

# LCRM – Legal Resources Centre from Moldova

## Public declaration on the degradation of the legislative process and the governing act in the Republic of Moldova

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The National Platform of the Eastern Partnership Civil Society Forum condemns the unprecedented degradation of the governing act as a result of the parliamentary majority, consisting of the Socialists Party of the Republic of Moldova, the „Sor” Political Party and the „pentru Moldova” parliamentary group, disrespect the legal procedures on promoting a series of draft legal acts. During the parliamentary plenary sessions from 3 and 16 December, grossly infringing the legislative procedures, the above mentioned political parties have adopted a list of laws that compromise the fight against corruption, undermine the public budget, endanger the relationship with the development partners and risk to destabilise the macro financial situation of the country.

Respectively, additionally to the concerns expressed in the public declaration from [December 7, 2020](#), we would like to draw the attention of the society, the national authorities and the international community to the following toxic decisions that generate imminent risks in what concerns the financial, political, economic and social stability and security in the Republic of Moldova.

### **Repealing „The law on the billion theft”**

- 56 members of the parliament from PSRM, the „Sor” Party and the parliamentary group „pentru Moldova” have adopted a draft law repealing the Law no.235/2016. With this vote, the mechanism through which the Ministry of Finance reimburses the National Bank of Moldova the emergency loans the National Bank lent to the three bankrupt banks (BC Banca de Economii, BC Banca Sociala and BC Unibank) throughout 2014/2015. The vote was cast through infringing all requirements related to transparency and consultations in the decision making process of the relevant authorities. Moreover, repealing the Law no.235/2016 creates imminent risks on the public finances, the macroeconomic balances in the national economy and undermines the trust of the external partners and of the international financial institutions in the state Republic of Moldova.
- Cancelling the debt of the Ministry of Finance to the National Bank of Moldova will lead to the undercapitalisation of the BNM, making it incapable to exercise its legally foreseen attributes: ensuring price stability and the trust in the national currency. This will quickly aggravate the financial position of the firms and the citizens, as well as the stability of the public finances in the context in which the Government will be forced to contract new debts in order to not allow this social crisis to escalate. Moreover, this will undermine the trust of foreign investors in our

country, which will in turn make the credits and investments attractions, particularly external ones, more complicated.

- Repealing the Law no.235/2016 risks to provoke chaos in the economy and the society, but it seems this is exactly what the members of parliament had in mind in order to accomplish their narrow group interests, including saving the ones responsible for the banking fraud.

#### **Coming back to the retirement age thresholds at 57 for women and 62 for men**

- The Parliament adopted in second reading the draft Law on amending the Law no. 156/1998 on the public pension system (art.41, 42). The essence of this law is to reduce the retirement age to the same levels as in 2016, when the process of gradual increase of the retirement age was initiated (57 years old for women and 62 for men).
- Although the draft law concerns an issue with a massive social and budgetary impact, it was promoted under circumstances of total lack of transparency, in the absence of any kind of public consultations and without obtaining all the mandatory endorsements from the institutions involved, particularly referring to the Government. The timeline from the registration of the draft Law in the Parliament to its adoption constituted a mere 6 days. The superficiality of the briefing note on the draft Law particularly stands out, as it provides ZERO calculations on the budgetary impact of this draft Law, although the implementation of this measure could lead to the collapse of the public pensions system.
- Even the simplest and most conservative calculations show that only for the year 2020, an additional 1,4 – 1,5 billion MDL would be additionally necessary, and for the following years, the pressure on the budget will increase several times, provided the increase in the number of persons that will reach the decreased retirement age.
- In other words, the conjunction parliamentary majority PSRM-„Sor” Party has votes for the decrease of the retirement age without communicating to the society the costs implied by this reform, which can be dramatically reflected in the following: i) increase of the tax burden on firms and employees through a substantial enhancement of the social contributions, ii) ceasing any potential increases in the pensions and even their forced reduction, in order to maintain the capacity to actually pay them, iii) a maximum level of limitations in investments from the state budget in order to compensate, through transfers, the deficit of the pensions’ fund.
- Although the pension system reform from 2016 was not a perfect one, it allowed the recalculations/updating/valorisation of the pensions for more categories of retired persons. This led to an increase in the average pension from 1275 to 2050 MDL during a period of 4 years, and in the lack of this reform, the average pension today would be 500 MDL lower. If in December 2016, the monthly expenditures of the pension fund were at 881 million MDL, in September 2020, their volume was 61% larger (1,4 billion MDL). The authors of the draft law presented examples on the retirement age from states that are situated in other geographical zones or with a demographic situation radically different than in the Republic of Moldova, for example – Sri Lanka, but they forgot to mention that in the majority of the states in the region, the ageing population phenomenon lead to implementing the reform on the increase of the retirement age, even including in the Russian Federation, used often by PSRM as a point of reference, where currently there is an ongoing reform to increase the retirement age from 55 to 60 for women and from 60 to 65, for men.
- In conclusion, by adopting this populist draft Law, which is also not covered by budgetary means, the PASRM-„Sor” Party MPs provided the population with the false illusion that they would retire earlier, but they keep quiet about how this will condemn the retired persons to miserable pensions and an uncertain and insecure old age.

