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on transparency in the decision-making process

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Chapter I

GENERAL PROVISIONS

Article 1. Object of regulation

The present law sets out the terms that are applicable to ensure transparency in the decision-making process within the central and local public administration authorities, other public authorities, and regulates their relations with citizens, with associations created under law, other parties concerned, with the view to participate in the decision-making process.

Article 2. Notions

The following notions are accepted to give meaning to the present law:

Association constituted in compliance with the law – an association constituted under the terms of law or informal association of citizens, which is created to express, to propose, and to promote the common interests of its members (hereinafter to be referred as “association”);

Public hearing – a meeting, during which the public authorities falling under the effect of this law learn the opinions of citizens, of associations, other concerned parties regarding a draft decision, which is submitted for public debate;

Citizen – an individual who holds the citizenship of the Republic of Moldova, as well as foreign citizen or stateless person, with exceptions as provided by the law;

Public consultation – a mutual communication between citizens, associations, other parties concerned, on the one hand, and the public authorities falling under the effect of this law, on the other hand, and both sides finally become informed and able to influence the decision-making process;

Decision – a juridical act adopted by the public authorities that fall under the effect of this law;

Public debate – a modality to consult the public opinion, with arguments regarding the need to adopt a given draft decision that is subject to consultation and with various opinions while citizens and associations, and other concerned parties may present their recommendations regarding the draft decision;

Concerned party – citizens, associations, legal entities under private law, which will be concerned, may be concerned by the decision, and which are able to influence the decision-making process;

Decision-making process – a procedure of elaboration and adoption of decisions by public authorities that fall under the present law;

Recommendation – any suggestion, proposal or opinion with consultative nature, which is expressed orally or in written/print form by citizens, associations, and other concerned parties regarding the draft decisions;

Transparency – the offering of all information regarding the activities of the public authorities under this law to citizens, associations, and other concerned parties by the public authorities, during the process of elaboration and adoption of decisions.

Article 3. Field of enforcement of present law

(1) The field of enforcement of the present law is constituted by the total amount of legal relations as established within the decision-making process between citizens, associations, other concerned parties, on one hand, and the public authorities, on the other hand.

(2) Following entities fall under the incidence of this law:

a) central public authorities: the Parliament and the authorities created by it (National Agency for Competition Protection; Audiovisual Coordinating Council; Central Election Commission; National Financial Market Commission etc.), the President of the Republic of Moldova, the Government, the ministries, their public autonomous services, other central administrative authorities, and the regulatory authorities (National Agency for Energy Regulation; National Agency for Telecommunication and Informatics Regulation etc.);

b) local public administration authorities: local councils (of village, commune, town, municipality, district significance), mayors of villages (communes), towns (municipalities), chairpersons of districts, decentralized public services, and institutions of local significance.

(3) Also, under the incidence of the present law, there are legal entities under public law and private law that administrate and use public funds.

(4) The public authorities will consult the citizens, associations, and other concerned parties about the drafts of legislative and administrative acts that may produce social, economic, environmental impact (on lifestyle, human rights, culture, health and social welfare, local communities, public services).

(5) The provisions of this law are not applicable during the decision-making process and sittings of public authorities where official information with limited public / restricted access is examined, as stated in the law.

Article 4. Goal of present law

The goal of the present law is:

a) to ensure a multilateral information over the decision-making process within the public authorities;

- b) to ensure the direct participation of citizens, associations, and other concerned parties in the decision-making process;
- c) to optimize the decision-making process within the public authorities;
- d) to increase the responsibility of the public authorities towards citizens and society;
- e) to encourage the active participation of citizens, associations, other concerned parties in the decision-making process;
- f) to ensure the transparency of public authorities.

Article 5. Principles of transparency in decision-making process

Following are the principles upon which transparency in the decision-making process is based:

- a) information – as established – of citizens, associations, and other concerned parties about the start of decision elaboration and about the public consultation on the respective draft decisions;
- b) equal chances for participation of citizens, associations, and other interested parties in the decision-making process.

