

BLOC OF CONSTITUTIONALITY 2016

CONSTITUTION  
OF THE REPUBLIC  
OF MOLDOVA

DECLARATION OF INDEPENDENCE

JCC NO. 36 OF 05.12.2013



BLOC OF CONSTITUTIONALITY 2016

# CONSTITUTION OF THE REPUBLIC OF MOLDOVA

■ DECLARATION OF INDEPENDENCE

■ JUDGMENT OF THE CONSTITUTIONAL  
COURT NO. 36 OF 05.12.2013



CONSTITUTIONAL COURT



Responsible for the publication:  
Constitutional Court of the Republic of Moldova

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DECLARATION  
OF INDEPENDENCE  
OF THE REPUBLIC OF  
MOLDOVA





**DECLARATION  
OF INDEPENDENCE  
OF THE REPUBLIC OF MOLDOVA**

ADOPTED ON 27 AUGUST 1991

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**THE PARLIAMENT OF THE REPUBLIC OF MOLDOVA**, constituted following free and democratic elections,

**TAKING** into account the millenary history of our people and its uninterrupted statehood within the historical and ethnic area of its national making,

**CONSIDERING** the acts of dismemberment of its national territory between 1775 and 1812 as being contradictory to the historical right of its people and the judicial statute of the principality of Moldova, acts that are recalled by entire historical evolution and the free will of the population of Bessarabia and Bucovina,

**UNDERLINING** the existence of Moldovans in Transnistria, a component part of the historical and ethnic territory of our people,

**ACKNOWLEDGING** that declarations by many parliaments of many states consider the

agreement of 23 August 1939, between the government of the USSR and the government of Germany null and void ab initio and demand that the political and judicial consequences of the above be eliminated, a fact revealed also by the declaration of the international conference “The Molotov-Ribbentrop pact and its consequences for Bessarabia”, adopted on 28 June 1991,

**POINTING OUT** that, without the prior consultation of the population of Bessarabia, Northern Bucovina and Herta District, occupied by force on 28 June 1940 as well as the Moldavian Soviet Socialist Autonomous Republic (Transnistria) established on 12 October 1924, the Supreme Soviet of the USSR, by infringing its constitutional prerogatives, adopted the “Law of the USSR on the establishment of the Moldavian SSR” on 2 August 1940, and its Presidium issued “The Decree concerning the frontiers between the Ukrainian SSR and the Moldavian SSR”, on 4 November 1940, judicial acts whereby, in the absence of any real legal basis, it was attempted to justify the dismantlement of those territories and



the incorporation of the new republic into the USSR,

**RECALLING** that during the recent years the democratic national liberation movement of the population of the Republic of Moldova reaffirmed its aspirations for freedom, independence and national unity, expressed in final documents of the Great National Reunion of Chisinau on 27 August 1989, 16 December 1990 and 27 August 1991, laws and decisions of the Parliament of the Republic of Moldova concerning the laws **reintroducing Romanian as the state language** and the Latin alphabet on 31 August 1989, the state flag on 27 April 1990, the state emblem on 3 November 1990 and the change of the official name of the republic on 23 May 1991,

**TAKING** as a basis the declaration concerning State Sovereignty of the Republic of Moldova, adopted by the Parliament on 23 June 1990 and the fact that the population of the Republic of Moldova, in its own right as sovereign people, did not participate at the referendum on the preservation of the USSR, held on 17 March 1991, in spite of the pressures exercised by the state organs of the USSR,

**TAKING** into account the irreversible processes taking place in Europe and elsewhere in the world calling for democracy, freedom and national unity, for the establishment of the rule of law and the transformation towards a free market,

**REAFFIRMING** the equal rights of peoples and their right to self-determination, as laid down in the UN Charta, the Helsinki Final Act and the norms of international law pertaining to the above,

**CONSIDERING**, in view of all of the above, that the time has come for the proclamation of a judicial act, in accordance with the history of our people and moral norms of international law,

**PROCLAIMS SOLEMNLY,**

in the virtue of the right of self-determination of peoples, in the name of the entire population of the Republic of Moldova, and in front of the whole world, that:

**THE REPUBLIC OF MOLDOVA IS A SOVEREIGN, INDEPENDENT AND DEMOCRATIC STATE, FREE TO DECIDE ITS PRESENT AND FUTURE, WITHOUT ANY EXTERNAL INTER-**

**REFERENCE, KEEPING WITH THE IDEALS AND ASPIRATIONS OF THE PEOPLE WITHIN THE HISTORICAL AND ETHNIC AREA OF ITS NATIONAL MAKING.**

In its quality as a **SOVEREIGN AND INDEPENDENT STATE, THE REPUBLIC OF MOLDOVA**, hereby

**REQUESTS** all states and world governments to recognize the independence of the Republic of Moldova, as proclaimed by the freely elected Parliament of the Republic and is willing to establish political, economic and cultural relations and any other relations of common interest with European countries and all other countries of the world, and is ready to establish diplomatic relations with the above, in accordance with the norms of international law and common practice on the above matter,

**REQUESTS** the United Nations to admit the Republic of Moldova as a full member of the world organization and its specialized agencies,

**DECLARES** that is ready to adhere to the Helsinki Final Act and the Paris Charta for a new Europe, equally asking to be admitted

to the CSCE and its mechanisms, with equal rights,

**REQUESTS** the USSR to start negotiations with the government of the Republic of Moldova to terminate the illegal state of occupation, annexation and the withdrawal of Soviet troops from its national territory,

**DECIDES** that no other laws should be respected on its territory but those that are in conformity with the republic's constitution, laws and all other legal acts adopted by the legally constituted organs of the Republic of Moldova,

**GUARANTEES** the exercise of social, economic, cultural and political rights for all citizens of the Republic of Moldova, including those of national, ethnic, religious and linguistic groups, in conformity with the provisions of the Helsinki Final Act and documents adopted afterwards, as well as the Paris Charta for a new Europe.

**So help us God!**

Adopted in Chisinau, by the Parliament of the Republic of Moldova on this day, the 27th of August 1991.

# CONSTITUTION OF THE REPUBLIC OF MOLDOVA





# CONSTITUTION OF THE REPUBLIC OF MOLDOVA

ADOPTED ON 27 JULY 1994

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**WE**, the plenipotentiary representatives of the people of the Republic of Moldova, members of Parliament,

**STARTING** from the secular aspirations of the people to live in a sovereign country, expressed by the proclamation of independence of the Republic of Moldova,

**TAKING DUE ACCOUNT** of the continuity of the Moldovan people statehood within the historical and ethnic framework of its growing as a nation,

**STRIVING** to satisfy the interests of citizens of a different ethnic origin who alongside with the Moldovans constitute the people of the Republic of Moldova,

**CONSIDERING** rule of law, civic peace, democracy, human dignity, fundamental human rights and freedoms, the free development of human personality, justice and political pluralism as supreme values,

**BEING AWARE** of our responsibility and obligations towards past, present and future generations,

**REASSERTING** our devotion to overall human values and our desire to live in peace and harmony with all the peoples of the world, in compliance with the unanimously acknowledged principles and norms of international law,

We herewith adopt this Constitution of the Republic of Moldova, and declare it as **THE SUPREME LAW OF THE SOCIETY AND OF THE STATE.**



## Title I

# GENERAL PRINCIPLES





*Article 1*

**The State of the Republic of Moldova**

(1) The Republic of Moldova is a sovereign, independent, unitary and indivisible state.

(2) The form of government of the State is the republic.

(3) Governed by the rule of law, the Republic of Moldova is a democratic State in which the dignity of people, their rights and freedoms, the free development of human personality, justice and political pluralism represent supreme values that shall be guaranteed.

*Article 2*

**Sovereignty and State Power**

(1) National sovereignty resides with the people of the Republic of Moldova, who shall exercise it directly and through its representative bodies in the ways provided for by Constitution.

(2) No private individual, no national segment of population, no social group, no political party or other public organization may exercise state power on their own behalf. The

usurpation of state power shall constitute the gravest crime against people.

*Article 3*

**Territory**

(1) The territory of the Republic of Moldova is inalienable.

(2) The borders of the country are sanctioned by an organic law, subject to the unanimously recognized principles and norms of international law.

*Article 4*

**Human Rights and Freedoms**

(1) Constitutional provisions on human rights and freedoms shall be interpreted and are enforced in accordance with the Universal Declaration of Human Rights, with the conventions and other treaties to which the Republic of Moldova is a party.

(2) Wherever disagreements appear between the conventions and treaties on fundamental human rights to which the Republic of Moldova is a party and its domestic laws, priority shall be given to international regulations.

*Article 5*

**Democracy and Political Pluralism**

(1) Democracy in the Republic of Moldova shall be exercised under the conditions of political pluralism, which is incompatible with dictatorship or totalitarianism.

(2) No ideology may be instituted as official ideology of the State.

*Article 6*

**Separation and Cooperation of Powers**

The legislative, the executive and the judicial powers are separate and cooperate in the exercise of the assigned prerogatives pursuant to the provisions of the Constitution.

*Article 7*

**Constitution - the Supreme Law**

The Constitution of the Republic of Moldova shall be the Supreme Law of the State. No law or other legal act which contravenes the provisions of the Constitution shall have legal force.

*Article 8*

**Observance of International Law and  
International Treaties**

(1) The Republic of Moldova commits to observe the Charter of the United Nations and the treaties to which it is a party, to ground its relationships with other states on the unanimously recognized principles and norms of international law.

(2) The coming into force of an international treaty containing provisions which are contrary to the Constitution shall be preceded by a revision of the latter.

*Article 9*

**Fundamental Principles Regarding Property**

(1) Property can be public and private. It is constituted of material and intellectual goods.

(2) No property may be used to the prejudice of human rights, freedoms and human dignity.

(3) Market, free economic initiative and fair competition shall be the main elements of the economy.

*Article 10*

**Unity of People and Right to National Identity**

(1) The unity of people of the Republic of Moldova constitutes the foundation of the State. The Republic of Moldova is the common and indivisible motherland of all its citizens.

(2) The State recognises and guarantees all its citizens the right to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity.