- Moreover, cancelling the pension reform jeopardises the potential of the Government of the Republic of Moldova to access external funds from the International Monetary Fund, the European Union and other development partners.

#### **Adoption of the fiscal and customs Policy (and the Law on the 2021 State Budget) by the Parliament**

- The most important annual decision of the Parliament – adopting the fiscal/customs policy (Law no.476 from 1 December 2020) and the Law on the state budget – took place this year in the complete absence of the minimum mandatory procedures on transparency, lack of consultations and also included provisions that promote narrow political interests. During the period of the State Budget adoption (October-December 2020), the Parliament is obliged to ensure a sufficient level informing, consulting and participation, in order to ensure that this document responds to existent priorities, but particularly, to ensure parliamentary oversight on how the public money is spent.
- The draft fiscal/customs Policy and the 2021 State Budget law were submitted to the Parliament by the government on December 1, 2020 and on these legal acts there were no genuine parliamentary discussions organised, the act openly promoting political clientelism. All this also took place under circumstances when there is a lack of expenditures coverage, with gross violations of the Law on public finances, the budgetary-fiscal responsibility and the Parliament Regulation. One of the most eloquent examples is the distribution, foreseen at Annex 7 of the State Budget Law, of over 350 million MDL, under a dangerous political discrimination discretion.
- Aside from the fact that this is a bad example of deliberative power abuse of the state, the Parliament gave an extremely dangerous signal on the rule of law principles, when the abuse of the majority is legalised, reducing all good governance and proper budgetary resources management efforts made since 2009 forward to zero. More serious is the fact that provided the pandemic situation and the crises associated with it, the amendments operated in the Parliament do not provide any solutions to the current issues of the country: increase of the unemployment rate, the severe difficulties of the health system, education, the real sector of the economy.
- The issue regarding the capping of local taxes remains a controversial topic, in the lack of a genuine dialogue and a platform that would analyse the limitations set by these caps for the local authorities, as well as a profound misunderstanding of what the local public authorities' autonomy stands for. Ignoring the common interest of the local authorities by the members of the parliament, makes us believe that they seem to have forgotten that being elected in a constituency means they should represent their constituents needs and interests in the legislative body.

#### **Amending the Law no.278/2007 on tobacco control**

- The amendments operated to the Law no.278/2007 on tobacco control and the amendments operated to this article in the budgetary-fiscal policy does not represent something other than a special mechanism to tax cigarettes. There is no reason explaining why for this new type of cigarettes – „cigarillos” – the excise duty paid should be at least twice less than the excise duty on the cheapest cigarettes from the national market. This product is as harmful as any other tobacco product, with the same toxicity level and can cause addiction, it is not a „social product” and the explanation that this amendment corresponds to the European acquis is false.

#### **Amending the operational framework of the National Integrity Authority**

- The Parliament adopted, in two reading, on the same day, a draft law that amends the legal

framework for operation of the National Integrity Authority. The draft law was initiated on December 4, 2020, less than two weeks prior to its adoption, by a group of socialist MPs. Additional problematic provisions have been inserted in the bill in the very day of its adoption.

