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# Legislation for non-profit organizations in the Republic of Moldova

## Overview

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### 1. Provisions Of The Main Laws

A. In Moldova, there are three effective legislative acts, entirely devoted to regulation of non-profit organizations' activity (with the exception of political parties and religious organizations/confessions, for which separate laws exist). These are the laws "On Philanthropy And Sponsorship" (1995) (On PS), "On Public Associations" (On PA) and "On Foundations" ("On F") (not yet promulgated as of the end of September 1999, however, in this overview we assume that it has already been effective). The Law "On PS" because of declarative character of the most clauses almost was not practiced. The Law "On PA" is a major one; registration, activity, certification and liquidation of public associations takes place in accordance with this law. By virtue of the fact that amendments, ruling out the possibility to attribute foundations to associations, were made to the Law "OnPA" simultaneously with the adoption of the Law "OF", these two Laws are in full harmony with each other. There is a necessity to annul the Law "On PS", in principle, but this does not happen because of the fact that for some people (creative intelligentsia and the like) this law plays the role of moral support.

Moldova has legislation and normative base only on the national level. Having said that, it should be admitted, that Prydniestrovie Moldavian Republic not recognized by the international community has its own legislation, radically different from Moldavian, in this area as well in others.

B. The Constitution of Moldova with relation to the right to association refers only to political parties and trade unions (Clause 41 and 42). Therefore the right to association shall be provided through the provision of Clause 4 (2) of the Constitution, by which "In case of discrepancies between major human rights pacts and treaties, one of whose parties is Moldova, and domestic laws, international norms shall have the priority. Since Moldova has ratified both the UN Human Rights Declaration and the Council of Europe Convention on Human Rights, these documents have become a part of national legislation. The right to the freedom of opinions and expressions, creativity, the right to information on public affairs, to freedom of worship, freedom of assembly, freedom of petition are reflected in the Constitution.

*C. Types of organizations*

In accordance with the Law "On PA", the following types of associations can be created in Moldova: public association [membership association of physical and/or legal persons (public associations only)], public movement [association of physical and/or legal persons (public associations only, acting in a capacity of participants, without their fixation], and public establishments [being created by public associations for fulfillment of specific non-commercial tasks of an establishment]. Besides this, there is a possibility to create a union (association) of public associations. A foundation, according to the Law "On F" is a non-profit <non-commercial> organization, not having membership, created on the basis of a constituent document by one or several physical and/or legal persons, endowed by property, detached and separated from property of founders, and which intended to achieving non-commercial objectives provided for by a statute. Both public associations and foundations shall acquire a status of a legal person after their registration. Both former and latter are clearly divided into socially useful and those serving private benefits. Socially useful associations and foundations are awarded with a State Certificate on passing certification by a Certification Commission acting under the auspices of the Ministry of Justice. Activity of political parties and religious organizations is regulated by separate laws, i.e. "On parties and other social and political organizations" and "On worships". Laws "On trade unions" and "On patronage" i.e. on associations of employers are also being prepared for adoption.

#### D. Objectives

Non-profit legal persons of private law can be created in forms of public associations and foundations [without taking in account political parties and religious organizations]. However there are some contradictions in legislation, when, for instance, any educational institution is ultimately declared as non-profit organization according to the Law "On education". Along with that, a majority of private educational institutions are registered as limited liability companies or joint stock companies and in case of their liquidation <their> property shall be distributed among shareholders and founders, which comes in contradiction with a definition of non-profit organization, for the first time given in the Tax Code (1997) -- as an organization which does not have profit-making as a main goal of activity and which does not distribute profit earned among participants, founders and members (Clause 12). The same applies, to a certain extent, to non-governmental pension funds, which are declared by appropriate law as non-profit organizations. Generally speaking, by virtue of the fact that it is said clearly in the Tax Code (Clause 52), that non-profit organizations (NPO) shall be exempt from income tax, and a procedure of certification relates only to public associations and foundations, this makes it attractive to lobby for ascribing to NPO category a quite broad circle of organizations, including those where distribution of profit among participants takes place.

