

LAW
on basic principles regulating entrepreneurial activity

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Parliament passes this organic law.

Chapter I General Provisions

Article 1. Object of the law

The object of the law is the laying out of the basic principles of business regulation and of the review procedures for normative acts in compliance with these principles.

Article 2. Purpose of the law

The purpose of the law is to create a legal framework that favours business and investment activities with the aim of supporting social and economic development.

Article 3. Regulation of entrepreneurial activity

For the purposes of the law, business regulation signifies the rights, obligations, requirements and prohibitions to entrepreneurs and their activities, as well as the regulation of relations between the public authorities and business.

Article 4. Basic principles regulating entrepreneurial activity

For the purposes of the law, business regulation follows the following basic principles:

- a) predictability of business activity;
- b) principle of decision-making transparency and regulatory transparency;
- c) regulatory impact analysis;
- d) principle of material and procedural regulation of the start-up, running and liquidation of business through legislative acts;
- e) proportionality in the relations between the state and business.

Chapter II Principles regulating entrepreneurial activity Section 1 Principle of predictability

Article 5. Predictability of business regulation

(1) Business shall be regulated through laws, government decisions/ordinances and normative acts of public administrative authorities (hereinafter – *normative acts*)

(2) The laws set forth, for each separate case, the regulatory limits for the government and/or public administrative authorities. The normative acts of these authorities shall not be invoked in case of non-compliance with the present law.

Article 6. Predictability of expenditures

Payments for the services delivered and documents issued to entrepreneurs by the public administrative authorities and other institutions with regulatory and control functions shall be set forth in the law, indicating the service, document, quantum of fee for these services and documents.

Article 7. Predictability of normative-technical documents

The technical and sanitary conditions, standards, and other similar documents (hereinafter – *normative-technical documents*) are compulsory in case such are set forth in the law.

Section 2

Principle of decision-making transparency and regulatory transparency

Article 8. Decision-making transparency

Public administrative authorities shall inform of the draft normative acts and ensure transparency in their decision-making process through involving the private sector, civil society, and individuals in the design of normative acts and in the decision-making process.

Article 9. Regulatory transparency

(1) Public administrative authorities shall ensure regulatory transparency through free access to draft normative acts and through their publication as set forth in the legislation.

(2) Normative acts shall be included in the State Register of legal acts (hereinafter – *Register*) after publication in the Official Monitor of the Republic of Moldova, in compliance with the legislation. The Register is kept by the Ministry of Justice.

(3) Access to the Register via the Internet is free of charge.

Article 10. Transparency of documents needed to start up and/or run a business

(1) A business may be started up and/or run based on an authorization.

(2) The authorization is a document, issued by the competent public administrative authority, which authorizes the applicant to start up and/or run a business. The notion of authorization includes licenses, permits, certificates, notices, approvals, coordination, and other similar administrative operations, prior to or following the issuance of the authorization.

Article 11. Tacit approval for the start-up and/or running of a business

(1) An authorization is considered issued or, as the case may be, renewed if the public administrative authority does not revert to the applicant within the time limits set forth in the law for the issuance or renewal of authorizations.

(2) After expiration of the time limits set forth in the law for the issuance of an authorization, and in the absence of any written communication from the public administrative authorities, the applicant may continue running the business for which an authorization was requested.

(3) The procedure of tacit approval shall be applied to all authorizations, except for activities related to fire arms, ammunition and explosives, narcotic substances and other psychotropic substances.

(4) The negative reply issued by the competent public administrative authority within the time limits set forth in the law regarding the issuance of authorizations shall not be equivalent to a tacit approval.

(5) In case irregularities are identified in the submitted documentation, the public administrative authority shall notify the applicant at least 10 days prior to expiration of the time set forth in the law for the issuance of an authorization, if the time required is more than 15 days and at least 5 days prior to expiration of the time set forth in the law for the issuance of an authorization, if the time required is less

than 15 days. The public administrative authority shall indicate at the same time the manner of remediation of the irregularities identified.

(6) In case, following receipt of the official document that allows to start up and/or run a business, the public administrative authority concludes that important conditions regarding the issuance of the authorization have not been met, it shall not cancel the document but notify the holder, within 3 months maximum from the date of expiration of the legal time limit for the issuance of the authorization, of the irregularities identified, the manner of and time limits for their remediation, which shall not be less than 30 days.

(7) The public administrative authority shall cancel the official document that allows to start up and/or run a business, issued in compliance with this law, if some conditions are not met which seriously undermine the public interest, national security, public order and public health, or if the identified irregularities have not been remedied within the time limits set in paragraph (6).

Article 12. Transparency of normative-technical documents

(1) Normative-technical documents are accessible to the public, the respective law setting forth the public administrative authority responsible for their issuance.

(2) Normative-technical documents and copies thereof shall be issued free of charge, except for the expenses incurred in connection with their printing and photocopying.

Section 3

Principle of regulatory impact analysis

Article 13. Analysis of regulatory impact

(1) Analysis of regulatory impact represents the argumentation, based on an evaluation of costs and benefits, of the need to adopt the normative act and an analysis of its impact on business activity, including ensuring respect for the rights and interests of entrepreneurs and of the state, as well as compliance of the act with the purposes of the regulatory policies and of the principles of the present law.