*Article 11*

**The Republic of Moldova - a Neutral State**

(1) The Republic of Moldova proclaims its permanent neutrality.

(2) The Republic of Moldova does not admit the stationing of any foreign military troops on its territory.

*Article 12*

**Symbols of the State**

(1) The Republic of Moldova has a flag, coat of arms and anthem.

(2) The State Flag of the Republic of Moldova is a tricolour. The colours are arranged vertically in the following order from the flagpole: blue, yellow and red. On the central yellow stripe of the tricolour is imprinted the State Coat of Arms of the Republic of Moldova.

(3) The State Coat of Arms of the Republic of Moldova shall consist of a shield divided horizontally into two parts: the upper part is coloured red and the lower part is coloured blue; with a superimposed a head of aurochs showing between its horns an eight-pointed star. The head of aurochs is flanked on the right side by a rose with five petals and on the left side by a slightly rotated half moon. All heraldic elements on the shield are of golden (yellow) colour. The shield is laid on the breast of a natural eagle holding in its beak a golden cross, in its right claw a green olive-tree branch and in its left claw a golden sceptre.

(4) The State anthem of the Republic of Moldova is established by organic law.

(5) The flag, coat of arms and anthem are the State symbols of the Republic of Moldova and are protected by law as such.



*Article 13*

**State Language, Use of Other Languages**

(1) The State language of the Republic of Moldova is the Moldovan language based on the Latin alphabet.

(2) The State shall acknowledge and protect the right to the preservation, development and use of the Russian language and other languages spoken within the territory of the State.

(3) The State will encourage and promote studies of foreign languages that enjoy widespread international usage.

(4) The use of languages within the territory of the Republic of Moldova shall be established by organic law.

*Article 14*

**The Capital**

The capital of the Republic of Moldova is the city of Chişinău.



## Title II

# FUNDAMENTAL RIGHTS, FREEDOMS AND DUTIES





CHAPTER I  
**GENERAL PROVISIONS**

*Article 15*

**Universality**

All citizens of the Republic of Moldova shall enjoy the rights and freedoms granted by the Constitution and other laws and are assigned the duties provided for thereby.

*Article 16*

**Equality**

(1) The respect and protection of the individual shall constitute the foremost duty of the State.

(2) All citizens of the Republic of Moldova are equal before the law and public authorities, regardless of the race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, property or social origin.

*Article 17*

**Citizenship of the Republic of Moldova**

(1) The citizenship of the Republic of Moldova shall be acquired, maintained or with-

drawn under the conditions provided for by the organic law.

(2) No one may be arbitrarily deprived of his/her citizenship or of the right to change the citizenship.

*[Art. 17 amended by the Law no.1469-XV of 21.11.02, MO no.169/12.12.02, art. 1290]*

#### *Article 18*

### **Protection of citizens of the Republic of Moldova**

(1) Citizens of the Republic of Moldova shall benefit of the State protection both within the country and abroad.

(2) Citizens of the Republic of Moldova may not be extradited or expelled from the country.

*[Art. 18 amended by the Law no.1469-XV of 21.11.02, MO no.169/12.12.02, art. 1290]*

#### *Article 19*

### **Legal Status of Foreign Citizens and Stateless Persons**

(1) Foreign citizens and stateless persons shall enjoy similar rights and duties as the citizens of the Republic of Moldova, with the exceptions provided by the law.

(2) Foreign citizens and stateless persons may be extradited only in compliance with an international covenant, in terms of reciprocity or on the basis of a decision delivered by a court of law.

(3) The right to asylum shall be granted and withdrawn under the law and in compliance with the international treaties to which the Republic of Moldova is a party.

*[Art. 19 amended by the Law no.1469-XV of 21.11.02, MO no.169/12.12.02, art. 1290]*

#### *Article 20*

##### **Free Access to Justice**

(1) Any individual is entitled to effective satisfaction from the part of competent courts of law against actions infringing upon his/her legitimate rights, freedoms and interests.

(2) No law may restrict the access to justice.

#### *Article 21*

##### **Presumption of Innocence**

Any person accused to have committed an offence shall be presumed innocent until found guilty on legal grounds, brought forward in

a public trial, safeguarding all the necessary guarantees for his/her defence.

*Article 22*

**Non-Retroactivity of the Law**

No one shall be sentenced for actions or drawbacks which did not constitute an offence at the time they were committed. No punishment more severe than that applicable at the time when the offence was committed shall be imposed.

*Article 23*

**Right of Every Person to Be Acknowledged on His/Her Rights and Duties**

(1) Every individual has the right to an acknowledged legal status.

(2) The State shall ensure the right of every individual to be aware of his/her rights and duties. For this purpose the State shall publish and make accessible all the laws and other normative acts.



CHAPTER II

FUNDAMENTAL RIGHTS AND DUTIES

*Article 24*

**Right to Life and Physical and Mental Integrity**

(1) The State guarantees every individual the right to life and physical and mental integrity.

(2) No one may be subjected to torture or to any cruel, inhuman or degrading punishment or treatment.

(3) The capital punishment is abolished. No one may be sentenced to such a punishment, nor executed.

*[Art. 24 para.(3) modified by the Law no.185-XVI of 29.06.06, MO no.106-111/14.07.06, art.502]*

*[Art. 24 para.(3) amended by the Law no.351-XV of 12.07.01, MO no.90-91/02.08.01, art.699]*

*Article 25*

**Individual Freedom and Security of Person**

(1) Individual freedom and security of person are inviolable.

(2) Searching, detaining in custody or arresting a person shall be permitted only in cases

and pursuant to the procedure established by the law.

(3) The period of detention in custody may not exceed 72 hours.

*[Art. 25 para.(3) amended by the Law no.351-XV of 12.07.01, MO no.90-91/02.08.01, art.699]*

(4) The arrest shall be carried out under a warrant issued by a judge for a period of 30 days at the most. An appeal may be lodged against the validity of the warrant, under the law, at the hierarchically superior court of law. The term of the arrest may only be prolonged by the judge or by the court of law, under of the law, to a period not exceeding 12 months.

*[Art. 25 para.(4) amended by the Law no.351-XV of 12.07.01, MO no.90-91/02.08.01, art.699]*

(5) The person detained in custody or under arrest shall be immediately informed on the reasons of his/her detention or arrest, and shall be notified of the charges brought against him/her as soon as possible; the notification of the charges shall only be made in the presence of a lawyer, either chosen or appointed *ex officio*.

(6) If the reasons for detention in custody or arrest have ceased to exist, the release of the person concerned must follow without delay.

*Article 26*

**Right to Defence**

(1) The right to defence is guaranteed.

(2) Everyone shall be entitled to respond independently by appropriate legitimate means to an infringement of his/her rights and freedoms.

(3) Throughout the trial the parties shall have the right to be assisted by a lawyer, either chosen or appointed *ex officio*.

(4) Any interference with the activity of the persons carrying out the defence within legally established limits shall be punishable by the law.

*Article 27*

**Right to Free Movement**

(1) The right to free movement within the country is guaranteed.

(2) Every citizen of the Republic of Moldova is guaranteed the right to settle his/her domiciles or place of residence anywhere within the country, to travel abroad, to emigrate and to return to the country.

*Article 28*

**Private and Family Life**

The State shall respect and protect the private and family life.

*Article 29*

**Inviolability of Domicile**

(1) The domicile and place of residence are inviolable. No one may enter upon or stay on the premises of a domicile without the consent of the owner.

(2) The law shall allow for derogation from the provisions of para. (1) under the following circumstances:

a) to carry into effect an arrest warrant or a sentence of a court of law;

b) to eliminate an imminent danger threatening the life, physical integrity or belongings of an individual;

c) to prevent the spread of an epidemic disease.

(3) Searches and investigations on the scene shall be ordered and carried out only under the law.

(4) House searches at night are forbidden except for the cases of a flagrant misdemeanour.

### *Article 30*

#### **Privacy of Correspondence**

(1) The State shall ensure the privacy of letters, telegrams, other postal dispatches, telephone conversations and other legal means of communication.

(2) The provisions of para. (1) may only be derogated from by law when this becomes necessary in the interest of national security, economic welfare of the country, public order and prevention of offences.

*[Art. 30 para.(2) introduced by the Law no.351-XV of 12.07.01, MO no.90-91/02.08.01, art.699]*

*Article 31*

**Freedom of Conscience**

(1) The freedom of conscience shall be guaranteed, and its manifestations should be in a spirit of tolerance and mutual respect.

(2) The freedom of religious cults shall be guaranteed and they shall organise themselves according to their own statutes, under the law.

(3) In their mutual relationships religious cults are forbidden to use, express or incite to hatred or enmity.

(4) Religious cults shall be autonomous, separated from the State and shall enjoy the support of the latter, here included any facilitation for the religious assistance in the army, hospitals, prisons, asylums and orphanages.

*Article 32*

**Freedom of Opinion and Expression**

(1) Every citizen shall be guaranteed the freedom of thought and opinion, as well as the freedom of expression in public by way of word, image or any other means possible.

(2) The freedom of expression may not harm the honor, dignity or the rights of other people to have and express their own opinions or judgments.

(3) The law shall forbid and prosecute all actions aimed at denying and slandering of the State and people, instigation to sedition, war of aggression, national, racial or religious hatred, incitement to discrimination, territorial separatism, public violence, or other manifestations encroaching upon the constitutional order.

*Article 33*

**Freedom to Create**

(1) The freedom to create scientific and artistic works is guaranteed. Creative work shall not be subject to censorship.

(2) The right of citizens to intellectual property, their material and moral interests related to various types of intellectual creation shall be protected by the law.

(3) The State shall contribute to the preservation, development and propagation of na-

tional and world achievements in culture and science.

*Article 34*

**Right of Access to Information**

(1) The right of a person to have access to any kind of information of public interest shall not be curtailed.

(2) Public authorities, according to their assigned competence, shall be committed to ensure that citizens are correctly informed both on public affairs and issues of personal interest.

(3) The right of access to information shall not prejudice neither the measures taken to protect the citizens nor the national security.

(4) The State and private public media shall be bound to provide the correct information of the public opinion.

(5) The public media shall not be subject to censorship.