#### *E. Requirements to the procedure of registration and membership in NPO*

National and international public associations, as well as all foundations, are registered in the Ministry of Justice, and local PA are registered by local self-governance bodies. Any LLCs, including, for instance, educational institutions willing to be LLC or JSC, are registered with the Registration Chamber under the Ministry of Justice. Foreign citizens and legal persons (associations) may be members of Moldavian public associations. Today's legislation does not have any limitations in this context. In relation to founding of public associations and foundations there

are no such limitations. Only persons permanently residing in Moldova may be directors of public associations or members of their control and auditing bodies. Not less than a half of members of a foundation council have to be citizens of Moldova. Umbrella organizations can be established in a form of public association unions. One legal person -- a public association or three physical persons is sufficient for establishing a public association. One physical or legal person is sufficient for establishing a foundation.

In order to get registered, a public association shall submit a Statute to a registering agency. The statute shall provide for the following:

- a) organizational and legal form of the association;
- b) name of the association;
- c) legal address of the association and territory, within the limits of which it executes its activity;
- d) goals and objectives of the associations, methods of achieving them; a period, for which the public association is to be established;
- e) terms and procedures of enrollment into membership of the association and leaving it (if a fixed membership takes place);
- f) rights and duties of the public association members (if a fixed membership takes place);
- g) structure of the public association, a procedure of its founding; exact names, structures, competence and terms of powers of governing, executive and control/auditing bodies of the association, their place of location;
- h) procedure of statute approval and making amendments;
- i) sources, procedure of formation and usage of property and other assets; membership fees amount (if a fixed membership takes place); a body, competent to make decisions on procurement, distribution and alienation of property;
- j) procedure and terms of convocations of general meetings, conferences, congresses;
- k) forms of participation of the public association in affairs of society and state;
- l) procedure of formation, status, structure and methods of activity of primary organizations of the public associations;
- m) main parameters of financial report and a way of its publications;
- n) procedure of reorganization and termination of activity of the public association.

A statute of a public association may contain a description of the association's symbolics and other provisions relating to the association activity, which do not contradict legislation.

In order to register a statute of a public association, within one month term from a day of a statute approval, the following documents, a list of which may not be enlarged, shall be submitted to an appropriate government body:

- a) an application, signed by all members of a managing body with indicating a place of residence of each of them;

b) two copies of statute;

c) two copies of a protocol of a founding convention (conference) or general meeting, which approved a statute of a public association.

A protocol shall contain information on establishing a public association, on approval of its statute, on elections of directing and control/auditing bodies;

d) information about founders of a public association: for physical persons -- family name, first name, year of birth, place of residence, citizenship (to be attested by their signatures); for a public association -- a copy of certificate of state registration of a statute of this association, an extract from a protocol of a meeting of an authorized directing body of a public association with a decision to establish a new public association, and a copy of founding agreement in case of establishing a public institution or a union (association) of public associations;

e) a statement of a citizen, or in case he is dead -- a statement of his relatives on an agreement to use a personal name of the citizen in a name of a public association;

f) a decision of a supreme body of a public association on vesting a directing or executive body with a right to represent the association in a process of registration;

g) a document, confirming location of a public association;

h) a bank document, confirming a payment of a registration fee.

In order to register a foundation, within one month term from a day of signing by a founder (founders) an act of establishing a foundation, the following documents, a list of which may not be enlarged, must be submitted:

a) an application for registration, that contains information on a foundation goals, estimates of assets, necessary to achieve the goals as well as a procedure of creating the assets. The application shall be signed by all members of the foundation council with indication of a place of residence of each member;

b) two copies of a foundation statute;

c) two copies of an act of establishing a foundation;

d) a bank document, confirming a payment of a registration fee.

e) documents confirming a transfer of property to a foundation;

f) a written agreement of relatives of a physical person in case of using a personal name of the person in a name of a foundation;

g) a document, confirming location of a foundation;

h) a document, attesting that a foundation name is correct;

i) a registration paper on giving to a foundation a unified identification code for organizations.

In order to register affiliations and representative offices of foreign foundations it is necessary to submit a decision of a foundation governing body on establishing an affiliation or a representative office indicating a person authorized by a foundation to represent the latter in the Republic of

Moldova; a foundation statute with its translation into a state language <Moldavian>, as well as documents, listed above in paragraphs a), b), d), e), g), h) and i).

