

**Law on technical regulation activity**

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### **Chapter I**

#### **GENERAL PROVISIONS**

**Article 1.** Field of practice

- (1) The present law establishes the general requirements on the content and development method, publication and application of technical regulations, in order to ensure the transparency of the regulation process and free movement of goods and services, establishes the rights and obligations of the regulating authorities, as well as the requirements to the market surveillance to protect the internal market from hazardous and forged goods that are non-conform to the prescribed and/or declared requirements.
- (2) Technical regulations activity constitutes the state's prerogative
- (3) Under this law do not fall the sanitary regulations, fitosanitary and the sanitary-veterinary ones, whose legal basis is established through other special laws.
- (4) In case that an international treaty establishes other norms than those provided and The Republic of Moldova is part of this treaty, then the international treaty's norms are being applied.

## **Article 2. Definitions**

For the purpose of this law, the following definitions are applied:

*technical regulation activity* – ..... of activities upon the establishment of essential requirements on goods and services regarding the safety and quality of these, their commercialization conditions and use, as well as the establishment of market surveillance rules and conformity evaluation procedures;

*economic agent* – any person that acts as a entrepreneur

*other requirements* – any requirement other than a technical specification, enforced upon a product, having the aim of protection, in particular the consumers or the environment and that affects the life cycle of this product after its placement on the market, for instance utilization conditions, reutilization or annihilation of the product, in the case when these conditions can significantly influence the composition, the nature or the commercialization of this;

*regulating authorities* – specialized central body of public administration or other responsible body, within the limits of its competence to develop or adopt technical regulations

*trade technical barriers* – difference between the national technical regulation's requirements, national standards and national evaluation procedures of conformity and those applied in the international practice or their non-recognition, fact that involves, in comparison with usual trade practice, additional spending of resources and/or of time for commercialization of goods on the internal and external market;

*quality* – a whole of characteristics of a product or service, that award it with aptitudes to satisfy, according to the destination, explicit and implicit necessities;

*essential requirements* – technical conditions stipulated in normative acts ensuring the national safety, .....

*minimal quality requirements* – technical quality conditions stipulated in normative acts and established through physical, chemical, biological and organoleptic proprieties, according to which this can be identified;

*prescribed requirements* – requirements stipulated in the normative acts, including the standards;

*state control (inspection)* – the whole verifying actions upon fulfilment by economic agents of the provisions of legislative and normative effectual acts, undertaken by the state inspectors;

*technical documentation* – documentary results that attest the conformity of goods and services with prescribed requirements in technical regulations or in national standards, in which base the declaration of conformity is being issued;

*regulating field* – the whole of economic activities and goods related to these, for which corresponding technical regulations related to conditions of placement on the market and/or application of goods are being emitted;

*module* – the whole of rules and procedures applied for the evaluation of product's conformity according to European practices;

*interested party* – authority, economic agent or other entity that applies or plans to apply a technical regulation or a standard;

*placement of goods on the market* – action that makes goods available on the market, including their maintenance as to distribute, offer through sale or through any other form of transfer, ..... or for free;

*presumption of conformity* – assumption, acting unless proven the contrary, that a product or service corresponds to the specified requirements in the applicable technical regulation;

*conformity evaluation procedure* – any procedure applied, directly or indirectly, to determine if the product or the service corresponds the prescribed requirements. The term “conformity evaluation procedure” includes, by case, procedures of sampling, testing and of inspection, evaluation, examination and ensuring of conformity, registration, homologation, as well as their combinations;

*product* – any industrial or agricultural product, including those of animal and fish origin; goods are also considered electrical and thermal energy, liquid and natural gases, water, provided for consumption, as well as software goods;

*forged goods (counterfeit)* – product made from other components, in other proportions or in other conditions than those established in the normative acts, presented as genuine product;

*technical regulation* – document that establishes characteristics of a product or service, covering technical specifications and other requirements, including relevant administrative provisions, in the case of commercialization or application of this product, except the administrative provisions that forbid manufacturing, import, trade, application of the product or provide the respective service;

*technical specification* – condition covered in a document that establishes requirements for a product or service (for instance: level of quality, of performance, of safety or dimensions, including the requirements for the name with which the product is being placed on the market), as well as the requirements for the terminology, symbols, testing and methods of testing, for the packing, marking or labelling, for the conformity evaluation procedures;

