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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

REPUBLIC OF MOLDOVA

**LAW ON THE AMENDMENTS TO THE ELECTORAL CODE OF THE
REPUBLIC OF MOLDOVA AND OTHER RELATED LAWS
CONCERNING INELIGIBILITY OF PERSONS CONNECTED TO
POLITICAL PARTIES DECLARED UNCONSTITUTIONAL**

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on the amendment of certain normative acts (the implementation of certain considerations of the Decision of the Constitutional Court no. 10/2023 on the check of the constitutionality of the Political Party ‘Șor’)

Parliament adopts this organic law.

Art. I. – The Electoral Code no. 325/2022 (Official Journal of the Republic of Moldova, 2022, no. 426–427, art. 770), with subsequent amendments, is amended as follows:

1. In article 16, para. (2) will be completed with subpara. e) with the following text:

“e) the individuals who, on the day of the pronouncement of the Decision of the Constitutional Court on the declaration of unconstitutionality of a political party, hold the quality of member of the executive body of the political party declared unconstitutional, as well as the individuals that hold elective functions on behalf of the unconstitutional political party, for a period of 5 years from the day of the pronouncement of the decision of the Constitutional Court.”

2. In article 54, para (7) will read as follows:

“(7) The violation of the provisions of para. (5) and (6) of this article shall be found by the competent electoral body, including with the support of the relevant bodies and of the judicial bodies, and the sums received/used under the conditions of the above-mentioned paragraphs shall become revenue to the state budget pursuant to a decision of the Central Electoral Commission. The administrative act finding the violations, and, as the case may be, enforcing the sanctions provided for in art. 102 para. (2) subparas a), c) or e), issued by the electoral body, from the moment in which it remains final, shall be brought to the notice of judicial bodies for the purpose of prosecution on contraventional or criminal grounds, as the case may be, under the conditions of art. 103 and 104.”

3. In art. 68 para (1) subpara f), 1st dash, the text “art. 16 para. (2) subparas c) and d)” shall be replaced by the text “art. 16 para. (2) subparas. c)–e)”.

4. In article 70 paragraph (4), the first sentence is completed with the text “, as well as attributes of political parties declared unconstitutional”.

5. In article 73 paragraph (3), the fourth sentence will read as follows: “The identicalness or similarity of the identification elements of electoral symbols, including of those used by political parties declared unconstitutional shall be not allowed.”

6. In article 78, paragraph (5) is completed with subparagraph d) to read as follows:

„d) students and pupils with voting rights enrolled in educational institutions in the locality where they have had their registered domicile or temporary residence for less than 3 months before the date of the first round of elections, being obliged to present their identity card with its appendix and their student/pupil's ID bearing the information about the educational institution in which they are enrolled in the respective locality.”

7. In article 02, paragraph (5) is completed with subparagraphs e) and f) that read as follows:

„e) the failure to respect the restrictions established in art. 16 para. (2) subparas. c)–e) and the failure to declare them by the candidate under the conditions of art. 68 para. (1) subpara. f);

f) the violation of the provisions of art. 54 para. (6) subpara. a).”

Art. II. – Law no. 294/2007 on political parties (Official Journal of the Republic of Moldova, 2008, no. 42–44, art. 119), with the subsequent amendments, is amended as follows:

1. Article 4 is completed with paragraph (6) reading as follows:

„(6) The attributes of political parties declared unconstitutional by the Decision of the Constitutional Court may not be used by other political parties, electoral blocs, other electoral contenders, participants in a referendum or initiative groups. The finding of the use of such attributes is a ground for the refusal to register the political party by the Public Service Agency, in accordance with art. 8 para. (3) of this law or, as the case may be, for the refusal to register an electoral bloc, electoral contender, participant in a referendum or initiative group by the competent electoral body, pursuant to the provisions of arts. 64, 68, 114, 140, 192, 200, 221 and 231 of the Electoral Code no. 325/2022.”

2. Article 22:

In paragraph (2), subparagraph e) is abrogated;

Paragraph (3) will read as follows:

„(3) The final decision of the judicial court on the dissolution of the political party and the decision of the Constitutional Court declaring unconstitutional a political party shall be submitted to the Ministry of Justice.”

the article is completed with paragraph (3¹) reading as follows:

„(3¹) In the case of the dissolution of the political party by judicial decisions, the Ministry of Justice shall request from the Public Service Agency to record in the State Register of legal entities the initiation of the procedure of liquidation of the respective political party. In case of the declaration of the unconstitutionality of a political party, after the receipt of the decision of the Constitutional Court, but not later than 3 days from this date, the Ministry of Justice shall request from the Public Service Agency to record in the State Register of legal entities the act of declaring the unconstitutionality of the respective political party.”

in paragraph (4), the word “dissolution” is replaced by the word “liquidation”, and after the words “of the final decision of the tribunal” the text “or of the decision of the Constitutional Court on the declaration of the unconstitutionality of a political party”;

the article is completed with paragraph (4¹) reading as follows:

„(4¹) The commission on the liquidation of the political party declared unconstitutional, constituted in accordance with para. (4), shall request from the Public Service Agency to record in the State Register of legal entities the initiation of the procedure of liquidation of the respective party.”