A registration fee for registration of public associations and foundations amount to three minimum salaries (i.e. approximately \$5 in September 1999). An initial authorized capital is not required to establish PA; as for a foundation, an initial authorized capital has to constitute an amount sufficient to implement foundation goals, but can not be less than two hundred minimum salaries (i.e. approximately \$380).

A refusal to register a statute of a public association is possible on the basis of the following exceptional reasons:

- a) a Statute contradicts Constitution of the republic of Moldova, this Law and other legal acts;
- b) requirements stated in a decision to postpone registration of a statute have not been met within a three month term;
- c) a statute of a public association with the same name has been registered earlier;
- d) an application on registration of a public association is submitted before a year elapsed from the day when a court decision on termination of activity of the indicated association has come in legal effect;
- e) a registering agency ascertained that documents submitted by an association contain doubtful information;
- f) a name of public association insults social moral, national and religious feelings of citizens.

A refusal to register a statute because of the reason of non-expediency of establishing an association or because a legal address, given to a public association is a place of residence of a citizen, shall not be permitted.

In case of refusal to register a statute, a public association founders shall be informed about this in written within terms stipulated for registration with indicating motives for refusal.

A refusal to register a statute is not an obstacle for repeated submission of documents for registration.

A consideration of a repeated application to a registering agency and decision-making as to this application shall proceed in general order provided for by this law, including a payment of a registration fee.

Registration of a foundation may be refused in case, if :

- a) goals of a foundation are illegal or its activity can cause damage to principles of a lawful state, sovereignty, independence and territorial integrity of the Republic of Moldova as well as lawful order and norms of moral;

b) requirements stated in a decision to postpone registration of a statute have not been met within a three month term;

e) a registering agency ascertained that documents submitted by an association contain doubtful information;

c) a statute of a public association with the same name has been registered earlier;

A notice on a decision to refuse to register shall be given to an applicant within a three day term.

A decision to refuse to register a foundation within a stipulated term or because of motives considered by an applicant as ungrounded, may be appealed to a court instance within a month from a day of making such a decision.

A refusal to register a foundation because of the reason of non-expediency <no-purpose> of its establishing shall not be permitted.

A refusal to register a foundation is not an obstacle for repeated submission of documents for registration provided the reasons constituted the ground for making a decision to refuse to register, have been eliminated. A repeated <new> consideration of documents shall be made in general order with collection of a registration fee.

In accordance to the Law "On PA", the Ministry of Justice maintains a State registry of public associations. Bodies of local public governance maintain a registry of local public associations.

Data on registration of such associations shall be transferred to the Ministry of Justice within a ten day term. A mandatory accounting of initial structural sections of national and international public associations shall be maintained according to their locations by local public governance bodies as well. Information to be included into the State Registry of public associations shall be a subject of mandatory publication in official press organs of the Republic of Moldova by the end of the second quarter of every calendar year according to the data of the previous calendar year.

According to the new Law "On F", the State Registry of PA, in six month after the Law on foundations coming in effect, shall become a constituent part of the State Registry of non-profit organizations, whose holder is the Ministry of Justice. The Registry data are to be published in official press.

#### *E. Main jurisdictions.*

NPO rights and duties, with small exceptions relating to their commercial activity not connected with the statutory goals, coincide with rights and duties of other subjects of private law. For instance, rights of PA are protected by quite a detailed Law "On PA". Protection of a citizen's right to association shall be exercised in course of state surveillance over law observance, whether in court or administrative order. PA themselves possess the right to apply to court to protect their rights and legitimate interests, and what is especially important, to protect socially significant

interests. Ungrounded interference into public association activity by state bodies, organizations or their officials ... shall not be permitted therewith, exempt cases when this right is directly provided for by legislation (CL 10 of Law "On PA").

#### *F. Membership organizations*

In Moldova, public associations established in a form of public organizations, are membership organizations. Procedure of members' expulsion may be stipulated in an organization statute. Legislator therewith leaves for discretion of each organization a right to determine reasons for and procedures of expulsion.

### *3. Management*

According to the Law "On PA", a supreme body of governance of public movement (PM) and a public organization (PO) is a congress (a conference) or a general meeting of movement participants or members of an organization. Permanently acting governing body of PM (PO) is an elected collegiate body, accountable to the congress (conference) or a general meeting, that after PM registration exercises rights of a legal person on behalf of public movement (PM) and exercises its duties in line with a Statute (Cl. 6 and 7).

