



L A W
on Institutional Integrity Assessment

No. 325 dated December 23, 2013

Official Gazette No.277-28/ 586 dated 26.08.2016, enter into force on 12.11.2016

Official Gazette No.35-41/73 dated 14.02.2014

* * *

CONTENT

Chapter I
GENERAL PROVISIONS

- Article 1. Scope
- Article 2. Purpose of the institutional integrity assessment
- Article 3. Principles
- Article 4. Concepts
- Article 5. Institutional integrity climate
- Article 6. Subjects of institutional integrity assessment
- Article 7. Rights and obligations of public agents
- Article 8. Rights and obligations of public entities and self-governing bodies
- Article 9. Rights and obligations of the institution assessing the institutional integrity
- Article 10. Testers' integrity
- Article 11. Guarantees and responsibilities

Chapter II
INSTITUTIONAL INTEGRITY ASSESSMENT PROCEDURE

- Article 12. Institutional integrity assessment initiation
- Article 13. Institutional integrity assessment stages
- Article 14. Endorsement of the professional integrity test
- Article 15. Professional integrity test planning and conducting
- Article 16. Means and methods to test and set professional integrity tests
- Article 17. Assessing the result of the professional integrity test
- Article 18. Report on institutional integrity assessment results and evidence-bearing materials

Chapter III
CONSEQUENCES OF INSTITUTIONAL INTEGRITY ASSESSMENT AND PROFESSIONAL INTEGRITY TESTING

- Article 19. Public entity's actions after receiving the institutional integrity assessment report
- Article 20. Repeated institutional integrity assessment. Consequences of integrity plan failure
- Article 21. Consequences of the negative result of the professional integrity test
- Article 22. Challenge of the integrity tests and of the disciplinary sanctions applied
- Article 23. Keeping the recordings performed during the professional integrity tests

Chapter IV
CONTROL OF AND FINANCING INSTITUTIONAL INTEGRITY ASSESSMENTS

- Article 24. Parliamentary control over the institutional integrity assessment activity
- Article 25. Judicial control over the professional integrity testing activity
- Article 26. Financing the measures to implement the provisions of the law

Chapter V
FINAL AND TRANSITORY PROVISIONS

- Article 27. Final provisions
- Article 28. Transitory provisions

Pursuant to Art. 72 para.(3) letter r) of the,
The Parliament adopts this organic law.

Chapter I **GENERAL PROVISIONS**

Article 1. Scope

This law sets forth the purpose, principles, means, methods, procedures, and legal effects of the institutional integrity assessment within public entities.

Article 2. Purpose of the institutional integrity assessment

The institutional integrity assessment is performed to:

- a) increase the accountability of heads of public entities and self-governing bodies for developing, maintaining, and enhancing the professional integrity environment within public entities;
- b) ensure professional integrity of public agents, to prevent and combat corruption within public entities;
- c) identify, assess, and remove corruption risks within public entities;
- d) increase the denunciation of corruption acts accepted by public agents.

Article 3. Principles

The institutional integrity assessment process shall be performed under the mandatory observance of the following principles:

- a) legality;
- b) observance of the fundamental human rights and freedoms, of human and professional dignity;
- c) fair balance between the fundamental rights and freedoms of the citizens affected by public agents' corruption acts, on one hand, and the fundamental rights and freedoms of the public agents, on the other hand;
- d) unbiased, equitable, and non-discriminatory treatment of the public agents subject to testing;
- e) presumption of good faith of the institutional integrity assessment subjects;
- f) presumption of institutional integrity of the public entities;
- g) transparency of institutional integrity assessment results, with exceptions provided in the present Law and Law No. 245 dated 27.11.2008 on State Secret.
- h) observance of private life and data protection