*conex standard* – national standard that transforms the essential requirements, established in the respective technical regulation, in technical specifications for goods and services from the regulated field and awards the conformity presumption with essential requirements established in the applied technical regulation;

*harmonized European standard* – European standard that is developed under the incidence of a mandate of the European Committee and which transforms the essential requirements from the European directive of the new approach in technical specifications for the goods from the regulated field;

*market surveillance* – whole of actions, including state control, carried on by the competence authorities with the aim to verify the abidance of technical regulations and the conformity of the goods or services placed on the market with the prescribed and/or declared requirements;

*equal treatment* – regime given to the imported goods or services, that is not less favourable than that given to the similar domestic goods or services in a comparable situation.

## Chapter II

### GENERAL REQUIREMENTS OF THE CONTENT AND DEVELOPMENT OF TECHNICAL REGULATIONS

#### Article 3. Technical regulations

(1) In the Republic of Moldova, technical regulations are:

- a. legislative acts and Government's decisions that contain requirements for goods and services;
- b. normative acts of regulating authorities whose competence covers the establishment of mandatory requirements for goods and services;
- c. administrative regulations or provisions that make references to technical specifications, to other requirements or codes of good practice that on the other hand make reference to the technical specifications or other requirements whose abidance awards the conformity presumption with the regulations or administrative provisions;
- d. voluntary agreements in which a public authority is a contracting party and which foresee, in public interest, the conformity with the technical specifications and with other requirements, except specifications for auctions in case of public acquisitions.

(2) General technical regulations and those specific ones are developed respecting the provisions of this law, as well as the international obligations of the Republic of Moldova concerning the free movement of goods and services

(3) Technical regulations are developed:

- a. when the harmonization of national legislation with the Community's and international legislation are being enforced;
- b. when the content of the technical regulation in effect is non-conform with those of respective international or European standards;
- c. if there exist a problem that cannot be solved through any ways except by technical regulation;
- d. In other purposes foreseen by law

- (4) In the case when upon the same goods or services and production methods extends the action of documents whose requirements are doubled or are contradictory, is being established the following priority of their application:
  - a. legislative acts.
  - b. Government's decisions.
  - c. normative acts of regulating authorities.
- (5) In case of existence of a document with priority character, the other documents cannot be invoked where they contravene to that priority and should be brought in concordance with this one or should be abrogated.
- (6) General technical regulations are applied to goods and services, not limiting themselves to an exhaustive list of these, and ordinarily establish, requirements referring to one or more risks that are characteristic to all the goods or services where this technical regulation can be applied.
- (7) Specific technical regulations establish essential requirements towards the goods or services, or to groups of goods and services, specifying the provisions of general technical regulation, if there exist any. The general safety requirement for goods and products will be ensured during the development of technical regulations.
- (8) In case where to same goods and services can be applied general technical regulation, as well as specific technical regulations, specific technical regulations are being applied.

**Article 4.** Requirements for the technical regulations' content

- (1) Technical regulations will not have a more restrictive character towards the trade than is necessary for the realization of the following objectives:
  - a. Ensuring national safety;
  - b. Protection of life, health, heredity and people's safety;
  - c. Protection of material goods;
  - d. Protection of the animal and vegetal life;
  - e. Protection of the environment;
  - f. Rational usage of natural and energetic resources;
  - g. Prevention of practices that mislead consumers concerning the composition, destination, origin, quality and ..... of goods;
- (2) The technical regulations must:
  - a. foresee an equal treatment for good and services imported from countries with which corresponding treaties are being concluded;
  - b. offer to the imported goods a non less favourable treatment than that offered to similar domestic products, in case of important from countries with which corresponding treaties are being concluded;
  - c. develop and applied without creating technical barriers to trade with countries with which corresponding treaties are being concluded;