Persons appointed by founders govern a public institution (PI).

In line with founding documents, a collegiate body may be established under the auspices of PI. The collegiate body, being appointed or elected by a founder (founders), may determine the content of PI activity, have a right to advisory vote with a founder (founders), but does not have the right to be in command of PI property, unless this right is vested with him by a founder (founders).

A subject of ownership for all property in PM therewith is a permanently acting elected collegiate body possessing rights of legal person, while a subject of ownership for all property in PA is a PA per se, and its individual members do not have the right of ownership to a share of property. As for PI property, a subject of ownership is a PI founder -- PA, and this constitutes a radical difference between PI and foundation, where a foundation per se acts as a subject of ownership right.

A public association (Cl.15) must, besides governing bodies, have executive and control/auditing bodies.

Issues relating to a procedure of voting, rights and duties of governing bodies, personal responsibility of governing body for causing damage to another organization or to third parties and prevention of conflict of interests and making a deal with itself are left by a legislator to discretion of an organization per se, which may provide those in a statute.



A supreme body for foundation governance by Law on PF, is a foundation council (a board of directors). A founder may not be a member of a foundation council, his duty is only to appoint a composition <staff> of the first council. Rotation of a council staff is mandatory, therewith council member mandate duration may not exceed five years. A foundation must have a control/auditing body. A foundation may have a board of trustees, carrying out consultative functions, as well as other executive bodies in accordance with the statute. The Law "On F" provides for prevention of conflict of interests, including obligatory declaration of any payments and services to the benefit of board member relatives and other foundation bodies as well as foundation staff, and incompatibility of a right to use a foundation assets and service with being in these offices. By law, members of Government and civil servants, whose duties include state policy implementation in the areas similar to goals for which a foundation has been established, may not be members of foundation bodies. The last provision is true also for PA, but in this case limitation takes place as well in relation to PA founders.

#### ***4. Termination of NPO activity and distribution of remaining property***

##### ***A. Voluntary liquidation***

A decision on PA voluntary liquidation is made by a congress (conference) or by general meeting of PA members (participants) by a majority, stipulated by a statute. Assets, remaining after PA liquidation and creditor requirements' satisfaction, is directed to implementing goals and objectives envisaged by PA statute, and in case appropriate sections are absent in the statute -- to implementation goals and objectives determined by a congress (conference) decision on PA liquidation. If an issue on how to use remaining assets is not solved by a congress (conference) decision while liquidation takes place, these assets, after creditor requirements' satisfaction, are directed by PA governing bodies to implementing statute's goals. A decision on utilization of remaining assets is published in press.

A procedure of terminating foundation activity in case of voluntary liquidation is determined by a founder and must by Law "On F" be envisaged in a foundation statute.

##### ***B. Compulsory liquidation***

Compulsory liquidation of PA is carried out by court decision. A registration body or a body exercising an oversight may be an initiator. For this, there may be reasons as follows:

a) preparation and (or) implementation of actions directed to violent change of constitutional formation or infringement of territorial integrity of the Republic of Moldova;

b) preparation and (or) implementation of actions directed to violent overthrow of legitimately formed bodies of state power;

3) stirring up social, race, national or religious hatred and hostility;

4) violation of citizen rights and freedoms, protected by law;

5) establishing of paramilitary formations;

6) repeated within one year reprimand to an association by a body which has registered it on a necessity to eliminate legislation infringements.

Property of PA liquidated by court decision after satisfaction creditor requirements may be turned into a state ownership without compensation.

Court decision on PA liquidation may be appealed by a governing body of the latter into superior court instance according to the procedure stipulated by law. A decision of a Supreme Court Chamber on PA liquidation is final and is not a subject of appeal.

Recognition of court decision on PA liquidation as contradicting law implies revocation of such a decision and reimbursement of damages by state to PA in connection with its illegitimate liquidation.

A foundation may be liquidated on the Ministry of Justice request on the basis of court instance decision <in the following cases>:

- a) if annual cost of its assets is less than its initial assets' cost;
- b) if it deviates from statutory goals in its activity;
- c) if its goals or means employed have become illegitimate or contradict public order, moral norms, as well as in case if its activity causes damage to principles of lawful state or sovereignty, independence or territorial integrity of the Republic of Moldova;
- d) in case of failure to submit to the Ministry of Justice a report of activity within two years, a foundation, on request of the Ministry of Justice, is expelled from a State register of non-profit organization on the basis of court instance decision.