Article 4. Concepts

For the purpose hereof, the following concepts shall have the following meanings:

institutional integrity assessment – the process of identifying corruption risks within public entities, assisted by analytical and practical methods (professional integrity testing), describing the factors determining the identified risks and their consequences, and providing recommendations for mitigating such risks, performed in compliance with the provisions set forth in this law;

professional integrity test – the creation and application by the tester of certain virtual, simulated situations, similar to those in the work activity, materialized through dissimulated operations, conditioned on the activity and behavior of the tested public agent, in order to passively monitor and establish the reaction and conduct of the tested public agent, hence determining the level of damage to the institutional integrity environment and the corruption risks of the public entity within the institutional integrity assessment;

professional integrity testing – all the processes related to performance of the professional integrity test, a stage of the institutional integrity assessment;

tester – employee of the National Anticorruption Center or Security and Information Service empowered by this law and by special laws with duties and competences to perform the professional integrity tests;

integrity incident – corruption manifestation occurred in real circumstances, any other deed similar to the corruption manifestation, occurred during a professional integrity test;

integrity plan – internal plan adopted under the conditions of this law by the head of the public entity and/or self-governing body, as a result of the institutional integrity assessment, through which the institutional integrity environment may be developed and/or enhanced during the implementation period;

audio/video recording – digital file on information support containing sounds and/or images that registers the conduct of the public official during a professional integrity test, obtained by using special technical means of the institution which is assessing institutional integrity connected with conducting a test planned under this law or by using special technical means of other entities which typically use such means in the place where the test took place without the direct connection with the test;

primary audio/video recording – audio / video recording made during the professional integrity test, with proof of its technical integrity;

processed audio / video recording – the useful part of the audio/video recording made during the professional integrity test, where is fully captured the public official's conduct during the test, it is included, if needed, the subtitled communication of the public official during the professional integrity test and are made the adjustments set out in Article 19 para. (8).

Article 5. Institutional integrity environment

(1) The public entities shall perform their activity in the public interest, ensuring the institutional integrity climate. The public agents shall exercise their duties with professional integrity.

(2) The institutional integrity environment shall be ensured through enforcement of national and sector anticorruption policies, as well as of specific professional integrity requirements for the activity of the public agents within public entities. The following shall be deemed as national and sector anticorruption policies securing the institutional integrity climate:

- a) employing and promoting public agents based on merit and professional integrity;
- b) regime of incompatibilities, restrictions in hierarchy and limitations of publicity;
- c) regime for declaration of assets and personal interests;
- d) regime of conflicts of interest;
- e) avoidance of favoritism;
- f) gifts' regime;
- g) denunciation and treatment of undue influences;
- h) denouncing corruption manifestations and protecting the whistleblowers;
- i) non-admission of corruption manifestations;
- j) transparency in decision-making process;
- k) access to information of public interest;
- l) transparent and responsible management of public patrimony, reimbursable and non-reimbursable finances;
- m) professional ethics and deontology;
- n) regime of restrictions and limitations related to termination of the mandate, labor or duty relations, or migration to the private sector of the public agents (revolving doors).

(3) The provisions of para. (2) shall be applied appropriately for different categories of public agents, with the derogations provided by the special laws regulating the respective activity.

(4) The specific requirements of professional integrity for the activity of public agents within public entities shall be adopted through departmental acts of the public entities, which cannot establish for other derogations than those set forth in para. (3) or less rigorous conduct standards for

the heads of public entities and public agents than those established by the national and sector anticorruption policies.

(5) The public entities shall determine the institutional policy for sanctioning any professional integrity lacking behavior of public agents, in compliance with the provisions of the legislation, aiming to discourage other public agents from such behavior in the future.

Article 6. Subjects of institutional integrity assessment

(1) Subjects of institutional integrity assessment are the public entities, self-governing bodies, public agents, the National Anticorruption Center, and the Security and Information Service.

(2) The institutional integrity assessment shall be applied for public entities, providing the possibility to apply the professional integrity tests for public agents.

(3) The institutional integrity assessment and the professional integrity tests shall be performed by the National Anticorruption Center and Security and Information Service.