- d. be developed on the basis of established data correspondingly;
- (3) During the technical regulation's development are ordinarily being used, pertinent international or European standards or their projects, being in the final stage of development, except the cases when these standards or their certain particular provisions are not adequate to realization of the objectives specified in para.(1) from the present article, because of essential climacteric or geographic factors or because of fundamental technological problems.
- (4) The technical regulation foresees, by case, but not limited, the following elements:
- a. Definition of the regulated field: it is described the group of goods and services to which the respective technical regulation refers and the nature of risks that should be avoided, as well as, by case, groups of goods and services to which the provisions of technical regulations are not applied;
  - b. Groups of goods or services from the regulated fields subjected to conformity evaluation: it is specified the goods or services that are mandatorily subjected to the conformity evaluation with the technical requirements;
  - c. Groups of goods or products from regulated fields that are not subjected to conformity evaluation: it is specified the goods or services that are not subjected mandatorily to the conformity evaluation with the technical requirements;
  - d. Essential requirements for the respective groups of goods or services: it is established, in sufficiently exact terms, requirements enforced to the goods or services as to be identified and placed on the market. Essential requirements constitute a fundamental part of the technical regulation and allow the application of conex standards to remain voluntary. Failing conex standards or in the case when the produces decided not to apply to these standards, essential requirements must allow the direct conformity evaluation of the good or service;
  - e. Conformity evaluation procedures: is being specified, by case, for goods or services from the regulated fields, one or more adequate evaluation conformity procedures;
  - f. Requirements for the technical documentation's content and for the documents that attest the conformity with the essential requirements;
  - g. Rules of application of the national label of Moldovan Standard conformity: respective rules are established according to provisions of laws and other normative acts in effect;
  - h. Specific requirements to the metrologic insurance: the benchmarks, measuring means, reference materials used, measuring fulfilment procedures, with estimation of these measurements uncertainty etc.;
  - i. Requirements for the evaluation bodies of the conformity that designates and notifies for the activity in the respective field, according to the legislation in effect, including the specific requirements established by the regulating authority.

Regulating authorities will establish the structure and the content of the technical regulation for each case separately.

- (5) In technical regulations, regulating authorities establish:

- a. Frequency or criteria of determination of periodic evaluation of certified products, fulfilled by certification and inspecting bodies accredited and designated according to the legislation;
  - b. Criteria of suspending and withdrawal of certificates and declaration of conformity;
  - c. Actions that are to be undertaken by market surveillance authorities in case when it is discovered one or more products being non conform with the prescribed or/and declared requirements.
- (6) List of regulating fields is approved by, and in case of necessity, updated by the Government.

**Article 5.** The method of technical regulations' development

- (1) Regulating authorities that develop regulating technical projects publish in the Official Monitor of the Republic of Moldova, in terms of not more than 2 weeks from the date of development initiation, a notice referring to such an development, in order to inform all interested parties.
- (2) To insure the transparency of the regulation process for the development (modification) of a technical regulation, the developer of the technical regulation, throughout the Informational Center, specified in art. 11 from this law:
  - a. Informs the signatory states upon the bilateral and multilateral agreements concerning the reciprocal exchange of corresponding information, called forwards "*state parties*", about the types of goods upon which will apply the technical regulation during their development, indicating the objective and the motivation of the development (notifications are being transmitted in English, French or Spanish);
  - b. Delivers to state parties, upon request, details about the developing technical regulation in process of development or its copy and, to the extent of possibilities, indicates the compartments that differ in essence of pertinent international or regional standards.
- (3) During the development (modification) of a technical regulation that can influence considerably the conditions of goods' import or export, the developer of the technical regulation, upon request of state parties, will justify the necessity of this technical regulation and will transmit it to these states through the Informational Center, in the way established by the agreements. In case of development (modification) of technical regulation in conformity with pertinent international or regional standards, it is transmitted only the information concerning the conformity of the developing technical regulation with the pertinent international or regional standard.
- (4) Developers of the technical regulations establish a term not longer than 6 months for the state parties and interested parties of the Republic of Moldova to present written objections upon the technical regulation's project.
- (5) In cases when realization of the objectives specified in art.4 para.(1) from this law receives an urgent character, the developer of the technical regulation has the right to neglect, by case, some provisions of para.(2) and para.(4) from this article with the condition:
  - a. Informing the state parties about the development of this technical regulation, indicating the nature of the appeared problems;