- The draft Law reduced the time-limit for carrying out controls on assets and personal interests from 3 years to 1 year from the end of the mandate of the public employee; brings confusion as to the time-limit for challenging the acts of the National Integrity Authority and conditions the disciplinary liability for not declaring assets and wealth by the existence of a final act issued by the National Integrity Authority; makes it impossible to dismiss a public servant for the failure to declare assets, for incompatibility or conflict of interests after more than one year from the misconduct and heavily complicates the criminal procedures into the same deeds.
- In essence, the draft reduces the possibility of ANI to verify civil servants and introduces an even greater chaos in the procedure on investigating the assets and sanctioning the public servants and makes their dismissal for the breach of the integrity legislation almost impossible. This is per se an act difficult to accept, in a state that openly declares the fight against corruption as an absolute priority. Although this draft Law is not referring to a burning issue, it was adopted in a great rush. The voting on the bill was carried out with infringements on legal procedures (the lack of the Government opinion and of the anti-corruption expertise) and without conducting public consultations. The rush in which such a sensitive draft act was voted reveal the existence of hidden interests.

#### **Amendments in the pharmaceutical field**

- The legal amendments operated on December 16 by the PSRM-„Sor” Party in the medicine and pharmaceutical fields, adopted in the absence of a consensus and without carrying out consultations with the pharmaceutical community from the country and which have, de facto, removed from the normal rigorous control the pharmaceutical activity will undermine this sector and will directly affect people’s health.
- Liberalising the prices for medication obtained without a doctor’s prescription can inevitably lead to the increase of prices on the market, which even currently is far from being a transparent one, operating under proper competition environment, while imitating the commercial excess for compensated medication to up to 12% will lead to the gradual disappearance from the drug stores of these types of medication, provided the lack of certain economic interest in activating in such circumstances, particularly for small pharmacies, without scale savings.
- The distracting changes introduced for this sector, however, do not stop here. The amendment that will allow the sale in the Republic of Moldova of medication unauthorised in their country of origin, that did not complete the conformity and harmlessness tests, as well as introducing the possibility to sell medication outside pharmacies creates all necessary premises that the population start to largely purchase dubious products that could have potential serious consequences on their health. Additionally, the possibility to sell medication in the so-called mobile pharmacies was added, and it is obvious that the optimum conditions for storing medication will not be ensured. Moreover, these medications will be sold by persons who do not hold special preparation in this regard, and the impossibility to effectively monitor these units of transportation widely available for the public also opens the door to the possibility to freely sale fake and counterfeited medication.
- In conclusion, we can say that guided by populist electoral promises and narrow business interests, the parliamentary majority formed of PSRM – „Sor” Party MPs exposes to great risks without any hesitation even people’s health in order to accomplish their own interests.

**In the context of the above-mentioned:**

- **We qualify** these and other concerted actions of the members of parliament representing the parliamentary majority PSRM, the „Sor” Party and the „pentru Moldova” group as institutional sabotage aiming to destabilise the macroeconomic, economic and social situation in the Republic of Moldova, in an irrecoverable way with negative effects on many years to come ahead.
- **We require** the Members of Parliament to notify the Constitutional Court in what concerns the constitutionality of the acts adopted by the Parliament of the Republic of Moldova, taking into account the infringements and the serious procedural errors admitted in the process. The respective legal acts were hastily adopted, without carrying out public consultation, most of them lacking the mandatory endorsements from the competent institutions.
- **We require** insistently that the Members of the Parliament strictly respect the law, the people’s will and abstain from promoting initiatives that undermine the rule of law, the independence of public institutions, democracy and the country’s external relations, as well as encourage the promotion of obscure schemes in the detriment of national interests and objectives.
- **We urge** the Parliament of the Republic of Moldova to fully exercise its parliamentary oversight function, to respect the principles of transparency in the decision making process, to not accept for analysis and adoption legal acts that were drafted without any consideration for the respect of legal procedures on consulting the public.

*The National Platform of the Eastern Partnership Civil Society Forum was created in 2011 and currently has 96 member organisations as members, 7 of them representing umbrella – organisations for another 255 organisations. The mission of the platform is to consolidate the European integration process and the democratic development of the Republic of Moldova, to contribute to the advocacy process and monitoring the EU-Moldova Association Agreement as well as other relevant documents that refer to the Eastern Partnership and the relationship of the Republic of Moldova with the European Union.*

**The declaration in ENGLISH is [HERE](#).**

**The declaration in ROMANIAN is [HERE](#).**

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