Article 7. Rights and obligations of public agents

(1) Public agents shall be entitled:

a) to be informed about the specific professional integrity requirements for the public agents within public entities, as well as about the disciplinary sanctions which may be applied for non-observance of these requirements, in compliance with the provisions set in art. 5;

b) to be informed about the integrity plan of the public entity, adopted after announcing the institutional integrity assessment results;

c) to be informed about the integrity tests carried out in relation to them;

d) to challenge, in administrative dispute court the application of the integrity test carried out in relation to him.

(2) Public agents shall have the following obligations:

a) not to admit corruption manifestations;

b) to denounce immediately to the competent bodies any attempt of being involved in the actions provided under letter a);

c) to denounce immediately undue influences, to declare gifts and conflict of interests, according to the legislation;

d) to know and to observe the duties they have to perform according to the national and sector anticorruption policies, provided under art. 5;

e) to observe the specific professional integrity requirements for the activity of public agents within public entities, which they were informed about;

f) to perform the measures set forth in the integrity plan, adopted by the public entity as a result of the institutional integrity assessment.

Article 8. Rights and obligations of public entities and self-governing bodies

(1) Public entities and self-governing bodies shall be entitled to be informed, within the deadlines provided herein, about the results of the institutional integrity assessment and application of professional integrity tests in relation to the public agents for whose ethics and discipline they are responsible for.

(2) Public entities and self-governing bodies shall have the following obligations:

a) to build the institutional integrity climate, as it is set forth in article 5.

b) to inform the public agents about the specific professional integrity requirements for the activity of public agents within public entities, as well as about the disciplinary sanctions which may be applied for non-observances of such requirements, in compliance with the provisions set in art. 5;

c) to inform the public agents, with a signature-based confirmation, about the possibility to be subject to the professional integrity test. Such information shall be provided upon the appointment/employment; and for the public agents employed upon the coming into force of this law – within the deadlines set in the final and transitory provisions. The non-information of the public agent by the public entity shall not be a barrier to perform the professional integrity tests in relation to such a

public agent, to carry out the institutional integrity assessment of the public entity, as well as to apply the disciplinary sanctions in compliance with the legislation in force. The refusal of the public agent to sign the information confirmation, recorded in writing, does not hinder carrying out professional integrity tests related to him and to apply disciplinary sanctions according to the legislation;

d) to adopt integrity plans, to ensure and report on their implementation, within the deadlines set by this law;

e) to inform the public agents about the performed professional integrity tests concerning them;

f) to take the necessary measures concerning the public agents who were subjects of the testing, based on the qualification of the conduct they proved to have during the test and the evidences confirming it;

g) to ensure the access of the institution assessing the institutional integrity to all the registers and record forms related to ensuring the institutional integrity climate provided in art.5, including in electronic format, as well as to any other necessary information under the conditions and limits set in letter e) Article 6 of the Law No. 1104 dated June 6, 2002 on National Anticorruption Center and article 10 para. (1) letter i) of the Law No. 753-IV dated December 23, 1999 on Security or Information Service.

h) to allow withdrawal of the documents submitted to the public entity during the professional integrity test, of the audio-video recordings performed by the public entity during the professional integrity test, and to undertake other measures necessary to secure the confidentiality of testers, codifying documents, special means and techniques used during the professional integrity test, which were indicated in the conclusion of the court.

Article 9. Rights and obligations of the institutions assessing the institutional integrity

(1) The institution assessing the institutional integrity shall be entitled:

a) to determine, the areas for initiating the institutional integrity assessment, the public entities which will be assessed, the public agents from the public entity selected randomly for being subject to professional integrity tests, as well as the frequency of assessments, according to the Methodology stipulated at the para. (2) letter h);

b) to organize and benefit from special trainings on methods and means applied within the institutional integrity assessment;

c) to use within the professional integrity testing documents encoding the identity of persons, including of those set in art.16 para. (2), of structures, organizations, premises, and transportation means;

d) to perform repeatedly an institutional integrity assessment of a previously assessed public entity in order to verify the progress for enhancing the institutional integrity as a result of the integrity plan adoption and implementation;

e) to suggest the hierarchically superior public entities and/or self-governing bodies to dismiss the heads of the public entities subject to repeated assessment provided in letter d), if the integrity plan failed;

f) to challenge the decisions of the public entities' heads in relation to the reports on institutional integrity assessment and the refuse of the hierarchically superior public entities and self-governing bodies to proceed with the proposal provided in letter e) in the administrative dispute court, observing the prior procedures.