*Article 35*

**Right to Education**

(1) The right to education shall be ensured by way of compulsory comprehensive school system, by secondary education and vocational education, higher education system, as well as by other forms of education and continuous training.

(2) The State shall ensure, according to the law, the right to choose the language of education and training of persons.

(3) The study of the official language shall be ensured within all types of educational institutions.

(4) State public education is free of charge.

(5) Educational institutions, including those that are not financed by the State, shall be established and shall operate according the law.

(6) Institutions of higher education shall enjoy the right to autonomy.

(7) The state secondary, vocational and higher education shall be accessible to everyone on the basis of personal merits.

(8) The State shall ensure, according to the law, the freedom of religious education. The State education system is laic.

(9) The parents have prior right to choose the appropriate field of education for their children.

*Article 36*

**Right to Health Protection**

(1) The right to health protection is guaranteed.

(2) The minimum health insurance provided by the State shall be free of charge.

(3) The structure of the national health security system and the means aimed at protecting the physical and mental health of the individual shall be provided for by organic law.

*Article 37*

**Right to a Healthy Environment**

(1) Every individual has the right to live in an ecologically safe and healthy environment, to consume healthy food and to use harmless household appliances.

(2) The State shall guarantee to every individual the right to free access and dissemination of the trustworthy information regarding the state of the natural environment, living and working conditions and the quality of food and household appliances.

(3) Concealment or distortions of information regarding the elements that are harmless to human health are prohibited by the law.

(4) Private individuals and legal entities are liable for the damages caused to a person's health and property due to ecological infringements.

### *Article 38*

#### **Right to Vote and Right to Stand for Election**

(1) The will of the people shall constitute the basis of the State power. This will is expressed by free elections which are periodically conducted by way of a universal, equal, direct, secret and freely expressed ballot.

(2) The citizens of the Republic of Moldova having attained the age of 18 on or by the voting day inclusively are entitled to vote, except for the persons banned from voting by the law.

(3) The right to stand for election is guaranteed to all citizens of the Republic of Moldova enjoying the right to vote, according to the law.

*Article 39*

**Right of Take Part in Administration**

(1) Citizens of the Republic of Moldova shall enjoy the right to take part in the administration of public affairs directly, as well as by way of their representatives.

(2) The access to a public office shall be guaranteed, according to the law, to any citizen of the Republic of Moldova.

*Article 40*

**Freedom of Assembly**

Meetings, demonstrations, manifestations, processions or any other assembly are free and may be organised and conducted only peacefully and without the use of any kind of weapon.

*Article 41*

**Freedom of Parties and Other Socio-Political Organisations**

(1) All citizens are free to associate in parties and other socio-political organizations. These organisations shall contribute to the definition and expression of the political will of citizens and take part in the election process, according to the law.

(2) All parties and other socio-political organisations are equal before the law.

(3) The State shall ensure the protection of the legitimate rights and interests of parties and other socio-political organisations.

(4) Parties and other socio-political organizations, which objectives or activities are the engagement in fighting against political pluralism, the principles of the rule of law, sovereignty, independence and territorial integrity of the Republic of Moldova are declared unconstitutional.

(5) Any secret associations shall be forbidden.

(6) The operation of parties consisting of foreign citizens shall be forbidden.

(7) Public offices the holders of which may not join political parties are laid down by organic law.

*Article 42*

**Right to Establish and Join Trade Unions**

(1) Any employee shall enjoy the right to establish and join a trade union in order to defend his/her interests.

(2) Trade unions are established and operate pursuant to their statutes, according to the law. They contribute to the protection of professional, economic and social interests of employees.

*Article 43*

**Right to Work and Labour Protection**

(1) Every person shall enjoy the right to work, to freely choose his/her profession and workplace, to equitable and satisfactory working conditions, as well as to protection against unemployment.

(2) All employees shall have the right to social protection of labour. The measures of protection shall bear upon labour safety and hygiene, working conditions for women and young people, introduction of a minimum wage per economy, weekly rest and annual paid leave, as well as difficult working conditions and other specific situations.

(3) The length of the working week shall not exceed 40 hours.

(4) The right to hold labour bargaining and the binding nature of collective agreements is guaranteed.

#### *Article 44*

#### **Prohibition of Forced Labour**

(1) Forced labour shall be prohibited.

(2) There is not considered forced labour:

a) any service of military nature or activities performed instead thereof by those who, according to the law, are exempted from compulsory military service;

b) the work of a sentenced person, carried out under normal conditions within the period of detention or of conditional release;

c) services required to deal with calamities or other dangers as well as those which are part of normal civil obligations, laid down by the law.

*Article 45*

**Right to Strike**

(1) The right to strike is acknowledged. Strikes may be unleashed only with the view of protecting the economic, social and professional interests of employees.

(2) The law shall set forth the conditions governing the exercise of the right to strike, as well as the responsibility for illegal unleash of the strikes.

*Article 46*

**Right to Private Property and Its Protection**

(1) The right to possess private property and the debts incurred by the State are guaranteed.

(2) No one may be expropriated except for a matter of public utility, as established by the law, against a fair and previously determined compensation.



(3) No assets legally acquired may be seized. The legal nature of the acquirement of assets is presumed.

(4) The assets intended for, used or resulted from misdemeanours or offences shall be seized only according to the law.

(5) The right to hold private property commits to the observance of duties on the protection of the environment and maintenance of good neighbourhood, as well as of other duties which, according to the law, are incumbent upon the owner.

(6) The right to inherit private property is guaranteed.

#### *Article 47*

#### **Right to Social Assistance and Protection**

(1) The State shall be bound to take actions in order that every person has a decent standard of living that would ensure him/her and his/her family members health protection and welfare including food, clothing, shelter, medical care, as well as necessary social services.

(2) All citizens have the right to be insured in case of: unemployment, disease, disability, widowhood, old age or other situations where, due to causes beyond one's control, one loses the source or means of obtaining the necessities of life.

*Article 48*

**Family**

(1) The family shall constitute the natural and fundamental element of the society and shall enjoy protection from the State and the society.

(2) The family shall be founded on a freely consented marriage between man and woman, on their equality of rights and on the right and obligation of parents to ensure upbringing and education of their children.

(3) The conditions to conclude, terminate or void a marriage are laid down by the law.

(4) Children have a duty to take care of their parents and to offer necessary help.

*Article 49*

**Protection of Family and Orphaned Children**

(1) The State shall facilitate, by economic and other actions, formation of families and fulfilment of their assigned duties.

(2) The State shall protect motherhood, children and young people, by fostering the development of the required institutions.

(3) All the concerns aimed at maintaining, upbringing and educating orphaned children and those deprived of parental care shall be devolved to the State and society. The state shall promote and support charitable activities for the benefit of these children.

*Article 50*

**Protection of the Mother, of Children and  
Young People**

(1) The mother and the child shall enjoy special assistance and protection. All the children, including those born out of wedlock, shall enjoy the same social protection.

(2) Children and young people shall enjoy a special form of assistance in the pursuit of their rights.

(3) The State shall grant allowances necessary for the children and aids required for the care of sick or disabled children. Other forms of social assistance for children and young people shall be provided by the law.

(4) The exploitation of minors and their involvement in activities which might be injurious to their health, moral conduct, or which might endanger their life or proper development are forbidden.

(5) Public authorities shall be bound to secure appropriate conditions enabling young people to freely take part in the social, economic, cultural and sporting life of the country.

#### *Article 51*

#### **Protection of Disabled Persons**

(1) The disabled persons shall enjoy special protection from the whole of society. The State shall ensure normal conditions for medical treatment and rehabilitation, education,

training and social integration of disabled persons.

(2) No one can be subdued to the forced medical treatment unless for the cases provided by the law.

*Article 52*

**Right to Lodge Petitions**

(1) All citizens shall be entitled to refer to public authorities by way of petitions formulated only on behalf of the signatories.

(2) Legally established organizations shall have the right to lodge petitions exclusively on behalf of the bodies they represent.

*Article 53*

**Right of the Person Prejudiced by a Public Authority**

(1) Any person prejudiced in any of his/her rights by a public authority by way of an administrative act or failure to solve a complaint within the legal term, is entitled to obtain acknowledgement of the declared right, cancellation of the act and payment of damages.

(2) The State shall be under patrimonial liability as provided by the law for any prejudice caused by way of errors committed in criminal lawsuits by the investigation bodies and courts of law.

*Article 54*

**Restrictions on the Exercise of Certain Rights or Freedoms**

(1) In the Republic of Moldova no law may be adopted which might curtail or restrict the fundamental rights and freedoms of the individual and citizen.

(2) The exercise of the rights and freedoms may not be subdued to other restrictions unless for those provided by the law, which are in compliance with the unanimously recognised norms of the international law and are requested in such cases as: the defence of national security, territorial integrity, economic welfare of the country, public order aiming at preventing mass riots and crimes, protection of the rights, freedoms and dignity of other persons, prevention of disclosing confidential information or

the guarantee of the power and impartiality of justice.

(3) The provisions under para. (2) does not allow the restrictions of the rights laid down in Articles 20-24.

(4) The restriction has to be proportionate to the situation that caused it and shall not affect the existence of the right or freedom.

*[Art. 54 amended by the Law no.351-XV of 12.07.01, MO no.90-91/02.08.01, art.699]*

CHAPTER III  
FUNDAMENTAL DUTIES

*Article 55*

**Exercise of Rights and Freedoms**

Any persons shall exercise his/her constitutional rights and freedoms in good faith, without any infringement of the rights and liberties of the others.

*[Art. 55 amended by the Law no.351-XV of 12.07.01, MO no.90-91/02.08.01, art.699]*

*Article 56*

**Faithfulness to the Country**

- (1) Faithfulness to the country is sacred.
- (2) Citizens entrusted with holding of public offices, as well as military personnel, are accountable for the loyal fulfilment of their duties towards the state, and in cases provided by the law shall take the oath as required by the law.

*Article 57*

**Defence of Motherland**

- (1) The defence of motherland is a sacred right and duty of each citizen.



(2) The national armed forces constitute the framework for performing military services, for national defence, guarding the borders, and maintaining public order, according to the law.