(2) The act of regulatory impact analysis represents an integral part of the information note of the draft normative act.

Section 4

Principle of material and procedural regulation of the start-up, running and liquidation of business through legislative acts

Article 14. Material and procedural regulation

(1) Material and procedural regulation of the start-up, running and liquidation of a business, as well as control over business, shall be set forth in the law.

(2) Public administrative authorities shall not adopt primary norms for the regulation of the start-up, running and liquidation of a business.

Section 5

Principle of proportionality in relations between the state and business

Article 15. General notions

The activity of public administrative authorities in their relations with entrepreneurs shall be proportional to ensuring the interests of society and protection of entrepreneurs' rights. Public administrative authorities shall not take actions in excess of the need to achieve societal objectives.

Article 16. The principle of proportionality in carrying out control over business activity

(1) Public administrative authorities shall, through their representatives, exercise control over business activity (hereinafter – *control*) within the limits and in compliance with the competencies set forth in the law.

(2) Competent public authorities shall control the manner in which the activities of tacit approval are carried out.

(3) Control of business activity, except for financial and fiscal control, shall be consultative in character.

(4) Control may take place only in the cases expressly set forth in the law, with the express stipulation of the public bodies authorized to carry out control, of the types of business activity and of the categories of entrepreneurs subject to control.

(5) It is prohibited to apply sanctions if the head of the control body has not verified their correctitude and if the entrepreneur has not been given an opportunity to contest it.

(6) For purposes of control, the control bodies shall take into account the following principles:

a) legality and respect for the competencies set forth in the law;

b) non-admission of the application of sanctions not set forth in the law;

c) treatment of doubts in the enforcement of the law in favour of the entrepreneur;

d) incurring of control expenses exclusively by the state;

e) prescription of recommendations for the elimination of identified infringements following the control;

f) the right to appeal the actions of the control body.

Article 17. The principle of proportionality in the suspension of business activity

(1) For the purposes of this law, suspension of business activity signifies discontinuation (halt) of certain business activities, of certain concrete works, of actions required for carrying out business activity.

(2) Business activity may be suspended through a court decision, adopted in compliance with the law. The court decision regarding the suspension of a business activity shall be adopted at the request of the public administrative authorities.

(3) In the cases expressly stipulated in the law, business activity may be suspended, followed by a subsequent request to a court of law by the authority that requested the suspension. The request to a court of law shall be submitted within 3 working days. In case of non-compliance with these timeframes, the suspension shall be considered null.

(4) The court decision on suspension of a business activity shall be adopted within 5 working days and shall be executed in compliance with legislation.

(5) The state fee shall be reimbursed in case the definitive and irrevocable decision of a court of law, adopted following an act of contestation, is in the favour of the economic agent.

(6) A business activity may be renewed based on the decision of the court of law that issued the decision to suspend the activity or based on the decision of a hierarchically superior court of law, in compliance with legislation.

Article 18. Responsibility of the public administrative authority for issuing authorizations

The act of a public official, who despite being aware of the request for an authorization and its accompanying documentation, does not respond to the request in good will within the timeframe set forth in the law, shall be punished in accordance with legislation.

Chapter III

Review of normative acts

Article 19. State Commission for regulating entrepreneurial activity

(1) The State Commission for regulating entrepreneurial activity (hereinafter – *Commission*), set up based on regulation approved by the Government, shall ensure continuity in the process of optimisation of the legal framework for business regulation. The Commission and its Working Group shall be assisted by the Secretariat for Regulatory Impact Assessment.

(2) The Commission shall have the following attributes:

a) monitor the manner of enforcement of the present law by the public administrative authorities and report to the Parliament and Government on a quarterly basis;

b) verify and make proposals based on the reports presenting an analysis of the regulatory impact of draft normative acts, and issue reviews;

c) propose, in the manner set forth in the law, to revise or abrogate normative acts that do not comply with the regulatory principles;

d) supervise the measures for monitoring the efficiency of normative acts.

Article 20. Mechanism of review of normative acts

(1) The specialized central bodies of public administration and the unsurbordinated administrative authorities of the Government (hereinafter – *authorities*) shall develop, within 4 months, draft modifications and amendments to the normative acts in their area of activity (hereinafter – *drafts*) in compliance with this law.

(2) Within 15 days after expiration of the time indicated in paragraph (1), the authorities shall submit to the Commission drafts and information notes for review, and concomitantly present to the Parliament a report on the results of review of normative acts at the respective stage.

(3) Within 3 months after expiration of the time indicated in paragraph (2), the Commission shall examine the drafts and submit its review to the authorities. The Commission shall present to the Parliament a report on its review of normative acts.

(4) Within 2 months after expiration of the time indicated in paragraph (3), the authorities shall develop, based on the Commission's review, the final draft and information notes, and adopt or submit them for adoption in accordance with the law.

Article 21. Final dispositions

(1) This law enters into force on the date of expiration of 12 months following its publication, except for the provisions under Articles 19, 20 and of the present article, which enter into force as of the date of publication of this law.

(2) The Government shall adopt, within 4 months, a methodology for the regulatory impact analysis and for monitoring the efficiency of regulatory acts, in accordance with the criteria and principles provided in this law.