g) to have free access to state records, including electronic, state databases necessary for verifying the observance of national and sectoral anti-corruption policies that ensure the institutional integrity climate, stipulated at article 5.

(2) The institution assessing the institutional integrity shall have the following obligations:

a) to ensure confidentiality of testers' activities, codifying documents, and special technical means used during the testing, except for the cases provided in this law;

b) to observe the regime of personal data protection, under the conditions set in the Law No. 133 dated July 8, 2011 on Personal Data Protection, except for the cases provided in this law;

c) to send to the heads of the public entities or, as appropriate, to the self-governing body, the full version of the report on institutional integrity assessment, according to the provisions set in art.18 para.(3) letter a);

d) to publically release the depersonalized version of the report on institutional integrity assessment results, according to the provisions set in art.18 para. (3) letter b), simultaneously with sending the full version to the public entity or to the self-governing body, as appropriate;

e) to publically release the full version of the report on institutional integrity assessment results, according to the provisions set in art.18 para. (3) letter a), if the assessed public entity has no hierarchically superior entity, as well as if the integrity plan failed;

f) to undertake all the measures to prevent the eventual negative consequences for third parties in relation to the performance of the professional integrity test;

g) to make audio/video recordings during the integrity test, authorized by the court, as provided in Article 14 and ensure the destruction under the terms of article 23 para. (1), of the audio/video recordings made and owned;

h) to adopt and publish the methodology for identification of corruption risks within the public entities, of identification of public agents exposed to these risks and analysis of generated risk factors, in accordance with this law.

(3) The obligations of the institutions assessing the institutional integrity shall duly cover the testing activity coordinator, testers and the persons analyzing the corruption risks within public entities.

Article 10. Testers' integrity

(1) The institutions assessing the institutional integrity shall ensure testers' integrity, adopting internal policies for this purpose, in compliance with the provisions set in this article.

(2) The candidates for tester's position shall be subject to a prior special control, mandatory polygraph testing, and psychological tests related to the integrity of their professional past, in order to establish existing inappropriate motivations to perform the activity of professional integrity testing, and other relevant aspects stated in the internal policies.

(3) To ensure objectiveness and to conspire the professional integrity testing activities, the testers shall be subject to periodical polygraph verifications, psychological verifications, lifestyle monitoring, and professional integrity tests, according to the competences set in art.6, as well as according to the extended obligation to declare the potential personal interests and conflicts of interest, in relation to the general legal regime applicable to public agents.

(4) The extended obligation to state the potential personal interests and conflicts of interest implies the obligation for the selected testers to submit a statement, under their own responsibility, regarding their previous jobs, kinship, friendship or hostility relations from their private lives with any public agent, whose testing falls under the competence of the institution they are a part of. The submitted statement shall be updated by the tester once biannually, as well as whenever the tester finds out that he/she is to perform a professional integrity testing of a public agent, the private life relations with whom were not included in the submitted statement and/or not updated previously. The respective statement shall be submitted to the testing activity coordinator, according to the template provided in the internal policies set forth in para. (1).

(5) If during the performance of the professional integrity test, the tester finds out that he/she knows in private settings the public agent subject to the respective test, and the tester did not know that the respective public agent works in the respective public entity, he/she shall undertake, if possible, actions to avoid the professional integrity testing of the respective public agent and to stop such testing, in order not to admit the testing activities' uncovering.