- b. Presenting, upon request, to state parties a copy of the technical regulation, offering them the possibility to relate the objections in written form, that follow to the examined taking into consideration the examination's results.
- (6) Technical regulations are being published in the Official Monitor of the Republic of Moldova in the way established by the legislation. Between the date of adoption and the date putting into effect of the technical regulations, in case of necessity, will be foreseen a term of at least 3 months, established by the regulating authority that adopts them, upon proposal of interested parties, for the realization of insurance measures of respecting technical regulations' requirements towards the goods and services or towards the methods of manufacture or their provision.
  - (7) In case when circumstances or objectives that conditioned the adoption of the technical regulation have disappeared or have modified, the regulating authority that adopted it abrogates or modifies this technical regulation, publishing the required information. In case when the authority that adopted the technical regulation has finished its activity, the corresponding decision is taken by the authority that is its rights' successor.
  - (8) The way of development, coordination, adoption, registration, application and abrogation of the technical regulation is established upon the legislation in effect, in correspondence with the specified categories from art.3 para.(1) from this law.
  - (9) The new conformity evaluation procedures are developed in case when there are no guides or recommendations of pertinent international or European standardization organizations or in case when the technical content of a conformity evaluation procedure in effect does not correspond with the requirements of respective guides or recommendations of the international or European standardization organizations.

**Article 6.** Coordinating the activity of technical regulations development

- (1) The activity of technical regulation's elaboration, developed by the regulating authorities, is managed and coordinated by the central specialized body of public administration responsible for quality's infrastructure.
- (2) The programs of the technical regulations' activity are informed to all interested public authorities, are coordinated with these and are approved by the Government.
- (3) Having the information, published in conditions of art.5 para.(1) from this law, referring to the development of a regulating authority of a technical regulation, other regulation authorities are not entitled to initiate the development of a technical regulation with a similar application field, except when the central specialized body of the public administration responsible for quality infrastructure adopt a decision concerning the development of an alternative version. Other authorities must have the possibility to participate at the development of the technical regulation already initiated.
- (4) The right of provisions' official interpretation from the technical regulations, of establishment of the way of putting into effect of these belongs exclusively to the regulating authority that has approved the respective technical regulations.

**Article 7.** References to the standards in technical regulations

- (1) In case when there exist national standards, adopted in the established way, that correspond to the objectives of the technical regulation's development and are developed based upon pertinent European and international standards, regulating authorities, respecting the

copyright of the national standardization body, use the national standards as basis for the technical regulations' development and:

- a. Include, fully or partially, the text of national standards in technical regulations;
  - b. Make direct references to these standards in the text of technical regulations, in order to show that the only way to satisfy some conditions of technical regulations are to be in conformity with the standards upon which the references are being made;
  - c. Make indirect references to the national standards in technical regulations, in order to show that one of the ways to satisfy some conditions of technical regulation is to be in conformity with the conex standards.
- (2) The conformity with conex standard is considered as conformity with the applicable requirements of technical regulation.
- (3) Technical regulations make references, by case, to national standards, as well as to international, European and interstate standards, adopted on national level, that award the conformity presumption with the essential requirements established in the respective technical regulations. The adoption procedure of international, European and interstate standards is established by the national standardization body, according to the legislation in effect. The texts of conex standards are not published in the Official Monitor of the Republic of Moldova.
- (4) In case when in the text of technical regulation are made direct references to the national standards, any change of these standards must be notified the regulation authority that has adopted the respective technical regulation.
- (5) To realize the implementation mechanism of developed and adopted technical regulations, the national standardization body, upon regulating authorities' request:
- a. Coordinates the lists of conex standards;
  - b. Adopts, as national standards, the harmonized European standards with the new approach European directives;
  - c. Adopts, as national standards, international and European standards, including for testing methods used in conformity evaluation procedures, foreseen by respective technical regulations;
- (6) To realize the implementation mechanism of technical regulations, regulating authorities foresee the budget's financing necessary to adopt international and European standards as national standards applied as conex standards.

**Article 8.** Conformity evaluation procedures as component of technical regulations

- (1) Conformity evaluation of goods and services is realized through respective evaluation procedures, that represent modules or other conformity evaluation forms (schemes), approved by the Government.
- (2) Conformity evaluation procedures, foreseen by technical regulations, depend upon the complexity degree of the respective good or service and upon the risk that can appear during its usage. Technical regulations that foresee conformity evaluation procedures are being adopted by the Government.