Article 6. Rights of concerned parties

The citizens, associations, and other concerned parties exert the following rights:

- a) to participate in the decision-making process at any stage of it, as stipulated by the present law;
- b) to request and to obtain information regarding the decision-making process, including the right to receive the draft decisions and any additional relevant materials, as provided by the Law on Access to Information;
- c) to propose the public authorities to start the elaboration and adoption of decisions;
- d) to present the authorities' recommendations regarding the draft decisions, which are made available for debate.

Article 7. Obligations of public authorities

The public authorities are obliged, on a case-by-case basis, to take necessary measures in order to ensure the possibilities for participation of citizens, associations, and other concerned parties in the decision-making process, including by:

- a) disseminating information about the annual programs (plans) of activity by placing these on official websites of public authorities, inside / outside their headquarters within a space accessible for the public and / or by releasing the information to the central or local mass media, on a case-by-case basis;
- b) informing about the organization of the decision-making process as established;
- c) institutionalizing the mechanisms of cooperation and partnership with society;

d) collecting and examining the recommendations of citizens, associations, and other concerned parties with the purpose to use them in elaborating draft decisions;

e) consulting the opinion of all stakeholder parties in examining the draft decisions, in compliance with this law.

Chapter II

TRANSPARENCY IN THE DECISION ADOPTION PROCESS

Article 8. Stages of transparency enforcement

The main stages of insuring transparency in the decision-drafting process are:

a) informing the public about the start of the process of elaboration of decision;

b) supplying the draft decision and the materials relating to it to the concerned parties;

c) consulting the citizens, associations, and other concerned parties;

d) examining the recommendations from citizens, associations, and other concerned parties who are interested in the process of draft decision elaboration;

e) updating the public about the decisions adopted.

Article 9. Announcement about the start of the decision elaboration process

(1) While starting the process of elaboration of a decision, at least 15 business days before this decision is due to be examined, the public authority will place an appropriate announcement on its official website, will send it to the concerned parties via electronic mail, will post it inside / outside their headquarters within a space accessible for the public and / or by releasing the information to the central or local mass media, on case-by-case basis;

(2) The announcement regarding the decision elaboration will contain, mandatorily:

a) the argument(s) about the need to adopt the decision;

b) the deadline, the place and the way citizens, associations, and other concerned parties may access the draft decision and may send recommendations;

c) contact details of the persons who are responsible for collecting and examining the recommendations.

Article 10. Access to the draft decisions

The public authority insures the access to the draft decisions and any additional relevant materials in the way stated by the law.

Article 11. Consultation between the parties concerned

(1) The consultations of citizens, associations, and other concerned parties are insured by the public authority that is responsible for the elaboration of the draft decision as follows: public debates,

public hearings, opinion polls, referendum, expert interviewing, and creation of standing or ad-hoc task forces involving civil society representatives.

(2) A consultation is done:

- a) at the initiative of the public authority responsible for the elaboration of the draft decision;
- b) at the initiative of the public authority, according to its competence;
- c) at proposal from citizens, associations, and other concerned parties.

(3) The procedures of consultations with citizens, associations, and other concerned parties are established by the Parliament, the President of Moldova, and by the Government.

Article 12. Reception and examination of recommendations

(1) The recommendations of citizens, associations, and other concerned parties shall be collected by the public authority responsible for the elaboration of the draft decision as follows:

- a) the recommendations in oral or written / printed form, which are presented during consultations, shall be reflected in the records of the respective sittings, concluded appropriately;
- b) the recommendations in written / printed form, which are collected individually, shall be registered in accordance with the legislation.

(2) The term of presentation of recommendations over the draft decisions shall be at most 15 business days from the date of public release of the announcement regarding the start of decision drafting, with the possibility to extend this term, on a case-by-case basis.

