader of the public entity, in writing;

d) declare gifts according to the law in force.

**Article 7. Rights and obligations of public entities**

(1) Public entities shall have the following rights:

a) to be informed on the results of applying professional integrity tests to their employees, within the terms provided herein;

b) to deem the positive result of the professional integrity test as an additional reason to promote the public agent, without disclosing such reason.

(2) Public entities shall have the following obligations:

a) to inform public agents, against signature, of the possibility of being subject to the professional integrity test. The information shall be made when new employees are appointed, and in case of the public agents employed upon the coming into force hereof – within the term provided in the final and transitory provisions;

b) to record inappropriate influence cases, according to the regulation approved by the Government, and provide access to such information to the institutions performing professional integrity testing;

c) to provide access to gift registers to professional integrity testers.

**Article 8. Rights and obligations of professional integrity testers**

(1) Professional integrity testers shall have the following rights:

a) to determine, along with the coordinator of the professional integrity testing activity, under the conditions hereof, the public agents liable to testing and the testing frequency;

b) to be trained especially on the methods and means applied within testing;

c) to use within the professional integrity testing documents encoding the identity of persons, structures, organizations, rooms and transportation means, and the identity of the persons provided under Art.12 para.(2).

(2) Professional integrity testers shall have the following obligations:

- a) to keep the professional integrity testing activity confidential;
- b) to inform the leaders of public entities on the testing that were made through the coordinator of the professional integrity testing activity;
- c) to perform all the measures in order to prevent the potential negative consequences or prejudices of third parties related to the application of the professional integrity test;
- d) to ensure the destruction of the audio/video recordings made during the integrity test within the terms provided under Art.18 para.(1).

(3) The obligations of the professional integrity tester shall also reflect, accordingly, on the institution performing the professional integrity testing.

#### **Article 9. Guarantees and responsibilities**

(1) In case of a negative result of the professional integrity test, the tested public agents shall only be applied a disciplinary liability depending on the seriousness of the established deviations and according to the legislation regulating the activity of such public entities, observing the provisions of Art.16 para.(2).

(2) The results and materials of the professional integrity test may not be used as means of evidence in a criminal or minor offence trial against the tested public agent.

(3) The methods and means to test and set professional integrity tests shall not represent special investigation activities as provided by Law no.59 of March 29, 2012 on the special investigation activity.

(4) The use of the materials of the professional integrity test in a civil trial shall be approved as provided by the civil procedural legislation. The report on the professional integrity testing results and the materials of the professional integrity test may be used as evidence in a civil trial if they are pertinent, admissible and veridical, observing public interest, human rights and freedoms and the declassification conditions.

(5) The action of the professional integrity tester based on a justified risk, having the purpose of drawing the attention of the tested public agent shall not be a minor offence or offence if the professional integrity testing activity cannot be performed without involving this risk.

(6) If, during the performance of the professional integrity test, other illegal activities of the tested public agents or of third persons were established, the institution which made the professional integrity testing shall notify the competent body so that the measures established by the legislation in the field are taken.

## **Chapter II PROFESSIONAL INTEGRITY TESTING PROCEDURE**

#### **Article 10. Professional integrity testing initiation**

(1) Professional integrity testing is initiated by:

- a) The National Anti-corruption Center – regarding all the public agents within the public entities provided in the annex, except for the Information and Security Service;
- b) The Information and Security Service – regarding the employees of the National Anti-corruption Center;
- c) the internal security subdivision of the Information and Security Service – regarding its employees.

(2) The professional integrity testing initiation and the selection of the public agents to be subject to testing shall be made depending on:

- a) the risks and vulnerabilities to corruption identified in the activity of such public entities;

b) the held information and the notifications received by the institution making professional integrity testing;

c) the motivated requests of the leaders of the public entities provided in the annex.

(3) The decision on making the professional integrity testing of public agents within a public entity shall be made by the coordinator of the professional integrity testing activity without informing in advance the management of the targeted public entity. If necessary, the professional integrity testers shall collaborate with the representatives of the public entity in which the tested public agent activates under the conditions of this law and of the special normative rules regulating the cooperation in the field.

**Article 11.** Professional integrity testing coordination

(1) The professional integrity testing of public agents shall be coordinated by a person with a management function within the National Anti-corruption Center or the Information and Security Service.

(2) The coordinator of the professional integrity testing activity shall designate, on a confidential basis, for each professional integrity testing activity, professional integrity tester ensuring the performance of all professional integrity testing activities and in charge with drafting the professional integrity testing plan and submitting the reports with the results obtained further to testing activities.

(3) The professional integrity testing plan is a confidential document approved by the coordinator of the professional integrity testing activity and includes the following information:

- a) the testing initiator and the motivated decision to initiate the testing;
- b) the testing subjects;
- c) the forecast dissimulated operations;
- d) the place, duration, participants and the logistic assurance of the testing;
- e) the simulated virtual situations, the behavior hypotheses and the action variants of the professional integrity tester and the tested public agent;
- f) the actions based on a justified risk;
- g) other information relevant for making the testing.