- (3) Regulating authorities establish technical regulations, for the project phase and/or production phase, before the placement on the market of goods or the providing of services, usage possibilities of conformity evaluation procedures, that will insure the necessary safety level of the respective good or service and gaining the objective of technical regulation.
- (4) In technical regulations follow to be established:
  - a. For the same type or group of goods or services – one or more conformity evaluating procedures, identical as level of proof, that which will allow the solicitant to choose the most appropriate procedure to insure the general safety requirements of goods and services;
  - b. Criteria according to which the producer can choose for its own goods or services the most appropriate conformity evaluation procedure, foreseen by legislation;
  - c. Testing methods used during the process of conformity evaluation.
- (5) Conformity evaluation procedures should not be excessive in relation to the objectives of the respective technical regulation, foreseen by art. 4. para.(1) from this law. In case when a technical regulation is developed upon European Union's directives, the regulating authority is obliged, during the development process, to establish conformity evaluation procedures that will not be more restrictive than those foreseen the respective directives.
- (6) Rules of methodorganizational or general technique for conformity evaluation procedures are established in the regulations and/or in good practice codes in the field of evaluation of conformity that is developed and approved by the national insurance body of goods' conformity.

**Article 9.** Technical regulations' application, evaluation procedures of conformity and standards for domestic and imported goods and services

- (1) National technical regulations, national conformity evaluation procedures and national standards are applied in the same way as well as for the domestic goods and services, as for those imported ones.
- (2) In case when the regulating authority is noticed, of an interested party, upon the fact that a technical regulation adopted by it is used or could be used as a technical barrier to trade, including the international trade, it should undertake urgent measures that would exclude such a possible way of use. In case of this type of measures they report:
  - a. Interpretation, in case of necessity, of respective technical regulations;
  - b. Publication of an official comment, giving arguments about the way to apply the condition upon established restrictions through the respective technical regulation, in order to eliminate technical barriers to trade.
- (3) Conformity evaluation procedures, in case of import goods and services, are fulfilled in reasonable terms and in a way not less favorable than that applied to the domestic goods and services.

**Article 10.** Recognizing the equivalency of the technical regulations of other states with those national ones

- (1) Technical regulation of other member states of the World Trade Organization or other states with which the Republic of Moldova has respective agreements are considered equivalent with the national technical regulations in cases when:

- a. They do not contravene with the legislation of Republic of Moldova
  - b. They contribute, in an adequate way and same volume, to the realization of foreseen objectives of national technical regulations
- (2) Recognizing the equivalency of national technical regulations with those of other states is established by the regulating authority from the respective field.
- (3) The way to assume the technical regulations of other states, considered equivalent with the national ones, is established by the regulating authority from the respective field.
- (4) Referring to the imported goods for which is solicited a confirmation upon the corresponding of these to the technical regulations or national standards, examination and testing results of conformity evaluation from the exporting country are recognized and applied in the Republic of Moldova in conformity with the mutual recognizing agreements, signed with the respective state.

### **Chapter III**

#### **ASSURING INFORMATION'S TRANSPARENCY IN THE TECHNICAL REGULATION ACTIVITY**

**Article 11.** Information point in the technical barriers to trade

- (1) In the Republic of Moldova the information source upon technical barriers to trade is the Informational Center, founded based upon the Agreement concerning technical barriers to trade within the framework of World Trade's Organization, that, if required by interested parties, provides information upon:
- a. Technical regulations, standards or other normative acts adopted or being developed in the Republic of Moldova
  - b. Conformity evaluation procedures applied or planned for application in the Republic of Moldova's territory.
  - c. Membership and participation of regulating authorities in specialized international or regional organizations, as well as referring to bilateral and multilateral agreements in the upper stated fields, already concluded or in the phase of negotiations;
  - d. Publication of notifications specified in art.5 para.(2) and (3) from this law.
- (2) Central specialized body of public administration responsible for the relations with the World Trade Organization insures the functioning of the Informational Center specified in para.(1) of this article.
- (3) Necessary funds for sustaining the activity of the Informational Center are assured from the state budget.

**Article 12.** Functioning of the Informational Center

- (1) Regulating authorities, throughout their own informational points, create and update systematically, in limits of their competencies, the databases specified in art.11 para.(1) from this law.
- (2) In order to respond to the solicitations of interested parties, the regulating authorities transmit to the Informational Center the electronic versions of the bibliographic data concerning the respective technical regulations.