Liquidation of a foundation is taking place in the following order.

A body having made a decision on a foundation liquidation, forms a liquidation commission and in accordance with the Civic Code and this Law stipulates a procedure and terms for liquidation.

Liquidation commission publishes information about liquidation of a foundation, that shall contain:

- a) names of liquidation commission members and a foundation location;
- b) procedure and terms, within which liquidation of a foundation will be carried out;
- c) time limit, that may not be less than two month from a day of publishing information on a foundation liquidation, for creditors to file claims;
- d) an invitation for creditors to submit proofs of their claims.

Creditors, who are known, are invited individually.

Liquidation commission takes measures to identify debtors, collect creditor amounts, therewith notifying debtor in written about liquidation of a foundation.

After deadline for submitting claims by creditors, liquidation commission makes up interim liquidation balance sheet, which shall contain information of a foundation assets during a liquidation period, list of all creditor claims as well as results of their consideration.

In case an amount of a foundation money available during a period of liquidation is insufficient for repayment of all debts to creditors, liquidation commission sells a foundation assets.

After repayment of debts to all creditors a liquidation commission makes up a liquidation balance sheet to be approved by a body with appropriate authority in line with a foundation statute.

Assets, remaining after liquidation of foundation and repayment of all debts to creditors is used in accordance with a statute of a foundation, and in case there is no relevant provisions in a statute - for implementation of a foundation statutory goals. Utilization of remaining assets is carried out through its transfer to a foundation, analogous by statutory goals, in accordance with a decision on liquidation. A decision on utilization of remaining assets is published.

Members of liquidation commission bear soldiery liability before a foundation and creditors for damage caused because of their fault.

## **5. Regulation**

### *A. Bodies of oversight and control over NPO activity. Reporting.*

Control over activity of NPO and foundations is exercised by a registering body, i.e. the Ministry of Justice and local self-governance bodies; financial control -- by tax inspectorate of Ministry of Finance. Oversight as to appropriateness of PA activity to Constitution, over adhering PA to law is exercised by bodies of prosecutor office.

PA shall annually inform a registering body about continuation of association activity with indicating its name, governing body location, information about managers on the basis of information and equal to the amount of information included in the State registry of public associations. PA reports are accessible for general public.

In case PA wants to pass certification to acquire a PA State certificate of public benefit, PA must submit a brief report on its activity and a Tax Inspectorate reference on absence of complaints as to PA financial management.

Annual report, submitted by a foundation to a registration body, shall contain, at least, data on a foundation activity, on programs fulfilled, sources of financing, general amount of assets used within a financial year, on foundation users, on assets amount used to cover administrative expenses. Report shall also contain family names and first names of council and foundation staff, their relatives of I-III degree of kinship, used its assets and services during the year reported, as well as information on a foundation location and identification data of its governor.

After the end of each financial year not but later than after six month after its expiry, a foundation shall publish a report about its activity that shall contain: general amount of financial and/or material means, utilized during financial year to achieve statutory goals, programs, implemented by foundation, number and categories of a foundation users, amount of financial means, used to cover administrative expenses. Any person has access to a report of a foundation activity.

### *B. Sanctions*

Failure to submit renewed data in order to include them into a State registry of public associations, as well as failure to inform registering body about continuation of association activity during two years, imply expulsion of a public association from a State registry and loss for it of a status of a legal person, stipulated by this Law, on the basis of court decision.

Failure to submit a report about a foundation activity during two years imply expulsion of a foundation from a State registry of non-profit organizations on the request of the Ministry of Justice on the basis of court instance decision.

## **6. Foreign NPO**

International unions (associations) of public associations are established, act and terminate their activity in the territory of the Republic of Moldova in general order provided for public associations.

Affiliates, branches, representative offices and other organizational structures of foreign public (non-governmental, non-profit) associations are established, act and terminate their activity in the territory of the Republic of Moldova in accordance with the Laws on PA and on F and other legislative acts.

Affiliates, representative offices and other organizational structures of foreign foundations created in the territory of the Republic of Moldova are legal persons.