(3) The recommendations are examined by the public authority, which is responsible for the elaboration of the draft decision.

(4) The public authority shall file a dossier regarding the elaboration of the draft decision, which will contain the records of consultations with citizens, associations, and other concerned parties, their recommendations and conclusions. The dossier regarding the elaboration of the draft decision is made accessible for all citizens, associations, and other concerned parties.

(5) The recommendations in a shortened form (synthesis) shall be posted on the official website of the public authority, will be posted inside / outside its headquarters within a space accessible for the public and / or will be released to the central or local mass media, on case-by-case basis.

(6) The draft decision is passed over for examination along with the recommendations in shortened form (synthesis).

(7) If the citizens, associations, and other concerned parties have not presented any recommendations within the established term, and the public authorities finds reasons not to organize any consultations, the draft decision may advance further to the adoption procedure.

Chapter III

TRANSPARENCY IN THE DECISION ADOPTION PROCESS

Article 13. Participation in public sittings

- (1) The sittings within the public authorities regarding the adoption of decisions are open to public, except for circumstances stipulated by the law.
- (2) The announcement regarding the organization of a public sitting shall be placed on the official website of the public authority, will be posted inside / outside its headquarters within a space accessible for the public and / or will be released to the central or local mass media, on case-by-case basis. It will contain the date, hour, and place of the sitting, as well as its agenda.
- (3) The concerned persons will participate in the public sittings within the limit of seats available in the sitting room and in the order of priority as established by the person presiding the sitting, taking into consideration the interest of citizens, associations, and other concerned parties towards the subject of sitting.
- (4) The transparency in the decision-making process in the case of the Parliament is ensured in compliance with the regulation of its functioning.
- (5) The obstruction of access to public sittings of the public authorities or the compromising of the decision-making process by hiding away the information of public interest or by falsifying this information is sanctioned in accordance with the law.

Article 14. Adoption of decisions under emergency circumstances

- (1) In the case of emergency situations, which are determined by the law, the urgent draft decisions may pass the elaboration and adoption process without observing the stages envisaged by the law.
- (2) The arguments to the necessity to adopt a decision urgently, without consulting the citizens, associations, and other concerned parties shall be communicated to the public within maximum 10 days since adoption, by placing them on the official website of the public authority, by posting them inside / outside its headquarters within a space accessible for the public and / or releasing them to the central or local mass media, on case-by-case basis.

Article 15. Information of the public about adopted decisions

The public authorities shall ensure the access to adopted decisions by placing them on the official website of the public authority, by posting them inside / outside its headquarters within a space accessible for the public and / or releasing them to the central or local mass media, on case-by-case basis, as well as other ways determined by the law.

Article 16. Reporting on transparency in decision-making

- (1) The public authorities shall elaborate and present to the public annual reports regarding the transparency in the decision-making process, which will contain:
 - a) the number of decisions adopted by the respective public authorities during the year in question;
 - b) the total number of recommendations collected during the decision-making process;
 - c) the number of consultative meetings, of public debates, and of public sittings occurred;
 - d) the number of cases in which the actions or decisions of public authorities have been contested

over the failure to respect the present law and sanctions applied for violation of the present law.

(2) The annual report about transparency in the decision-making process shall be made public under the conditions of law not later than the end of the first trimester of next year.

Chapter IV

FINAL AND TRANSITORY PROVISIONS

Article 17. Enactment of present law

The present law takes effect in three months after the date of publication.

Article 18. Organizing the enforcement of present law

The Government, within three months:

- a) shall submit proposals to the Parliament regarding the adjustments of other laws to the present law;
- b) shall bring the regulatory acts in compliance with the present law;
- c) shall elaborate and adopt regulatory acts, which are necessary for enforcement of the present law.

CHAIRMAN OF PARLIAMENT

Marian LUPU

Chisinau, 13 November 2008.

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