*Article 58*

**Financial Contributions**

(1) Citizens have the obligation to contribute by way of duties and taxes to public expenditures.

(2) The system of legal taxation must ensure a fair distribution of the tax burdens.

(3) Any other dues are prohibited, save for those determined by the law.

*Article 59*

**Protection of the Environment and Monuments**

The protection of environment and the preservation of historical and cultural monuments constitutes a duty of each citizen.



Title III

**PUBLIC AUTHORITIES**





CHAPTER IV

**PARLIAMENT**

**FIRST SECTION**

ORGANISATION AND FUNCTIONING

*Article 60*

**Parliament – the Supreme Representative and  
Legislative Authority**

(1) Parliament is the supreme representative body of the people of the Republic of Moldova and the sole legislative authority of the State.

(2) Parliament is composed of 101 members.

*Article 61*

**Parliament Elections**

(1) The members of Parliament shall be elected by universal, equal, direct, secret and freely expressed ballot.

(2) The organic law shall establish the procedure for organizing and holding elections.

(3) The election of members of Parliament is hold no later than within 3 months following the expiration of the mandate or the dissolution of the previous Parliament.

*Article 62*

**Validation of Mandate of the Member of  
Parliament**

Upon the proposal submitted by the Central Electoral Commission, the Constitutional Court rules either on the validation of the mandate of the Member of Parliament, or on invalidation whenever electoral legislation has been infringed.

*Article 63*

**Term of Office**

(1) The Parliament shall be elected for a 4-year term of office, which may be extended by organic law, in the event of war or national disaster.

(2) Parliament convenes in session upon the summons of the President of the Republic of Moldova within 30 days at the most from the election date.

(3) The mandate of the Parliament shall be prolonged until the legal convocation of the newly elected composition. During this period no amendment may be brought to the Con-

stitution and no organic law may be adopted, amended or repelled.

(4) The draft laws or legislative initiatives contained in the agenda of the previous Parliament shall be carried on by the new Parliament.

#### *Article 64*

#### **Internal Organisation**

(1) The structure, organisation and functioning of Parliament is established by internal regulations. The financial resources of Parliament are foreseen in the budget approved by the latter.

(2) The President of Parliament shall be elected by secret ballot with the majority of votes cast by members elected for the tenure of the mandate of Parliament. The President of Parliament may be revoked any time by secret ballot of Parliament, with a majority of at least two-thirds of votes of all its members.

(3) Vice-presidents of Parliament are elected upon the proposal of the President of Parliament upon consultations with parliamentary fractions.

*Article 65*

**Openness of Sessions**

- (1) The sessions of Parliament are public.
- (2) Parliament may decide to hold certain sessions behind closed doors.

*Article 66*

**Basic Powers**

The Parliament shall be vested with the following basic powers:

- a) adopts laws, decisions and motions;
- b) declares the holding of referenda;
- c) provides legislative interpretations and ensures unanimity of legislative regulation throughout the country;
- d) approves the main directions of internal and external policy of the State;
- e) approves the state military doctrine;
- f) exercises parliamentary control over executive power in the manners and within the limits provided for by the Constitution;
- g) ratifies, terminates, suspends and repeals international treaties concluded by the Republic of Moldova;



h) approves the State budget and exercises control over it;

i) supervises upon the allocation of State loans, upon any aid of economic or other nature granted to foreign countries, upon the conclusion of agreements concerning State loans and credits obtained from foreign sources;

j) elects and appoints State officials, in cases provided by the law;

k) approves the orders and medals of the Republic of Moldova;

l) declares partial or general mobilization of the armed forces;

m) declares the state of national emergency, martial law and war;

n) initiates investigations and hearings concerning any matters touching upon the interests of the society;

o) suspends the activity of bodies of local public administration, in cases provided by the law;

p) adopts acts on amnesty;

r) carries out other powers, as provided for by the Constitution and by the laws.

*Article 67*

**Parliament Sessions**

(1) Parliament is convened in two ordinary sessions per year. The first session starts in February and may not last beyond the end of July. The second session shall start in September and may not last beyond the end of December.

(2) Parliament may also be convened in extraordinary or special sessions upon the request of the President of the Republic of Moldova, of the President of Parliament or of one-third of its members.

**SECOND SECTION**

**STATUS OF THE MEMBERS OF  
PARLIAMENT**

*Article 68*

**Representative Mandate**

(1) In the exercise of their mandate the members of Parliament are in the service of the people.

(2) Any imperative mandate is deemed null and void.

*Article 69*

**Mandate of the Members of Parliament**

(1) The members of Parliament start exercising their mandate under the condition of prior validation.

(2) The powers ascribed to any Member of Parliament cease with the lawful assembly of the newly-elected Parliament, on resignation on the part of that member, on withdrawal of the mandate, in cases of incompatibility or death.

*Article 70*

**Incompatibilities and Immunities**

(1) The office of the Member of Parliament is incompatible with the holding of any other remunerated position, except for didactic and scientific activities.

*[Art. 70 para.(1) amended by the Law no. 1470-XV of 21.11.02, MO no.169/12.12.02, art.1292]*

(2) Other incompatibilities shall be established by organic law.

(3) The Member of Parliament may not be apprehended, arrested, searched, except for

the cases of flagrant misdemeanour, or sued at law without the prior consent of the Parliament and upon hearing of the member in question.

*Article 71*

**Independence of Opinion**

Members of Parliament may not be prosecuted or held legally liable for their votes or opinions expressed in the exercise of their mandate.

**THIRD SECTION**

**LEGISLATION**

*Article 72*

**Categories of Laws**

(1) Parliament is endowed to adopt constitutional, organic and ordinary laws.

(2) Constitutional laws are aimed at revising the Constitution.

(3) The organic laws shall govern:

a) electoral system;

- b) organisation and carrying out of referendum;
- c) organisation and functioning of Parliament;
- d) organisation and functioning of the Government;
- e) organisation and functioning of the Constitutional Court, the Superior Council of Magistracy, courts of general and administrative jurisdiction;
- f) organisation of local administration, of the territory, as well as the general regulation of local autonomy;
- g) organisation and functioning of political parties;
- h) procedure for establishing exclusive economic zones;
- i) general legal regulation of private property and inheritance;
- j) general regulation of labour relationships, trade-unions and social protection;
- k) general organisation of the education system;
- l) general regulation of religious cults;

m) regulation of the state of national emergency, martial law and war;

n) criminal offences, punishments and the procedure of their execution;

o) granting of amnesty and pardon;

p) other fields where the Constitution provides for the necessity of adopting organic laws;

r) other fields where the Parliament recommends the passing of organic laws.

(4) The ordinary laws shall intervene in any field of social relationships, except for the spheres regulated by constitutional and organic laws.

### *Article 73*

#### **Legislative Initiative**

The right to legislative initiative is attributed to the members of Parliament, the President of the Republic of Moldova, the Government and the People's Assembly of the autonomous territorial-unit of Găgăuzia.

*[Art. 73 amended by the Law no. 344-XV of 25.07.03, MO nr.170-172/08.08.03, art.721]*

*Article 74*

**Passing of Laws and Decisions**

(1) Organic laws shall be adopted by the vote of the majority of the elected members of Parliament, following at least two readings.

(2) Ordinary laws and decisions are adopted by vote of the majority of present members of Parliament.

(3) The draft laws submitted by the Government, as well as legislative initiatives brought forward by the members of Parliament and accepted by the Government are examined by the Parliament in the manner and according to the priorities established by the Government, including in the emergency procedure. Other legislative initiatives shall be examined in the established manner.

*[Art. 74 para.(3) introduced by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661; para. (3) became para. (4)]*

(4) The laws are submitted to the President of the Republic of Moldova for promulgation.

*Article 75*

**Referendum**

(1) Problems of utmost importance confronting the Moldovan society and State shall be resolved by referendum.

(2) The decisions adopted according to the results of the republican referendum shall have supreme legal power.

*[Rectification introduced by the MO no. 10/20.10.94 (Art. 75 was supplemented with para.(2))]*

*Article 76*

**Coming into Effect of the Law**

The law shall be published in "*Monitorul Oficial al Republicii Moldova*" [*"Official Gazette of the Republic of Moldova"*] and shall come into effect either on the date of their publication or on the date specified in its text. Unless published, the law is deemed non-existent.



CHAPTER V  
**PRESIDENT OF THE REPUBLIC  
OF MOLDOVA**

*Article 77*

**President of the Republic of Moldova -  
Head of the State**

(1) The President of the Republic of Moldova shall be the Head of the State.

(2) The President of the Republic of Moldova shall represent the State and shall be the guarantor of national sovereignty, independence, of the unity and territorial integrity of the State.

*Article 78*

**Election of the President**

(1) The President of the Republic of Moldova is elected by freely-expressed, universal, equal, direct, and secret suffrage.

*[Art. 78 para.(1) revived based on the Judgment of the Constitutional Court no. 7 of 04 March 2016]*

(2) Any citizen of the Republic of Moldova may run for the office of President of the Republic of Moldova, provided that he/she has

the right to vote and is over 40 years of age, had lived or has been living permanently on the territory of the Republic of Moldova for no less than 10 years and speaks the official state language.

(3) The candidate obtaining at least half the votes cast in the presidential election shall be proclaimed as the new President.

*[Art. 78 para.(3) revived based on the Judgment of the Constitutional Court no. 7 of 04 March 2016]*

(4) If after the first ballot no candidate will have obtained the above-mentioned majority of votes, a second ballot shall be held to choose from the first-placed two candidates, in the order of the number of votes cast for them in the first ballot. On condition that the number of the votes cast for him be bigger than the number of the votes cast against him, the candidate obtaining most of the votes cast in the second ballot shall be proclaimed as the new President.

*[Art. 78 para.(4) revived based on the Judgment of the Constitutional Court no. 7 of 04 March 2016]*

*[Art. 78 para.(5) excluded based on the Judgment of the Constitutional Court no. 7 of 04 March 2016]*

(6) The procedure for the election of the President of the Republic of Moldova shall be provided for by organic law.

*[Art. 78 amended by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

### *Article 79*

#### **Validation of the Mandate and Taking the Oath**

(1) The Constitutional Court shall validate the result of election for the office of the President of the Republic of Moldova.