## **7. Miscellaneous**

### *A. Reorganization (merger, division) of NPO*

Public association may be reorganized through merger, joining, division, apportionment and transformation by a congress (conference) decision or a general meeting of members (participants) of association.

Registration of a statute of a newly created public association is carried out in general order.

While reorganizing a public association its assets are transferred to newly created legal persons in order envisaged by the Civic Code.

Options of reorganization for foundations are limited to a merger with another foundation and only in case if such reorganization is provided for in a statute.

*B. Peculiarities of regulation of NPO deals with property. Investment activity*

Legislation does not give a clear answer to this question.

*C. May NPO invest assets abroad?*

Legislation does not give a clear answer to this question.

*D. Is NPO allowed to conduct political activity? Within what limits?*

Legislation does not prohibit conducting political activity by NPO (support candidates in elections), but clearly indicates, that NPO dealing with such activity in any forms and volumes, can not be recognized as public benefit organizations regardless of their statute goals and, consequently, does not fall under exemption from income tax (Cl. 52 of Tax Code). Besides that, legal and physical persons directing a portion of income to support to such NPO will not enjoy decrease in a taxable income for an amount transferred (Cl. 36 of Tax Code).

## **8. Tax Privileges**

A. Is NPO granted with a status of tax exempt organizations or the law exempts from tax only certain types of taxes, deposits, for instance? If yes, than:

What body makes a decision on NPO exemption from tax on income and profit, and what are the relevant requirements?

A decision is made by the Ministry of Finance on the basis of the Certification Commission decision under the auspices of the Ministry of Justice?

What body makes a decision on exemption of NPO from other taxes, including local taxes, what are the relevant requirements?

A decision can be made annually when Parliament approves state budget. Decisions on local taxes are made by bodies of local public authority (e.g. on a level of rent fees for premises of municipal ownership), however, individual privileges are not permitted.

What are the requirements for granting VAT privileges, levying VAT on a null rate and what government body makes a decision on this?

Decisions to levy VAT are made by the Ministry of Finance on the basis of intergovernmental agreements on technical assistance. Other possibilities are ruled out.

Are NPO exempt from custom duties and other taxes while carrying out export-import operations?

Only in cases when goods come through intergovernmental agreements of technical assistance (World Bank, TACIS, USAID and the like). As for humanitarian aid, a decision is made in each case by the State Commission on Humanitarian aid under the Government.

B. Do donors have a right to privileged taxation of donations made to NPO benefit? If yes, then:

Are there any limitations to making donations from assets received from commercial activity?

Yes, tax privileges may not exceed 7% of legal person annual income.

Are there any limitations to donations carried out by physical persons? A privilege is analogous to one granted to a legal person.

May donations be made in a form of property? Yes. In this case their is appraisal made according to market prices.

Are there any particular rules in general state and local laws related to income tax? No.

C. Donation Issues

Are proceeds received from donations taxable?

No, if they are formulated as donations.

May donations be contributed as a share into legal persons of a private form of ownership or be invested in a private business?

Legislation does not give a clear answer.

#### D. NPO commercial activity

To what extent have NPO the right to conduct commercial activity?

Yes. Besides that, NPO may establish commercial organizations for which there are no similar limitations.

Public associations have the right: establish their own media and enjoy state media in due course; carry out production and economic and other business activity assisting to implementation of statute goals and objectives in accordance to legislation, including through created for this businesses which are legal persons.

May NPO carry out commercial activity directly or should it be carried out through commercial legal persons whose founder is the NPO? As a rule, establishment of an enterprise is required for commercial activity.

These rules have a character of recommendation and are not fixed legislatively in relation to NPO. Decision on the issue is ascribed to interpretation of the law by the Ministry of Justice and the Ministry of Finance representatives. As to foundations, their economic activity has to be connected with their statutory goals.

To what extent may NPO deal with relevant commercial activity without taxation of its income? How the term "relevant" is defined?

To the extend, to which activity corresponds to statutory one.

However it is difficult to draw a clear margin, in order to do this, usually a statute is studied, in which all specific kinds of statutory activity must be fixed. It is necessary to pass State certification for PA.

To what extent may NPO deal with "irrelevant" commercial activity without taxation of its income? How the term "irrelevant" is defined?

Tax Code (CI 53) contains a notion of "side business", defined as business carried out outside of limits of activity for conducting which NPO are created (CI 52).