3. Article 23:

in paragraph (3), the text “and d)” is excluded;

the article is completed with paragraphs (3¹) and (5¹) reading as follows:

„(3¹) If the liquidation of the political party is carried out pursuant to art. 22 para. (1) subpara. d), the Ministry of Justice shall appoint one or more members of the liquidation commission, constituted pursuant to art. 22 para. (4), who shall exercise the tasks of liquidators. The distribution of the tasks among the liquidators shall be decided within the liquidation commission. The information regarding the persons appointed as liquidators shall be communicated to the Public Service Agency, by means of the same request of the liquidation commission provided for in art. 22 para. (4¹), and the Agency shall record in the State Register of legal entities the official quality of these persons.”

“(5¹) The provisions of Art.230 para (5) of Civil Code no.1107/2002 shall not be applied in case of political parties declared unconstitutional. If the inventory accounts for an excess of liabilities over assets, the liquidator shall continue the liquidation procedure without initiating the insolvency process against the political party declared unconstitutional.”

Para (7) will read as follows:

“(7) After closing the procedure of liquidation of the political party, the liquidators shall draw up the liquidation balance sheet and submit it to the liquidation commission for approval with the vote of the majority of its members, except for those who have been appointed as liquidators and have participated in drawing up the balance sheet.”

Art. III. – The Criminal Code of the Republic of Moldova no.985/2002 (republished in the Official Journal of the Republic of Moldova, 2009, no.72–74, Art. 195), with further amendments, is amended as follows:

1. Article 181¹:

the title of the Article will read as follows:

“Article 181¹. Electoral corruption”;

In para (1), in the provision, after the words “the voter”, the words “or the supporter” are inserted.

2. In Article 181², para (5) will read as follows:

“(5) Knowingly accepting the financing of the political party, initiative group or electoral contender from an organised criminal group or criminal organisation (association)

shall be punished with imprisonment of 6 to 10 years with a fine of 6000 to 8000 conventional units and deprivation of the right to hold certain public positions or unfold a certain activity for a period of 7 to 10 years, and the legal entity shall be punished with a fine of 15000 to 40000 conventional units with deprivation of the right to unfold a certain activity or with the liquidation of the legal entity.”

3. In Article 181³, in the sanction, the text “with imprisonment of 3 to 5 years” shall be replaced with the text “with imprisonment of 3 to 6 years”.

4. The Code is supplemented with Articles 324¹ and 325¹ reading as follows:

“Article 324¹. Passive political corruption

(1) Claiming, accepting or receiving, personally or through an intermediary, by a public person in the exercise of the mandate obtained following the elections, goods, services, privileges or advantages in any form, undue to them, in order to resign from (leave) a political party and/or join another political party

shall be punished with imprisonment of 3 to 7 years with a fine of 4000 to 6000 conventional units.

(2) The same actions committed:

a) with extortion of goods or services listed under para (1);

b) in large proportions

shall be punished with imprisonment of 5 to 10 years with a fine of 6000 to 8000 conventional units and with deprivation of the right to hold certain public positions or unfold a certain activity for a term of 7 to 10 years.

(3) Actions provided in para (1) or (2), committed:

a) by an individual holding a position of public dignity;

b) in particularly large proportions;

c) in the interest of an organised criminal group or a criminal organisation,

shall be punished with imprisonment of 7 to 15 years with a fine of 8000 to 10000 conventional units and with deprivation of the right to hold certain public positions or unfold a certain activity for a term of 10 to 15 years.”

“Article 325¹. Active political corruption

(1) Promising, offering or giving, personally or through an intermediary, to a public person in the exercise of the mandate obtained following the elections, goods, services, privileges or advantages in any form, undue to them, in order to resign from (leave) a political party and/or join another political party

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shall be punished with imprisonment of up to 6 years with a fine of 2000 to 4000 conventional units, and the legal entity shall be punished with a fine of 6000 to 10000 conventional units with deprivation of the right to unfold a certain activity.

(2) The same actions committed:

a) by two or more individuals;

b) in large proportions

shall be punished with imprisonment of 3 to 7 years with a fine of 4000 to 6000 conventional units, and the legal entity shall be punished with a fine of 10000 to 14000 conventional units with deprivation of the right to unfold a certain activity.

(3) Actions provided under para (1) or (2), committed:

a) in particularly large proportions;

b) in the interest of an organised criminal group or a criminal organisation,

shall be punished with imprisonment of 6 to 12 years with a fine of 6000 to 8000 conventional units, and the legal entity shall be punished with a fine of 14000 to 18000 conventional units with deprivation of the right to unfold a certain activity or with the legal entity liquidation.

(4) The individual who has promised, offered or given the goods or services listed in Article 324¹ shall be cleared of criminal liability if these have been extorted from them or if the individual has made a self-denunciation without knowing that the criminal prosecution bodies were aware of the crime committed.”

Art. IV. – (1) This law shall enter into force on the date of its publication in the Official Journal of the Republic of Moldova.

(2) The Central Electoral Commission shall, within 30 days from the date of this law’s entering into force, bring its normative acts necessary for the organising and carrying out of elections in line therewith.

VICE PRESIDENT OF THE PARLIAMENT

MIHAIL POPȘOI

Chișinău, 31 July 2023.

No. 220.