(4) The professional integrity tester may change the professional integrity testing plan *ex officio* and/or as necessary, in case of occurrence of additional information. The coordinator of the testing activity shall be informed of the occurred changes.

**Article 12.** Means and methods to test and set professional integrity tests

(1) Professional integrity testers shall perform their activity on a confidential basis.

(2) In exceptional cases, when making the integrity test, other persons may also participate, subject to their prior consent and to the submission of the guarantees that they shall not disclose the performed activity.

(3) For the objective assessment of the professional integrity test result, it shall be registered on a mandatory basis by the audio/video means and the communication means in the tester's possession or used by the tester.

(4) When making the professional integrity test, documents supporting a dissimulated activity or the used story, including cover documents, may be used.

(5) Within professional integrity testing activities, transportation means, audio/video recording means, communication means and other technical means to covertly obtain the information, the National Anti-corruption Center and/or the Information and Security Service is/are equipped with may be used. If necessary, when the use of the means the National Anti-corruption Center and/or the Information and Security Service is/are equipped with is ill-suited or impossible, means from other sources may also be used subject to the prior consent of their owner/holder, but avoiding to inform them of the real purpose of using such means.

(6) In order to ensure the exact evidence in the professional integrity test, in case the tested public agents claim or accept the receipt of certain goods, services, privileges or advantages, professional integrity testers may send goods, offer services, grant privileges

and other advantages, which shall be indicated in advance in the professional integrity testing plan and coordinated according to Art.11.

**Article 13.** Report on professional integrity testing results and probative materials

(1) After having made the professional integrity test, the professional integrity tester shall draft a report on testing results which shall include the following information:

- a) the testing initiator;
- b) the description of the testing activities performed according to the testing plan and other relevant aspects;
- c) the behavior and the actions of the public agent subject to testing during the test;
- d) the findings on the vulnerabilities and risks determining or which may determine the tested public agent to perpetrate corruption acts, corruption related acts or deeds of corruptive behavior or admit inappropriate influences in exercising their work duties;
- e) the conclusions and proposals regarding the positive or negative result of the test.

(2) The report drafted under the conditions of para.(1) shall be concluded so as not to allow the disclosure of the persons involved in making the professional integrity test, the forces, means, sources, methods and activity plans of the National Anti-corruption Center and of the Information and Security Service and other information of limited accessibility.

(3) The original audio/video recordings made during the performance of the integrity test shall be attached to the report on the professional integrity testing results and maintained, on a mandatory basis, along with it. If the mentioned registrations include information classified as state secret, such materials shall be maintained and managed according to the legislation on the state secret protection.

### Chapter III

#### RESULTS AND CONSEQUENCES OF PROFESSIONAL INTEGRITY TESTING

**Article 14.** Positive result of the professional integrity test

(1) Shall be deemed as positive result of the professional integrity test the situation when the report on the testing results establishes that the tested public agent:

- a) proved professional integrity;
- b) communicated without delay to the management of the public entity the fact that a inappropriate influence was exercised upon them, that they were transferred goods, offered services, granted privileges or advantages.

(2) In case of a positive test result, the institution which made the professional integrity testing shall communicate such result to the management of the public entity in which the tested public agent activates, within 6 months from the testing date, ensuring confidentiality and conspiracy. The result communication shall be made through an official demarche without attaching the report on the professional integrity testing results or the copy of the audio/video recording of the made test.

(3) The leader of the public entity the tested agent is part of shall communicate the testing performance to the public agents within such entity without giving the name of the tested public agent, within 10 business days since the test result communication date.

**Article 15.** Negative result of the professional integrity test

(1) The situation when the report on the testing results establishes that the public agent did not prove professional integrity shall be deemed to be a negative result of the professional integrity test.

(2) In case of a negative test result, the institution which made the professional integrity testing shall send, within 10 business days since the test date, the report on the results of the professional integrity testing to the entity having functions to establish the disciplinary deviations perpetrated by such public agent, so that the disciplinary measures are applied according to the legal provisions.

(3) The institution which made the professional integrity testing shall provide access to the entity authorized to establish the disciplinary misconducts that were discovered to the audio/video recording of the made professional integrity test and to other materials confirming the negative test result. In order to ensure confidentiality and conspiracy, the image and voice of persons other than the tested public agent, the images of cars, restaurants and other backgrounds, and the sounds of the registered circumstances shall be presented so that they may not be recognized.

(4) Within 30 days from the receipt of the notification, the notified entity shall examine the materials on the negative professional integrity test and immediately inform the institution which made the test of the taken measures and the applied sanctions, providing a copy of such decision.

**Article 16.** Consequences of the negative result of the professional integrity test

(1) The disciplinary sanctions as a result of the negative result of the professional integrity test, including the dismissal of the tested public agent, shall apply according to the legislation regulating the activity of the public entity where he performs his activity.

(2) The application of the sanction of dismissal shall be mandatory if during the test it was established that the public agent approved the breaches provided under Art.6 para.(2) letter a).

(3) As of the date of receiving the notification regarding the negative result of the professional integrity test and until finalizing the disciplinary procedures, the public agent may not be dismissed based on the resignation application.