(2) Within 45 days at the most following the election, the successful candidate whose election has been validated shall take the following oath before Parliament and the Constitutional Court:

“I solemnly swear to devote all my personal strength and abilities to the prosperity of the Republic of Moldova, to abide by the Constitution and the laws of the country, to defend democracy, fundamental human rights and freedoms, the sovereignty, independence, unity and territorial integrity of Moldova”

*Article 80*

**Term of Office**

(1) The mandate of the President of the Republic of Moldova shall have a 4-year tenure which shall start on the oath-taking day.

(2) The President of the Republic of Moldova shall exercise his/her mandate until the newly elected President is sworn in.

(3) The mandate of the President of the Republic of Moldova may be prolonged, by organic law, in the event of war or calamity.

(4) No person may discharge the duties of the President of the Republic of Moldova unless for two consecutive mandates at the most.

*[Art. 80 para. (4) introduced by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

*Article 81*

**Incompatibilities and Immunities**

(1) The office of the President of the Republic of Moldova shall be incompatible with the holding of any other remunerated position.

(2) The President of the Republic of Moldova shall enjoy immunity. The President

of the Republic of Moldova shall not be held legally liable for the opinions expressed in the exercise of his/her mandate.

(3) Based on the majority of at least two thirds of the votes cast by its members, the Parliament may decide to indict the President of the Republic of Moldova in the event the latter commits an offence. The Supreme Court of Justice shall be ascribed the power of prosecution under the law. The President shall be legally removed from office at the date of ultimate delivery of the court sentencing.

*[Article 82 repealed by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

*[Article 83 repealed by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

#### *Article 84*

#### **Messages**

(1) The President of the Republic of Moldova may attend the Parliament working sessions.

(2) The President of the Republic of Moldova addresses the Parliament with messages related to the main issues of national interest.

*Article 85*

**Dissolution of Parliament**

(1) In the event of impossibility to form the Government or in case of blocking up the procedure of adopting the laws for a period of 3 months, the President of the Republic of Moldova, following consultations with parliamentary fractions, may dissolve the Parliament.

(2) The Parliament may be dissolved, if it has not accepted the vote of confidence for setting up of the new Government within 45 days following the first request and only upon declining at least two requests of investiture.

(3) The Parliament may be dissolved only once in the course of one year.

(4) The Parliament may not be dissolved within the last 6 months of the term of office of the President of the Republic of Moldova nor during a state of emergency, martial law or war.

*[Art. 85 para.(4) amended based on the Judgment of the Constitutional Court no. 7 of 04 March 2016]*

*[Art. 85 para. (4) amended by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

*Article 86*

**Powers in the field of Foreign Policy**

(1) The President of the Republic of Moldova shall be empowered to hold official negotiations, conclude international treaties on behalf of the Republic of Moldova and to submit them, in the manner and term established by the law, to the Parliament for ratification.

(2) Upon proposal of the Government, the President of the Republic of Moldova accredits and recalls diplomatic representatives of the Republic of Moldova, as well as approves the setting up, cancellation or changing of the ranking of diplomatic missions.

(3) The President of the Republic of Moldova receives the letters of accreditation and of recall of foreign diplomatic representatives in the Republic of Moldova.

*Article 87*

**Powers in the Field of National Defence**

(1) The President of the Republic of Moldova is the Commander-in-Chief of the armed forces.

(2) Upon prior approval of Parliament, the President of the Republic of Moldova may declare partial or general mobilization of the armed forces.

(3) In the event of armed aggression against the country, the President of the Republic of Moldova shall undertake the necessary steps to repulse the aggression, as well as he shall declare a state of war and acknowledge this state of affairs to the Parliament without delay. If the Parliament is not in session, it shall be legally convened within 24 hours from the aggression unleash.

(4) The President of the Republic of Moldova may take other due measures to ensure national security and public order within the limits and according to the law.

#### *Article 88*

#### **Other Powers**

The President of the Republic of Moldova also fulfils the following duties:

- a) awards decorations and titles of honour;
- b) awards supreme military ranks as provided for by the law;



c) settles the issues on the citizenship of the Republic of Moldova and grants political asylum;

d) appoints public officials, in terms provided for by the law;

e) grants individual pardon;

f) may request the people to express their will on matters of national interest by way of referendum;

g) awards diplomatic ranks;

h) confers superior degrees of qualification to officers holding positions within prosecuting bodies, courts of law and to other categories of civil servants, according to the law;

i) suspends the acts of the Government which are contrary to the legislation until the delivery of the final judgment of the Constitutional Court;

*[Rectification introduced by the MO no.1, part II of 19.08.1994 (Art. 88 was supplemented with section i); section i) becomes section j)]*

j) exercises other powers as provided for by the law.

*Article 89*

**Suspension from Office**

(1) In case of committing serious offenses infringing upon constitutional provisions, the President of the Republic of Moldova may be suspended from office by the Parliament with the vote of two - thirds of its members.

(2) The motion requesting the suspension from office may be initiated by at least one third of the members, and it must be brought to the knowledge of the President without delay. The President may give explanations on the actions for which he is being censured before Parliament.

(3) If the motion requesting suspension from office meets with approval, a national referendum shall be organized within 30 days to remove the President from office.”

*[Art. 89 revived based on the Judgment of the Constitutional Court no. 7 of 04 March 2016]*

*[Art. 89 amended by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

*Article 90*

**Vacancy of Office**

(1) The vacancy of office of the President of the Republic of Moldova shall be declared as consequence of expiry of the mandate, resignation, removal from office, definite impossibility of executing his/her functional duties or death.

(2) The request for resignation of the President of the Republic of Moldova is brought before the Parliament, which shall express its opinion over it.

(3) The impossibility of the President of the Republic of Moldova to exercise his/her duties for more than 60 days shall be confirmed by the Constitutional Court within 30 days from the date of the submission of application.

*[Art. 90 para. (3) introduced by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

(4) Within 2 months following the date of vacancy of office of the President of the Republic of Moldova, new presidential elections shall be conducted, according to the law.

*[Art. 90 para. (4) modified by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

*Article 91*

**Interim Office**

In the event the office of the President of the Republic of Moldova becomes vacant or the President has been removed, or finds himself/herself in temporary impossibility to execute his/her duties, the interim office shall be ensured, in the given order, by the President of the Parliament or by the Prime Minister.

*[Art. 91 modified by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

*Article 92*

**Responsibility of the Interim President**

Should the person acting as interim President of the Republic of Moldova commit grave offences infringing upon the constitutional provisions, Article 89, para. (1) and Article 91 is applied.

*Article 93*

**Promulgation of Laws**

(1) The President of the Republic of Moldova promulgates the laws.

(2) The President of the Republic of Moldova is entitled, whenever he has certain objections regarding a law, to submit it within two weeks at the most to the Parliament for reconsideration. Should the Parliament abide by its previously adopted decision, the President promulgates the law.

*Article 94*

**Acts of the President**

(1) In the exercise of his/her powers, the President of the Republic of Moldova issues decrees which are mandatory enforceable throughout the entire territory of the State. The decrees are published in "*Monitorul Oficial al Republicii Moldova*".

(2) The decrees issued by the President in the exercise of the powers laid down in Article 86 para. (2) and Article 87 para. (2), (3) and (4) shall be countersigned by the Prime-Minister.

*Article 95*

**Financial Resources of the Staff of the President,  
Indemnity and Other Rights**

(1) Financial resources of the staff of the President of the Republic of Moldova are approved by Parliament and are included in the state budget.

(2) The indemnity and other rights ascribed to the President of the Republic of Moldova shall be established by the law.

CHAPTER VI  
**GOVERNMENT**

*Article 96*

**Role of the Government**

(1) The Government ensures the carrying out of the state internal and external policy and shall exercise the general management of the public administration.

(2) In the exercise of its prerogatives, the Government shall be guided by its programme of activity endorsed by the Parliament.

*Article 97*

**Structure**

The Government consists of a Prime-Minister, a first Vice-Prime-Minister, Vice-Prime-Ministers, ministers and other members, as determined by organic law.

*Article 98*

**Investiture**

(1) The President of the Republic of Moldova designates a candidate for the office of

Prime-Minister following consultations with parliamentary fractions.

*[Art. 98 para.(1) amended by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

(2) The candidate for the office of Prime-Minister shall request, within 15 days following the designation, the vote of confidence of the Parliament over the programme of activity and the entire list of the members of the Government.

(3) The programme of activity and the list of the members of Government are subject to parliamentary debates in session. It shall grant confidence to the Government with the vote of majority of the elected members of Parliament.

*[Art. 98 para. (3) modified by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

(4) On the basis of the vote of confidence granted by the Parliament, the President of the Republic of Moldova shall appoint the Government.

*[Art. 98 para. (4) introduced by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661; para.(4) became para.(5)]*



(5) The Government shall enter into the exercise of its powers on the very day of taking the oath by its members before the President of the Republic of Moldova.

(6) In the event of the governmental reshuffle or vacancy of office, the President of the Republic of Moldova shall revoke and appoint, upon the proposal of the Prime-Minister, some members of the Government.

*[Art. 98 para.(6) introduced by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

#### *Article 99*

#### **Incompatibilities**

(1) The office of the member of Government shall be incompatible with the holding of any other remunerated position.

(2) Other incompatibilities shall be specified by organic law.

*Article 100*

**Termination of Office of the Member of  
Government**

The office of the member of Government shall cease in the event of resignation, revocation, incompatibility or death.

*[Art. 100 modified by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

*Article 101*

**The Prime-Minister**

(1) The Prime-Minister exercises the leadership of the Government and coordinates the activity of its members, abiding by the powers delegated to them.

*[Art.101 para. (1) modified by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

(2) In case of impossibility of the Prime-Minister to exercise his/her functional duties or in case of his/her death, the President of the Republic of Moldova shall designate another member of the Government to fulfil the interim office of Prime-Minister until the formation of the new Government.

The interim office for the period of impossibility to perform functional duties shall cease whether the Prime-Minister resumes his/her activity within the Government.

[Art.101 para. (2) modified by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]

(3) In the event of resignation of the Prime-Minister, the whole Government leaves the office.