(6) The result of the professional integrity test performed in relation to a public agent with violation of provisions set in para. (4) and para. (5) shall be assessed by the specialized court as inconclusive, under the conditions set in art. 17.

(7) The tester using the materials accumulated during the performed professional integrity test for other reasons than those provided in this law shall be criminally or administratively liable for abuse of office, excess of duties, and other offences, as appropriate.

(8) The testers' integrity obligations provided in this article shall be applied accordingly to the testing activity coordinator as well.

Article 11. Guarantees and responsibilities

(1) In case the public agent's behavior is assessed as a negative result of the professional integrity test, the tested public agents shall be subject only to disciplinary liability, depending on the severity of the established deviations and in compliance with the legislation regulating the activity of the respective public entities, observing the provisions set in art. 21.

(2) The results and materials of the professional integrity test shall not be used as means of evidence in a criminal or minor offence trial against the tested public agent.

(3) The methods and means to test and set professional integrity tests shall not represent special investigation activities as provided by the [Law No. 59 dated March 29, 2012](#) on Special Investigation Activity.

(4) The use of the professional integrity test materials in a civil trial shall be admitted as provided by the civil procedural legislation. The results of the professional integrity testing and the materials of the professional integrity test may be used as evidence in a civil trial if they are pertinent, admissible, veridical, observing the public interest, human rights and freedoms, and the declassification conditions.

(5) By derogation from the provisions set in para. (2) of this article, in the case when, during the professional integrity test performance, the tester finds out real illegal activities carried out by tested public agents or third parties, which are not generated by application of the professional integrity testing plan, the institution conducting the institutional integrity assessment shall notify the competent body for measures provided by the legislation in the area to be taken.

(6) The persons from the institution assessing the institutional integrity shall be liable for disclosing the confidential data provided in art.8 para. (2) letter g), the information related to private life beyond the professional activities of the public agent and for publishing, in contradiction to the provisions set in art.9 para. (2) letters a) and b), the personal data which became known to them during the performance of the professional integrity tests, excepting the cases stipulated at para. (5) of the present article and at art. 18 para. (5) and (7).

Chapter II

INSTITUTIONAL INTEGRITY ASSESSMENT PROCEDURE

Article 12. Institutional integrity assessment initiation

The institutional integrity assessment shall be initiated by:

a) the National Anticorruption Center – regarding all the public entities under the jurisdiction of this law, except for the Security and Information Service;

b) the Security and Information Service – regarding the National Anticorruption Center;

c) the internal security subdivision of the Security and Information Service – regarding the Security and Information Service. In this case, the internal security subdivision of the Security and Information Service has the possibility to go through all the assessment stages provided in art.13 or only the stage of professional integrity testing of the public agents from the Security and Information Service.

Article 13. Institutional integrity assessment stages

(1) The institutional integrity assessment shall be performed through the following stages:

a) first stage – identification of corruption risks within the public entity;

b) second stage – testing the professional integrity of public agents;

c) third stage – description of corruption risks and analysis of factors generating such risks;

d) fourth stage – issuance of recommendations for improving the institutional integrity climate.

(2) First stage consists in the examination of the integrity incidents admitted by the public agents from the public entities; information sent by the citizens, materials from mass-media; analytical sources (reports, studies, surveys, indicators, etc.); as well as of the modalities affecting the human rights through the identified corruption risks.

(3) Second stage, initiated based on a motivated decision, is an optional stage of the institutional integrity assessment. The public agents to be subject to testing shall be selected on random basis, depending on the corruption risks identified in the public entity at first stage. The tester shall be responsible for performing this stage.

(4) Third stage shall be carried out by describing the corruption risks identified during the first stage and, where appropriate, confirmed during the professional integrity testing at second stage of the assessment, as well as by analyzing the risk factors which increase the likelihood of such risks' materialization. The analysis shall be carried out according to the following risk factors' types:

a) external factors – risk factors which are outside the control of the public entity;

b) internal factors – organizational, control, and sanctioning risk factors which are under control of the public entity, which are the result of their actions or lack of actions;

c) operational factors – factors emerging during the activity of the public entity;

d) individual factors – factors which may motivate a certain public agent to admit corruption acts and to act contrary to the institutional integrity climate.