(4) When finalizing the disciplinary procedure, the employees of the public entity where the tested public agent activates shall be informed of the main aspects established in the testing process and of the applied sanctions.

(5) The goods received within the professional integrity testing or their equivalent shall be returned /recovered by the tested public agent who received them.

(6) The record on the professional integrity of public agents shall be kept by the National Anti-corruption Center and the Information and Security Service, which shall issue information upon request. The regulation on keeping and using such record shall be approved by the Government.

**Article 17.** Challenge of applied disciplinary sanctions

The disciplinary sanction applied further to the negative result of the professional integrity test may be challenged by the tested public agent in the administrative dispute court as provided by the legislation.

**Article 18.** Keeping the recordings made within professional integrity tests

(1) The audio/video recordings made within professional integrity testing are kept:

a) in case of a positive result – until the information of the employees hired in the public entity the public agent subject to testing is part of;

b) in case of a negative result– until the court decision remains final and irrevocable or until the expiry of the term provided for challenging the sanction, if the institution which performed the professional integrity testing holds no information on a possible challenge.

(2) After the expiry of the terms established under para.(1), the audio/video recordings made within the professional integrity test shall be destroyed.

#### **Chapter IV CONTROL AND FINANCING OF PROFESSIONAL INTEGRITY TESTING**

**Article 19.** Parliamentary control on professional integrity testing activity

(1) The parliamentary control on the professional integrity testing activity is exercised by the National security, defense and public order commission and the Legal, appointment and immunity commission.

(2) The National Anti-corruption Center and the Information and Security Service submit to the each of the commissions mentioned under para.(1), on an annual basis, until January 30, one report on the professional integrity testing activities, to include:

- a) the number of made professional integrity tests;
- b) the results of professional integrity tests;
- c) the number of challenges of applied disciplinary sanctions.

(3) The National security, defense and public order commission and the Legal, appointment and immunity commission may request, within their competence limits, any additional information on the activity of testing the professional integrity of public agents if they deem that the submitted reports are incomplete.

**Article 20.** Financing the measures to organize and perform professional integrity testing

The measures to organize and perform professional integrity testing and those to record, keep and systematize the information obtained within the testing are financed from the state budget within the limit of available means.

#### **Chapter V FINAL AND TRANSITORY PROVISIONS**

**Article 21.** Final provisions

This law shall come into force from its publication date and be enforced as follows:

- a) in case of the employees of the National Anti-corruption Center and of the competences of the Information and Security Service – from the publication date;
- b) in case of the employees of other public entities – after the expiry of the 6-month term from the publication date.

**Article 22.** Transitory provisions

(1) Within 10 days from the publication hereof, the public entities falling under it shall inform, under signature, public agents of the possibility to apply professional integrity tests. The refusal to sign shall not exonerate public agents from their disciplinary responsibility in case of a negative result of the professional integrity test.

(2) The financial resources necessary for the application hereof are provided in the budget of the National Anti-corruption Center and of the Information and Security Service.

(3) Until the application hereof, the National Anti-corruption Center shall verify public entities regarding the information of public agents according to para.(1), and the manner of keeping gift registers and inappropriate influence denunciation registers, granting them methodological support, if necessary.

(4) The Government of the Republic of Moldova, within 3 months since the enforcement hereof:

a) shall submit to the Parliament proposals on harmonizing the legislation in force with this law;

b) shall make its normative documents compliant hereto and ensure the adoption by the subordinated institutions of the normative documents necessary for the application hereof;



c) shall ensure, from available means, the financial and technical resources necessary for the immediate application hereof.

(5) The National Anti-corruption Center and the Information and Security Service shall submit, within 12 months since the coming into force hereof, to each of the National security, defense and public order commission and the Legal, appointment and immunity commission of the Parliament, one report regarding its implementation.

**THE PRESIDENT OF THE PARLIAMENT Igor CORMAN**

**Chişinău, December 23, 2013.**

**No.325.**

**PUBLIC ENTITIES**  
**whose employees are subject to professional integrity testing**

The Parliament Secretariat  
The Administration of the President of the Republic of Moldova  
The State Chancellery, including its territorial offices  
The authorities of the central specialized public administration (ministries, other central administrative authorities subordinated to the Government and the organizational structures in their competence area)  
The Superior Council of Magistracy, the colleges and bodies in its subordination  
The Constitutional Court  
The Courts at all levels  
The Prosecution bodies at all levels  
The Information and Security Service  
The State Protection and Security Service  
The Center for Human Rights  
The Court of Accounts  
The Central Electoral Commission  
The National Integrity Commission  
The National Financial Market Commission  
The National Bank of Moldova  
The National Center for the Protection of Personal Data  
The Audiovisual Coordinating Council  
The Competition Council  
The Council for preventing and eliminating discrimination and ensuring equality  
The National Agency for Energetic Regulation  
The National Agency for Regulation in Electronic Communications and Information Technology  
The National Social Insurance House  
The State Archive Service, including the state central archives  
The National Council for Accreditation and Attestation  
The Supreme Council for Science and Technological Development  
The Civil Service Center  
The Special Courier State Service  
The local public administration authorities

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