#### *Article 102*

#### **Acts of the Government**

(1) The Government adopts decisions, ordinances and regulations.

(2) Decisions are adopted to ensure enforcement of laws.

(3) Ordinances are issued according to the provisions of Article 106<sup>2</sup>.

(4) Decisions and ordinances adopted by the Government are signed by the Prime-Minister, countersigned by the ministers bearing the responsibility to put them into effect and shall be published in "*Monitorul Oficial al Republicii Moldova*". Failure to publish the decision and ordinance entails its nullity.

(5) Regulations are issued by the Prime-Minister for the organisation of the internal activity of the Government.

*[Art. 102 amended by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

### *Article 103*

#### **Termination of Office**

(1) The Government shall exercise its mandate up to the date of validation of the election of the new Parliament.

(2) In cases where Parliament has passed a vote of no confidence in the current Government, or the Prime Minister has been removed from office, or as provided for by para. (1) above, the Government shall only control the administration of the public affairs until the new Government has been sworn in.

CHAPTER VII

**RELATIONSHIP BETWEEN PARLIAMENT  
AND GOVERNMENT**

*Article 104*

**Informing the Parliament**

(1) The Government is responsible before the Parliament and shall provide information and documents requested by the Parliament, its committees and its members.

(2) The members of the Government have access to the Parliament sessions. Their attendance shall be mandatory if so requested.

*Article 105*

**Questions and Interpellations**

1) The Government as a whole and each of its members are bound to reply to the questions or interpellations rose by the members of Parliament.

(2) Parliament may pass a motion to formulate its point of view regarding the issue of interpellation.

*Article 106*

**Vote of No Confidence**

(1) The Parliament, upon the proposal of at least a quarter of its members, may express no confidence to the Government, with the vote of the majority of the members of Parliament.

(2) The initiative to express a vote of no confidence shall be examined within 3 days from the date of its submission to Parliament.

*Article 106<sup>1</sup>*

**Assumption of Responsibility by the Government**

(1) The Government may assume responsibility before the Parliament upon a programme, a statement of general policy or a draft law.

(2) The Government is dismissed if a motion of censure, brought before within 3 days following the date of presentation of the programme, of statement of general policy or of the draft law, has been passed in terms of Article 106.

(3) If the Government has not been dismissed pursuant to para. (2), the lodged draft law is considered to be adopted, and the programme or the statement of general policy becomes mandatory for the Government.

*[Article 106/1 introduced by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

### *Article 106<sup>2</sup>*

#### **Legislative Delegation**

(1) With the view of carrying out the activity programme of the Government, the Parliament may adopt, upon Government's proposal, a special law enabling the Government to issue ordinances in the fields which do not fall within the scope of organic laws.

(2) The enabling law shall compulsorily establish the field and the date by which ordinances may be issued.

(3) Ordinances shall enter into force on the date of their publication, without being promulgated.

(4) If the enabling law so require, ordinances are submitted to Parliament for approval. The draft law on the approval of ordinances shall be

presented within the term established in the enabling law. Non-compliance with the term entails the discontinuation of the effects of the ordinance. If the Parliament does not decline the draft law on the approval of ordinances, the latter shall remain in force.

(5) Following the expiry of the timeframe stipulated for the issue of orders, the orders may only be annulled, suspended or amended by law.

*[Article 106/2 introduced by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*



CHAPTER VIII  
PUBLIC ADMINISTRATION

*Article 107*

**Specialized Central Public Administration**

(1) Specialized central bodies of the State are ministries. They shall bring into practice, according to the law, the policy of the Government, its decisions and orders, as well as lead the entrusted fields of activity and are responsible for their activities.

(2) In order to lead, coordinate and exercise the control the national economy, as well as other fields, which do not directly fall within the competence of the ministries, other administrative authorities shall be set up, according to the law.

*Article 108*

**Armed forces**

(1) The armed forces shall be exclusively subordinated to the will of the people, to safeguard the sovereignty, independence, unity and territorial integrity of the country and of the constitutional democracy.

(2) The structure of the national system of defence is established by organic law.

*Article 109*

**Basic Principles of Local Public Administration**

(1) Public administration within the administrative-territorial units shall be based on the principles of local autonomy, decentralisation of public services, eligibility of the local public administration authorities and consultation of citizens on local problems of special interest.

(2) The concept of autonomy shall encompass both the organisation and functioning of the local public administration, as well as the management of the communities represented by that administration.

(3) The enforcement of the aforesaid principles may not alter the unitary character of the State.

*Article 110*

**Administrative-Territorial Organisation**

(1) The territory of the Republic of Moldova, in terms of administrative organisation, is structured in villages, towns, districts and

the autonomous territorial unit of Găgăuzia. Certain towns may be declared municipalities under the law.

(2) Places on the left bank of the Dniester River may be assigned special forms and conditions of autonomy, according to the special statutory provisions adopted by organic law.

(3) The status of the capital of the Republic of Moldova, the city of Chişinău, is regulated by organic law.

*[Art.110 amended by the Law no. 344-XV of 25.07.03, MO nr.170-172/08.08.03, art.721]*

### *Article 111*

#### **Autonomous Territorial Unit of Găgăuzia**

(1) Găgăuzia is an autonomous territorial unit having a special statute and representing a form of self-determination of the Găgăuzian people, constitutes an integrant and inalienable part of the Republic of Moldova and shall solve independently, within the limits of its competence, pursuant to the provisions of the Constitution of the Republic of Moldova, in the interest of the whole of society, the political, economic and cultural issues.

(2) On the territory of the autonomous territorial unit of Găgăuzia all the rights and freedoms provided for by the Constitution and the legislation of the Republic of Moldova shall be guaranteed.

(3) Within the autonomous territorial unit of Găgăuzia there shall function representatives and executive bodies according to the law.

(4) The soil, subsoil, waters, flora and fauna, as well as other natural resources on the territory of the autonomous territorial unit of Găgăuzia shall belong to the people of the Republic of Moldova and shall simultaneously constitute the economic basis of Găgăuzia.

(5) The budget of the autonomous territorial unit of Găgăuzia shall be formed in conformity with the terms established by the law, which governs the special statute of Găgăuzia.

(6) The Government, under the terms of the law, performs control over the observance of the legislation of the Republic of Moldova within the autonomous territorial unit of Găgăuzia.

(7) The organic law that governs the special statute of the autonomous territorial unit of Găgăuzia may be amended with the vote of three fifths of the elected members of Parliament.

*[Art. 111 amended by the Law no. 344-XV of 25.07.03, MO nr.170-172/08.08.03, art.721]*

### *Article 112*

#### **Village and Town Authorities**

(1) The public administration authorities that exercise local autonomy in villages and towns are the elected local councils and elected mayors.

(2) The local councils and mayors function, according to the law, as autonomous administrative authorities and solve public affairs in villages and towns.

(3) The procedure of electing local councils and mayors, as well as their powers and scope of competence shall be established by the law.

*Article 113*

**District Council**

(1) The district council shall coordinate the activity of village and town councils with the view of carrying out the public services at district level.

(2) The district council are elected and operate according to the law.

(3) The relationships between the local public authorities shall be based on the principles of autonomy, legality and cooperation in solving issues of common interest.

CHAPTER IX

JUDICIARY

FIRST SECTION

COURTS OF LAW

*Article 114*

**Administration of Justice**

Justice shall be administered in the name of the law only by the courts of law.

*Article 115*

**Courts of Law**

(1) Justice is administered by the Supreme Court of Justice, courts of appeal and courts of law.

*[Art. 115 para.(1) amended by the Law no. 1471-XV of 21.11.02, MO no.169/12.12.02, art.1294]*

(2) For certain categories of cases special courts of law may operate according to the law.

(3) The establishment of extraordinary courts of law is forbidden.

(4) The structure of the courts of law, their scope of competence and judicial procedures are laid down by organic law.

*Article 116*

**Status of Judges**

(1) Judges sitting in the courts of law are independent, impartial and irremovable according to the law.

(2) Judges sitting in the courts of law are appointed, according to the law, by the President of the Republic of Moldova upon proposal submitted by the Superior Council of Magistrates. Judges who successfully passed the contest shall be firstly appointed for a 5-year term of office. After the expiration of the 5-year term of office, the judges shall be appointed to this position until reaching the age limit fixed by the law.

(3) The presidents, vice-presidents and judges of the courts of law are appointed by the President of the Republic of Moldova following a proposal submitted by the Superior Council of Magistrates, for a 4-year term.

(4) The presidents, deputy presidents and judges of the Supreme Court of Justice are appointed by Parliament following a proposal submitted by the Superior Council of



Magistrates. They must have a working tenure as judge of at least 10 years.

(5) Judges are promoted and transferred only at their own consent.

(6) Sanctioning of the judges is carried out pursuant to the law.

(7) The office of judge shall be incompatible with the exercise of any other public or private remunerated position, except for the didactic and scientific activity.

*[Art. 116 amended by the Law no. 1471-XV of 21.11.02, MO no.169/12.12.02, art.1294]*

*[Art. 116 modified by the Law no. 957-XIII of 19.07.1996, MO no.54-55/15.08.96]*

### *Article 117*

#### **Openness of Legal Proceedings**

Legal hearings in all courts of law are held in public. The conduct of lawsuits behind closed doors only is allowed in certain cases as provided for by law and in compliance with the rules of procedure.

*Article 118*

**Language of the Legal Proceedings and Right to  
an Interpreter**

(1) Legal proceedings are held in the Moldovan language.

(2) Persons who do not master or are unable to speak Moldovan are entitled to be acknowledged of all documents and actions of the case-file and to speak during the trial by way of an interpreter.

(3) Legal proceedings may also be conducted, under the law, in a language acceptable by the majority of persons attending the trial.

*Article 119*

**Ways of Appeal**

The parties involved in a trial and the competent state bodies may lodge appeals against sentences delivered by the courts of law, under the terms of law.

*Article 120*

**Mandatory Nature of Sentences and Other Final  
Legal Rulings**

It is mandatory to abide by the sentences and other final rulings delivered by courts of law and to cooperate with the latter at their request during trials and during the enforcement of sentences and of other final judgments.