- (3) Regulating authorities insure the free access to the interested parties to the informational resources that are at their disposal, except the cases when, there is the aim to keep the state, work or commercial secrets, according to the legal provisions, this access is limited.
- (4) The technical regulation projects are transmitted for notice to the interested parties from other countries, if requested, by the regulating authority that developed them, through the Informational Center or directly, with its mandatory notice about the transmission of the respective projects.
- (5) The information point within the framework of the national standardization body insures the creation and management of the bibliographic databases and, if requested by interested parties from the Republic of Moldova and from abroad, delivers information referring to:
  - a. National standards adopted or in the development phase in the Republic of Moldova
  - b. Conformity evaluation procedures, applied or planned for application on the territory of the Republic of Moldova
  - c. Membership and participation of the national standardization body and the national insurance body for insuring goods' conformity for international or regional standardization and conformity evaluation organizations, as well as referring to bilateral and multilateral agreements from the regarded fields, which are already concluded or in the development phase.
- (6) Costs of issuing copies from solicited documents covers only the maintenance and multiplication costs and is the same as well as for the domestic beneficiaries, as for those from abroad, except the real transportation costs.

## **Chapter IV**

### **RIGHTS AND OBLIGATIONS OF REGULATING AUTHORITIES**

#### **Article 13.** Rights of regulating authorities

Regulating authorities that develop, adopt and ensure the implementation of technical regulations are entitled to:

- (1) To request from the Informational Center information concerning the technical regulations, conformity evaluation procedures, and standards, at the allegiance and participation at international or regional standardization and conformity evaluation organizations, as well as referring to bilateral and multilateral agreements in standardization and conformity evaluation;
- (2) To participate at the development of technical regulations initiated by other regulating authorities;
- (3) To request, reciprocally, information concerning technical regulations and at conformity evaluation procedures, developed in the Republic of Moldova by other regulating authorities;
- (4) To participate at the activity of national technical standardization committees;
- (5) To participate at the activity of national technical committees from international and regional standardization organizations at which the Republic of Moldova is part;
- (6) To adopt technical regulations in limits of their competency;

- (7) To abrogate technical regulations adopted previously in case when circumstances or objectives that conditioned their adoption have disappeared or have been modified;
- (8) To establish specific requirements for the conformity evaluation bodies, that are designated and notified for the activity in the respective field.

**Article 14.** Obligations of regulating authorities

- (1) The activity of technical regulations constitutes one of the basic activity or central specialized body from the public administration.
- (2) In order to fulfill the tasks from the technical regulating activity, regulating authorities create special services responsible for this activity; establish the structure and their way of functioning.
- (3) Regulating authorities that develop, approve and ensure the implementation of technical regulations are obliged:
  - a. To develop technical regulations in limits of their competency, respecting the provision of this present law;
  - b. To coordinate with the central specialized body from the public administration, responsible for the infrastructure of quality, the developed projects of technical regulations;
  - c. To coordinate with the national standardization body the technical regulations projects developed under the aspect of used terminology and its conformity with legislations' provisions in standardization;
  - d. To coordinate with the national metrological body the projects of technical regulations under the aspect of its conformity with the legislations' provisions in effect in the field of conformity evaluation;
  - e. To coordinate with the national body of products' conformity insurance, the technical regulating projects under the aspect of their correspondence with the legislation's provisions in effect from the conformity evaluation field;
  - f. To use, as basis of technical regulations, in the process of their development, international and regional standards or their respective provisions, being in the final phase of development;
  - g. To motivate, at the request of any member from the World Trade Organization, the necessity to adopt technical regulation non-conform to the provisions of international and regional standards and to present these arguments, in the form of notifications, at the Informational Center in one the working language of the World Trade Organization (English, French or Spanish);
  - h. To present systematically, as developing and adopting, to the central specialized body from the public administration responsible for infrastructure of quality, detailed information concerning technical regulations adopted and in the phase of development, as well as referring to their conformity with the international or regional standards;
  - i. To develop and to approve the list of conex standards for the developed technical regulations;

- j. To present to the national standardization body, for coordination and notification, the list of conex standards for the developed technical regulations;
- k. To insure the official translation in the state language of conex standards' texts, that present national adoptions of international or European standards;
- l. To publish technical regulations adopted and the list of respective conex standards in the Official Monitor of the Republic of Moldova;
- m. To propose for designation the conformity evaluation bodies that meet the requirements in the respective technical regulation;
- n. To evaluate initially and to monitor, together with the national body of products' insurance of conformity, the activity of conformity evaluation bodies that have not been designated.

**Article 15.** Liabilities for violating the provisions of this law

Regulating authorities that develop, adopt or ensure the implementation of technical regulations with the violation of this law's provisions held the liability according to the legislation in effect.