#### E. Reporting

What type of tax reporting is required?

Forms of NPO tax reports are not different from for-profit organization reports. A form of reporting is significantly simplified, submission of many forms envisaged for CO (commercial organization) is not required. Tax Code requires to submit declarations regardless of organizational and legal form. Social fund reporting is not different from CO.

Does a special rule exist for making donations?

Yes, in line with the Law "On PS" a donor declares donations to the Ministry of Finance, that fixes the fact in order to decrease taxation of the donor for an appropriate amount.

Are there special rules extended to the procedure of donation-making to the benefit of foundations?

No.

#### F. Miscellaneous

Are any limitations stipulated for administrative expenses or salary?

There are no such limitations for PA; but as to foundations, administrative expenses including salary, must not exceed 20%.

Are special reporting rules stipulated for NPO?

No.

### 9. Compliance to laws



Is compliance (adherence to laws) a well known issue? Does broad public believe that NPO are used for tax evasion and as personal establishments for politicians? Does such negative attitude make it more difficult to achieve a high level of compliance with laws by ordinary NPO?

Law implementation is a common problem for post soviet states, and Moldova is not exception.

On the basis of popular opinion polls which included population, decision-makers and NPO, conducted by "BIOTCA" Environmental society in 1997 and published in the book "For what and how public associations established", Chisinau, 1997, the following may be stated:

- 1) The majority of NPO in Moldova have quite weak knowledge of the third sector legislation and of their rights;
- 2) Authority of NPO is not high, however it is twice higher than that of state power;
- 3) 75% of decision makers view the third sector as a positive phenomena and only 2% view this as organizations where mostly dishonest people work;
- 4) however only 40% of people making decisions know main features of non-profit organizations.

Moldova has rather negative experience of establishing so-called foundations allowed any commercial activity and through which tobacco goods and alcohol were imported duty-free. Another analogous foundation used a big volume of humanitarian aid for election campaign. Since these facts are broadly known, decision-makers, mostly having a vague understanding that the violations happened because of absence of activity area limitations/control, prefer to extremely restrict NPO options to earn money for its activity.

## **10. Government financing**

Are NPO allowed to take part in open and free tenders for state funds, for which application rules are stipulated? Can they get access to state funds through unclaimed proposals for grants and contracts?

Does the Government permit NPO to remain recipients of certain property which the Government wants to privatize? When the Government talks about partnership, does it mean options of partnership with independent NPO or only with organizations operated and controlled by the state? Is partnership between commercial legal person and NPO considered as a way of strengthening stability of given project?

According to the laws On PA and On F, NPO may, on competitive basis, use budget funds and off-budget funds' assets to perform operations and provide services in their activity areas. It is demonstrated most clearly with the example of National off-budget environmental foundation, possessing rules and application forms, expert commission etc. NPO may privatize public property on equal basis with commercial organizations. However, by law "On PA" all PA are recognized as equal before the state, such equality is quite conditional. This follows from unequal situations, in

which former soviet NPO exist (art unions, inheritants of Nature Protection Society, Children Fund, etc) and NPO created in bare place; first of all, because former soviet NPO inherited property of which new NPO can not even dream, and, secondly, because state apparatus mentality maintains special attitude to them as to semi-state structures. Taking in account the fact that following this, the State permitted privatization of premises occupied by the first NPO group on privileged conditions it should be expected that informal inequality will exist for a very long time ahead, and the State will give preference to dealing with the first group. Considering the fact, that Moldova first in CIS approved the Law "On F" directed to attract local business money to NPO, partnership between commercial legal person and NPO should be viewed as a perspective way of increasing stability of the third sector in Moldova.

## **11. Conclusions**

Which legal issues, in your opinion, are the most important nowadays for NPO sector? What specific steps can be made to solve these issues?

The following issues fall under category of the most important for NPO sector in Moldova:

- 1) Insufficient clarity of the Tax Code in relation to taxation of "relevant" and outside activity;
- 2) Unset regulation of NPO sector as a whole (NPO of private and public law does not have a unified law). It is not quite clear whether a unified law on NPO is needed;
- 3) Absence of separate accounting standards for NPO;
- 4) Weak legislative literacy of decision-makers in this area, which does not allow to implement into legislation measures of reasonable support for public benefit NPO.