*Article 121*

**Budget of the Courts of Law, Indemnity and  
Other Rights**

(1) The budget of the courts of law is approved by the Parliament and is included in the state budget.

(2) The indemnities and other rights of the judges shall be established by the law.

(3) The courts of law shall have at their disposal police forces.

## SECOND SECTION

### SUPERIOR COUNCIL OF MAGISTRACY

#### *Article 122*

##### **Structure**

(1) The Superior Council of Magistrates consists of judges and university lecturers elected for tenure of 4 years.

(2) The President of the Supreme Court of Justice, the Minister of Justice and the Prosecutor General are members *de jure* of the Superior Council of Magistrates.

*[Article 122 amended by the Law no. 1471-XV of 21.11.02, MO no.169/12.12.02, art.1294]*

#### *Article 123*

##### **Powers**

(1) The Superior Council of Magistrates shall ensure the appointment, transfer, removal from office, upgrading and imposing of the disciplinary sentences against judges.

(2) The procedure of organisation and functioning of the Superior Council of Magistrates is laid down by organic law.

*[Article 123 amended by the Law no. 1471-XV of 21.11.02, MO no.169/12.12.02, art.1294]*

**THIRD SECTION**  
**PUBLIC PROSECUTION**

*Article 124*

**Powers and Structure**

(1) The Office of the Prosecutor represents the general interests of the society and defends rule of law and the rights and liberties of the citizens, it also supervises and exercises, according to the law, the criminal prosecution and presents the accusation in the courts of law.

*[Art. 124 para. (1) amended by the Law no. 1471-XV of 21.11.02, MO no.169/12.12.02, art.1294]*

(2) The public prosecution system includes the General Prosecutor's Office, territorial and specialised prosecution offices.

(3) The structure, scope of competence and the manner of operation of the prosecution offices shall be provided for by law.

*Article 125*

**Mandate of Public Prosecutors**

(1) The Prosecutor General shall be appointed by the Parliament following the proposal

submitted by the President of the Parliament.

(2) The hierarchically inferior prosecutors are designated by the Prosecutor General and are subordinated to the latter.

(3) Term of office of the prosecutor is 5 years.

(4) The office of prosecutor is incompatible with any other public or private remunerated position, except for didactic and scientific activity.

(5) In exercising their mandate, the prosecutors shall abide only by the law.

Title IV

**NATIONAL ECONOMY  
AND PUBLIC FINANCE**







*Article 126*

**Economy**

(1) The economy of the Republic of Moldova shall be a socially-orientated market economy based on the coexistence of freely competing private and public properties.

(2) The State must ensure:

a) regulation of economic activity and management of its public property under the law;

b) freedom of commerce and entrepreneurial activity, protection of loyal competition, creation of a framework that would be favourable to the development of all factors of production;

c) protection of national interests within the economic, financial and currency activities;

d) fostering of scientific research;

e) rational exploitation of the soil and other natural resources, in accordance with the national interests;

f) restoration and protection of the environment, as well as maintenance of ecological balance;

g) increase the number of people employed, setting up of adequate conditions in order to improve the living standards;

h) inviolability of investments of private individuals and legal entities, including those from abroad.

*Article 127*

**Property**

(1) The State shall protect the property.

(2) The State shall guarantee to everyone the right to possess property in any such form as requested by the incumbent, as long as these forms do not conflict with the interests of society.

(3) Public property shall belong to the State or to the territorial-administrative units.

(4) All the underground resources, airspace, waters and forests used to the benefit of the public at large, natural resources of the economic regions and continental shelf, lines of communication, as well as other assets stipulated by law, shall constitute the exclusive objects of public property.

*Article 128*

**Property of Foreign Citizens and Stateless  
Persons**

(1) In the Republic of Moldova the property of foreign states, international organisations, foreign citizens and stateless persons shall be protected by the law.

(2) The procedure and the terms of exercising the right to possess property by foreign natural and legal persons, as well as by stateless persons on the territory of the Republic of Moldova shall be regulated by the law.

*Article 129*

**External Economic Activity**

(1) The Parliament shall approve the main directions of the external economic activity, the principles guiding the use of foreign loans and credits.

(2) The Government shall ensure the protection of national interests involved in external economic activity and promote either a free-trade policy or a protectionist one, taking into account the national interests.

*Article 130*

**Financial and Crediting System**

(1) The formation, administration, use and control of financial resources of the State, of the territorial-administrative units and of public institutions shall be regulated under the terms of law.

(2) The national currency of the Republic of Moldova is the Moldovan Leu.

(3) The National Bank of the Republic of Moldova is empowered with the exclusive right to issue currency. Any issuance is carried out pursuant to the decision of the Parliament.

*Article 131*

**National Public Budget**

(1) The national public budget enshrines the state budget, the state social insurance budget, as well as the budgets of districts, towns and villages.

(2) The Government shall work out an annual draft of the state budget, and the state social insurance budget, which shall be submitted separately to the Parliament for

approval. In the event of establishment of an extra budgetary fund, it shall also be submitted to the Parliament for approval.

(3) If the state budget and the state social insurance budget have not been legally approved with at least 3 days prior to the expiration of the current budgetary exercise, there the state and the state social insurance budgets of the previous year shall be applied further on, until the adoption of the new budgets.

(4) Any legislative initiative or amendment, which entails the increase or diminishing of the budgetary revenues or loans, as well as the increase or curtail of the budgetary expenditures shall be adopted following an approval of the Government.

*[Art. 131 para.(4) introduced by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661; para.(4)-(5) became para.(5)-(6)]*

(5) The district, town and village budgets shall be drafted, approved and carried out in accordance with the law.

(6) No budget expenditure may be approved without prior specification of the funding source.

*Article 132*

**Fiscal System**

(1) All taxes, duties, and other revenues of the state budget and of the state social insurance budget, as well as of the district, town and village budgets is established, under the law, by the competent representative bodies.

(2) Any other types of taxation are forbidden.

*Article 133*

**Court of Audit**

(1) The Court of Audit supervises over the procedure of formation, administration and use of the public financial resources.

(2) The Court of Audit consists of 7 members.

(3) The President of the Court of Audit is appointed for a 5-year term of office by the Parliament on a proposal submitted by the President of the Parliament. The members of the Court are also appointed by the Parliament upon the proposal of the President of the Parliament.

(4) The Court of Audit shall annually submit to the Parliament a report on the administration and use of the public financial resources.

(5) Other powers ascribed to the Court of Audit, as well as the procedure of its organisation and operation shall be established by organic law.





Title V

# CONSTITUTIONAL COURT





*Article 134*

**Statute**

(1) The Constitutional court is the sole authority of constitutional jurisdiction in the Republic of Moldova.

(2) The Constitutional Court is independent of any other public authority and shall abide only by the Constitution.

(3) The Constitutional Court guarantees the supremacy of the Constitution, ascertains the enforcement of the principle of separation of the State powers into the legislative, executive and judiciary, and it guarantees the responsibility of the State towards the citizen and of the citizen towards the State.

*Article 135*

**Powers**

(1) The Constitutional Court:

a) exercises, upon appeal, the review of constitutionality over laws and decisions of the Parliament, decrees of the President, decisions and ordinances of the Government, as well as over international treaties to which the Republic of Moldova is a party;

*[Art. 135, para. (1) section a) modified by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

b) gives the interpretation of the Constitution;

c) formulates its position on initiatives aimed at revising the Constitution;

d) confirms the results of republican referenda;

e) confirms the results of parliamentary and presidential elections in the Republic of Moldova;

f) ascertains the circumstances justifying the dissolution of the Parliament, the removal of the President of the Republic of Moldova or the interim office of the President, as well as the impossibility of the President of the Republic of Moldova to fully exercise his/her functional duties for more than 60 days;

*[Art. 135, para.(1) section f) amended by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

g) solves the pleas of unconstitutionality of legal acts, as claimed by the Supreme Court of Justice;

h) decides over matters dealing with the constitutionality of a party.

(2) The Constitutional Court carries out its activity on the initiative brought forward by the subjects provided for by the Law on the Constitutional Court.

### *Article 136*

#### **Structure**

(1) The Constitutional Court consists of 6 judges appointed for a 6-year term of office.

(2) Two judges shall be appointed by the Parliament, two - by the Government and two - by the Superior Council of Magistrates.

*[Art. 136 para.(2) modified by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

(3) The judges of the Constitutional Court elect its President by secret ballot.

### *Article 137*

#### **Independence**

For the tenure of their mandate the judges of the Constitutional Court are irremovable, independent, and abide only by the Constitution.

*Article 138*

**Qualifications for Appointment**

The judges of the Constitutional Court must possess outstanding judicial knowledge, high professional competence and a length of service of at least 15 years in legal field, legal education or scientific activity.

*Article 139*

**Incompatibilities**

The position of judge of the Constitutional Court is incompatible with holding of any other remunerated public or private position, except for didactic and scientific activity.

*Article 140*

**Judgments of the Constitutional Court**

(1) Laws and other normative acts or parts thereof become null and void from the moment of adopting by the Constitutional Court of the appropriate judgment to that effect.

(2) The judgments of the Constitutional Court are final and cannot be appealed against.

Title VI

REVISION  
OF THE CONSTITUTION







*Article 141*

**Initiatives for Revision**

(1) The revision of the Constitution may be initiated by:

a) a number of at least 200,000 citizens of the Republic of Moldova with voting rights. The citizens initiating the revision of the Constitution must cover at least a half of the territorial-administrative units of the second level, and in each of these units must be registered at least 20000 signatures in support of the said initiative;

*[Art. 141 para.(1) section a) modified by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661]*

b) a number of at least one third of the members of Parliament;

c) the Government.

*[Art. 141 para. (1) section c) excluded by the Law no.1115-XIV of 05.07.00, MO no. 88-90/28.07.00, art.661; section d) became section c)]*

(2) Draft Constitutional laws shall be submitted to Parliament only alongside with the advisory opinion of the Constitutional Court adopted by a vote of at least 4 judges.

*Article 142*

**Limits of Revision**

(1) The provisions regarding the sovereignty, independence and unity of the state, as well as those regarding the permanent neutrality of the State may be revised only by referendum with the vote of the majority of the registered citizens with voting rights.