## **Chapter V**

### **MARKET SURVEILLANCE. RESPONSIBILITIES.**

**Article 16.** Market surveillance authorities

- (1) Market surveillance concerning the conformity with the prescribed requirements and/or declared of the manufactured goods, products placed on the market and provided services is fulfilled, in the name of the state, by the central specialized bodies from the public administration.
- (2) Market surveillance is the prerogative of the central specialized bodies from the public administration, in limits of their competency. In the framework of these bodies act the respective inspectorates, which regulations are approved by the Government.
- (3) Market surveillance authorities are given, under legislation's conditions, empowerments and resources necessary for the development of the market surveillance activity.

**Article 17.** Basic principles of market surveillance

- (1) Market surveillance is fulfilled upon any product or service, including upon those certificates, at any economic agent, disregarding its type of property and legal form of organization.
- (2) Market surveillance authorities are entitled to apply, in order to solve technical problems (lab testing fulfillment), to any other bodies or economic agents, with the condition that there is no conflict of interests and the responsibility for decision taking is held by the competent authorities.
- (3) During the appliance of penalties for disrespecting the prescribed and/or declared requirements, must be respected the principle of proportionality towards the measure of the sanction with the prejudice caused by the admitted violation.
- (4) Market surveillance is also fulfilled by selective inspections, that can be exerted by visiting the economic agent or by inviting its representatives to the market surveillance authority.

(1) Conformity evaluation authorities are not entitled to exercise market surveillance functions.

**Article 18. Market surveillance fulfillment**

(1) Market surveillance is fulfilled by the state inspectors from the framework of respective authorities given control functions from the state.

(2) Market surveillance is fulfilled, by case, in the following phases of the vital cycle of the good or service provision:

- a. Development;
- b. Manufacturing and maintenance;
- c. Storage and transportation;
- d. Processing, reconditioning and rejection;
- e. Import and trade;
- f. Usage.

(3) Market surveillance is fulfilled through:

- a. Monitoring;
- b. Control of goods and services placed on the market;
- c. Taking proves or samples of goods, examination of their conformity with the prescribed and/or declared requirements.

(4) Proofing basis, in the framework of the market, constitutes the documents that attest the conformity with prescribed and/or declared requirements, as well as the technical documentation for the respective good or service, that is permanently received, is updated and stored by the producer or the service provider.

(5) It is mandatory to include in the delivery contracts (development, manufacturing) of goods and services provision the clause concerning the conformity of these with the technical regulations' requirements applied on the territory of the Republic of Moldova.

(6) Persons that have responsible functions from the economic agents are obliged to create necessary conditions for market surveillance fulfillment.

**Article 19. State inspectors, their rights and responsibilities.**

(1) State inspectors that fulfill market surveillance concerning the goods that are placed on the market with the prescribed and/or declared requirements are public officials.

(2) The state inspector is entitled:

- a. To enter freely in the working and production facilities of economic agents, where are manufactured, stored, traded the goods or are provided the services that make the object of the control;
- b. To receive from the economic agent document and information necessary for the market surveillance fulfillment;

- c. To draw in, for the market surveillance fulfillment, experts and technical resources from the economic agent in cases when the temporization of the control can create risks for human life or for consumers' health;
- d. To take samples and evidence of goods for the conformity control with the prescribed and/or declared requirements in the established volume according to the normative documents;
- e. To elaborate acts of control concerning its result;
- f. To issue guidelines concerning the disposal of traced nonconformities;
- g. To issue guidelines concerning the prohibition or temporary cessation of trade, usage (operation), storage and transportation of lots of controlled goods and provided services in cases when the goods and services are non-conform with the prescribed and/or declared requirements;
- h. To address the police bodies in order to obtain support in the fulfillment of market surveillance and, by case, to be accompanied during working attribution exercising and in case when the economic agent does not allow him/her to fulfill the control;
- i. To participate at the disposal of dangerous goods;
- j. To apprehend respective authorities about the traced non-conform goods or services;

(3) Chief state inspector and his/her deputies are entitled:

- a. To issue to economic agents limitations concerning the definitive prohibition of manufacturing (production) and placement on the market of the goods, service provision in case when the economic agent refuses to present the goods to examination, as well as in the case when the goods or services:
  - i. Are dangerous and false (counterfeited)
  - ii. Have the expiration date expired;
  - iii. Are forbidden for human consumption through legal regulations;
  - iv. Are not conform with the requirements of technical regulations in effect;
- b. To order the disposal of dangerous goods definitively prohibited for trade in case when these is a way to eliminate the threat;
- c. To apply fines to economic agents:
  - i. 50% from the cost of goods that are not conform with the prescribed and/or declared requirements, in case when the nonconformity has been traced during the production or storage phase;
  - ii. 100% from the cost of manufactured or traded goods and of the provided services, in case of violation of state inspectors' limitation concerning the prohibition or temporary cessation of trade, usage (operation), storage and transportation of goods and provided services;
- d. To apply sanctions, also fines, in other cases foreseen by the legislation.

(4) The decision concerning application of fines specified in para. (3) of this article are emitted by the Chief state inspector based on the traced violations, indicated in the

control act, written accordingly. The decision concerning application of the fine is handed to the economic agent personally or is sent by mail, in terms of 5 days from the date of its emission. The decision stays definitive after expiration of 15 days from the date when it was handed to the economic agent. In case when the economic agent did not pay off the fine in terms of 15 days from date when the decision stays definite concerning the fine's application, this is transmitted to the officer of justice for enforcement.

- (5) While executing their tasks, state inspector will respect interests of consumers, economic agents and of the state, guiding themselves by the legislation in effect.
- (6) For the fulfillment or inadequate fulfillment of their tasks, state inspectors are liable according to the legislation's provisions in effect.
- (7) The way of issuing foreseen limitations in the present article is established by the market surveillance authorities.

## **Chapter VI**

### **FINANCING THE TECHNICAL REGULATING ACTIVITY AND MARKET SURVEILLANCE**

**Article 20.** Financing the technical regulating activity

- (1) Financing sources of the activity of technical regulations' development are:
  - a. State budget's resources
  - b. Special resources of the regulating authorities
- (2) The Government will foresee yearly in the state budget resources for financing the activity of technical regulations' development made by the respective regulating authorities according to the approved programs.

**Article 21.** Financing market surveillance activity

- (1) Necessary resources for developing the market surveillance activity are reported to the costs of the respective authorities, in limits of resources that are allocated annually in the state budget.
- (2) Costs for evidence or sampling taking and costs for lab tests (analysis, measurements) are beard by market surveillance authorities, in limits of the resources allocated yearly in the state budget. In cases when the lab test (analysis, measurements) proves the unconformity of taken evidence or samples with the prescribed and/or declared requirements, the costs for the evidence or sampling, as well as the costs for lab tests are beard by the economic agent that is subject to the control.
- (3) In cases when the control has been initiated by economic agent's solicitations, the relevant costs, including those foreseen in para.(2) from this article, is beard by the respective economic agent.

## **Chapter VII**

### **FINAL AND TRANSITORY PROVISIONS**

**Article 22.**

This law comes into effect after 6 months from the date of its publication

**Article 23.**

Until the legislation is being brought in accordance with this law, the laws and normative acts in effect are applied as far as they do not contravene with the present law.

**Article 24.**

The Government, in terms of 18 months from the publication date of this law:

- will harmonize its normative acts with this present law;
- will approve the list of regulated fields, according to the provisions of art.4 para.(6) from this law;
- will approve the conformity evaluation procedures, in conditions of art.8 para.(1) from this law;

**Article 25.**

On the effectual date of this law the following are abrogated:

- the Law nr.866-XIV from 10<sup>th</sup> of March 2000 concerning technical barriers to trade (Official Monitor of the Republic of Moldova, 2000, nr.65-67, art.462)
- Article 19 from the Law nr.186-XV from 24<sup>th</sup> of April 2003 concerning goods' conformity evaluation (Official Monitor of the Republic of Moldova, 2003, nr.141-145, art 566)
- Article II from the Law nr.72-XV from 5<sup>th</sup> of May 2005 for modification and completing the Law nr.590-XIII from 22<sup>nd</sup> of September 1995 concerning the standardization
- The Law nr. 866-XIV from 10<sup>th</sup> of March 200 concerning technical barriers to trade (Official Monitor of the Republic of Moldova, 2005, nr.92-94, art.433).

**CHAIRMAN OF THE PARLIAMENT**

**Marian LUPU**

**Chisinau, 22<sup>nd</sup> of December 2006.**

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