(2) No revision shall be performed if it implies the infringement of fundamental rights and freedoms of citizens or their guarantees.

(3) The Constitution may not be revised under a state of national emergency, martial law or war.

*Article 143*

**The Law Amending the Constitution**

(1) Parliament is entitled to pass a law on amending the Constitution following at least 6 months from the date when the corresponding initiative has been submitted. The law shall be adopted by a vote of two-thirds of the members of Parliament.

(2) If, within a year from the date when the initiative amending the Constitution has been submitted, the Parliament did not pass the appropriate constitutional law, the proposal shall be deemed null and void.



## Title VII

# FINAL AND TRANSITORY PROVISIONS





*Article I*

(1) This Constitution is adopted by the Parliament and shall be promulgated by the President of the Republic of Moldova within 3 days.

(2) The Constitution of the Republic of Moldova comes into effect on 27 August 1994. On the same date, the Constitution of the Republic of Moldova of 15 April 1978, with its subsequent amendments and supplements shall be fully repealed.

*Article II*

(1) The laws and other normative acts are deemed valid to the extent to which they do not conflict with this Constitution.

(2) Within one year from the date of coming into effect of this Constitution, the permanent Parliament and Government committees shall examine the compliance of the legislation with the Constitution, and shall submit to the Parliament adequate proposals in that respect.

*Article III*

(1) The state institutions operating at the date of coming into effect of this Constitution

remain in operation until the establishment of new institutions.

(2) The Parliament, composed of 104 members elected by a freely expressed, universal, equal, direct and secret ballot under the conditions of political and party pluralism, in accordance with the Law of 14 October 1993 on the Parliament election, shall remain in operation until the expiry of the mandate, except for the cases provided for by this Constitution.

(3) The President of the Republic of Moldova, elected for a 5-year term of office, by a freely expressed, universal, equal, direct and secret ballot under the conditions of political and party pluralism, pursuant to the Law of 18 September 1991 on the elections of the President of the Republic of Moldova, shall remain in office until the expiry of the mandate, except for the cases provided for by this Constitution.

(4) The Government vested by the Parliament shall fulfil its powers until the expiry of the mandate, except for the cases provided for by this Constitution.

(5) Local authorities of state power and state administration shall fulfil their prerogatives



until the expiry of their mandate, except for the cases provided for by this Constitution.

(6) Judges who at the date of coming into effect of this Constitution have a length of service of at least 5 years in the courts of law, shall be covered by the principle of immovability, pursuant to the Article 116 para. (1), by the decree of the President of the Republic of Moldova, upon the proposal of the Minister of Justice and the President of the Supreme Court of Justice.

*[Art.III para.(6) modified by the Law no.957-XIII of 19.07.96, MO no.54-55/15.08.96, art.517]*

(7) Within 2 years from the date of coming into effect of this Constitution, the system of the courts of law shall be reorganised, according to the law, in compliance with Article 115.

#### *Article IV*

The provisions enshrined in Article 25 para. (4) related to the term of detention in custody should not affect, until 1 January 1995, the persons who have committed serious offences as foreseen by Article 7<sup>1</sup> of the Criminal Code\*

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\* Approved by the Law of 24 March 1961.

*Article V*

(1) Within 6 months following the date of coming into effect of the present Constitution, there shall be set up the Constitutional Court and the Court of Audit.

(2) Judges of the first composition of the Constitutional Court shall be appointed to office, on behalf of the Superior Council of Magistrates, by the General Assembly of the People's Judges and the members of the Supreme Court of Justice.

*Article VI*

Until the establishment of the Constitutional Court all the cases stipulated by Article 135 of the present Constitution may be solved by the Supreme Court of Justice, upon the initiative brought forward by the Parliament.

*Article VII*

(1) The law of 1 September 1989 on the use of the languages spoken throughout the territory of the Republic of Moldova shall remain in force to the extent that it does not conflict with the present Constitution.

(2) The aforesaid law may be amended by a vote of at least two thirds of the Members of Parliament within 7 years following the date of coming into effect of this Constitution.

*Article VIII*

Title VII, Final and Transitory Provisions shall be considered a constitutive part of the present Constitution and shall regulate issues dealing with its coming into effect.



CASE LAW OF THE  
CONSTITUTIONAL COURT OF THE  
REPUBLIC OF MOLDOVA ON THE  
BLOC OF CONSTITUTIONALITY

*(Judgment of the Constitutional Court no. 36  
of 05.12.2013 on interpretation of article 13  
para. (1) of the Constitution inter-related with the  
Preamble of the Constitution and the Declaration of  
Independence of the Republic of Moldova)*





## **Legal Value of the Declaration of Independence**

The provision „*aspirations [...] expressed through declaration of independence*” in the Preamble of the Constitution makes direct referral to the act through which the independence was proclaimed - the Declaration of Independence of the Republic of Moldova. It is the judicial document by which the independence of the Republic of Moldova has been expressed and where the aspirations that accompanied this process are reflected (§82).

The Court held that, based on the Declaration of Independence, Moldova was established as a sovereign and independent state. The Declaration of Independence is the political and legal foundation of the Republic of Moldova as a sovereign, independent and democratic state. It is the act by which the Republic of Moldova was born. It was based on the Declaration of Independence that Moldova gained recognition from other states, was accepted in the Conference on Security and Cooperation in Europe on January 31, 1992 and in the United Nations on March 2, 1992 (§47).

The Declaration of Independence is a political and legal document by which a new independent

state - the Republic of Moldova was created, thus being the “birth certificate” of the new state, and laying foundations, principles and the underlying values of the state organization of the Republic of Moldova (§49).

In addition to being the “birth certificate” of the new independent state, the Declaration of Independence is the most succinct statement of the constitutional ideas of the Republic of Moldova. In the country’s historical context, this judicial document proclaimed the constitutional values of the new independent state, from which the legitimacy of the power of the ruling parties in Moldova derives (§50).

There is no other document where the constitutional understanding of the founding parents and the national creed would be reflected as clearly as in the Declaration of Independence. The Declaration of Independence, reflecting the fundamental political decisions, is the national consciousness defining the “constitutional identity” of Moldova. Thus, the enumeration in the Declaration of Independence includes the items that were considered essential in defining the constitutional identity of the new state and its people: *aspirations for freedom, independence and national unity, linguistic identity, democratization, rule of law, market economy,*



*history, moral and international law norms, European geopolitical orientation, ensuring the social, economic, cultural and political freedoms to all Moldovan citizens, including people belonging to national, ethnic, linguistic and religious groups (§86).*

In this context, by reference to the Constitution in its Preamble, the Declaration of Independence has an unquestionable value of a constitutional text [...], as it is the major expression of the will of the people to build and live in a free and independent state, a will that predetermines the need to adjust the Constitution to the ideals, principles and values of the Declaration (§87).

### **Block of Constitutionality**

The Court held that the Declaration of Independence is the primary legal and political foundation of the Constitution. Thus, no provision of the Constitution, reflected in the text of the Declaration of Independence, can violate the limits (provisions) of the Declaration (§88).

Moreover, as the founding act of the Republic of Moldova, the Declaration of Independence is a legal document that cannot be subject to any amendments and / or additions. Thus, the Declaration of Independence has the status of “*eternity clause*” because it defines the constitutional iden-

tity of the political system, the principle of which cannot be changed without destroying this identity (§89).

For this reason, the Court held that the Declaration of Independence is the original, intangible and immutable block of constitutionality (§90).

By Preamble to the Constitution, the Declaration of Independence refers to the Constitution in its entirety [...]. Therefore, any constitutionality control or any interpretation must consider not only the text of the Constitution, but also the constitutional principles in the constitutionality block (§91).

### **Conflict between Two Fundamental Acts**

The Court held that, under article 13 para. (1) of the Constitution, the state language of Moldova is “Moldovan, used based on Latin alphabet” (§106).

On the other hand, the Declaration of Independence uses the term “Romanian” for the official language of the newly created state the Republic of Moldova (§107).

Therefore, the reference to “Romanian” as the official language is a factual situation stipulated in the very text of the Declaration of Independence, which is the founding act of the Republic of Mol-

dova. Regardless of the glotonyms used in legislation prior to proclamation of independence, the Declaration of Independence made a clear distinction, expressly opting for the term “*Romanian language*” (§108).

The principle value of the Declaration of Independence derives from general popular consensus that legitimated it and from its contents defining the new state. This gives the Declaration of Independence, in the constitutional order of the Republic of Moldova, a crossing function [...] in relation to other constitutional provisions (in a manner similar to general principles of the rule of law, fundamental rights and freedoms, justice and political pluralism, etc.), as the core of the block of constitutionality (§118).

Based on a historical and teleological interpretation of the Preamble of the Constitution, the Court held that the Declaration of Independence had been used as the basis for the adoption of the Constitution in 1994 [...] (§120).

Therefore, in application of the principles set out in the Judgment no. 4 of April 22, 2013 (§ § 56, 58, 59), any interpretation of the Constitution is to be operated from the original objectives of the Constitution, which are set out in the Preamble and implicitly in the Declaration of Independ-

ence, and from which the text of the Constitution itself derives. Thus, when there are several interpretations, the option according to the Preamble and thus the Declaration of Independence prevails (§122).

Therefore, no legal act, regardless of its power, including the Basic Law, can be inconsistent with the text of the Declaration of Independence. As long as the Republic of Moldova functions based on the same political order as established by the Declaration of Independence on August 27, 1991, the constituent legislature cannot adopt regulations that contradict it. At the same time, if the constituent legislator admitted certain contradictions to the text of the Declaration of Independence in the Basic Law, the text in the Declaration of Independence remains to be the authentic one (§123).

In the light of the above, examining the cumulative effect of the two provisions on the name of the official language, the Court held that a combined interpretation of the Preamble and Article 13 of the Constitution was targeting the uniqueness of the official language, the name of which is given by the primary imperative provision of the Declaration of Independence. Therefore, the Court found that the provision contained in the Decla-

ration of Independence on Romanian language as the official language of the Republic of Moldova prevailed over the rule concerning the Moldovan language contained in Article 13 of the Constitution (§124).

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