(5) Fourth stage implies setting some minimum requirements, meeting these requirements would allow the public entity to reduce the corruption acts among the public agents.

(6) If the institutional integrity assessment is performed without second stage of professional integrity testing, third and fourth stages shall follow the fulfillment of first stage.

Article 14. Endorsement of the professional integrity test

(1) The reasoned decision to initiate the professional integrity test within the institutional integrity assessment shall be taken by the institution assessing the institutional integrity and endorsed by the competent court according to article 343/6 of the Civil Procedure Code. The reasoned decision to initiate the professional integrity test and the endorsement shall be confidential until the submission of the institutional integrity assessment report to the public entity or to the self-governing bodies, in accordance with art. 18 para. (5).

(2) In the motivated decision to initiate the professional integrity test shall be indicated:

a) the reasons for initiating the professional integrity test within the public entity, subject of the institutional integrity assessment;

b) the corruption risks identified within the public entity;

c) the objectives of the professional integrity testing of public agents within the entity;

d) the categories of public agents within the public entity selected to be subject of the professional integrity testing;

e) the sample of public agents which shall be tested, depending on the capacity of the National Anti-Corruption Centre and of Security and Information Service to conduct professional integrity testing of a representative number of public agents;

f) the possibility of using the audio/video recording means, communication means, and other technical means for obtaining information in a concealed way, as well as the possibility to offer, promise or send goods, services, provision of privileges and advantages, in order to capture the public agents' conduct and not to disclose the testers' activity;

g) other relevant information for professional integrity testing

Article 15. Professional integrity test planning and fulfillment

(1) The professional integrity test plan is a confidential document, which is approved by the coordinator of the professional integrity testing activity, based on the motivated decision endorsed by the court according to art. 14 and contains the information regarding:

- a) the initiator of the professional integrity testing and the motivated decision to initiate the test;
- b) objectives of the professional integrity testing;
- c) envisaged dissimulated operations;
- d) place, duration, participants, and logistical assurance of the professional integrity testing;
- e) simulated virtual situations, behavior hypotheses and action options of the professional integrity tester and the tested public agent;
- f) other information relevant for performing the professional integrity testing.

(2) The deadline for conducting the professional integrity testing is 6 months. In a motivated decision, the judge of the court which authorized the motivated decision to initiate the testing may extend this period by up to 6 months.

(3) During the professional integrity testing, the testers shall undertake the necessary measures to support the simulated virtual situations, planned in line with para.(1) letter e), hence ensuring the fulfillment of the professional integrity testing plan's provisions. Upon the request of the institution assessing the institutional integrity, other state institutions shall provide free-of-charge assistance to carry out the measures for supporting the simulated virtual situations.

(4) In unforeseen situations, the testers may deviate from the approved plan, to the extent in which their actions contribute to the achievement of the testing objectives and do not lead to changing the motivated decision endorsement conditions, set forth in art.14.

(5) If the unforeseen situations emerged during the application of the plan lead to identification of new corruption risks unforeseen in the motivated decision, it is necessary to make a motivated request which will include additional concrete measures performed, testing means and methods that would be submitted for approval to the court within 3 working days from the occurrence of such situations. If the judge refuses to endorse, the materials accumulated by the tester in the given contingencies shall be destroyed, except for the cases when these materials are necessary for the purpose of art. 11 para. (5).

(6) If needed, when performing the professional integrity testing, the testers shall collaborate with the representatives of the public entities in which the tested public agents work, under the conditions of this law and of the special rules regulating the cooperation in the area.

Article 16. Means and methods to test and set professional integrity tests

(1) The testers shall perform their activity on confidential basis. They may use for this purpose the means and methods set forth in art.9 para. (1) letter c).

(2) In exceptional cases, other persons may participate in performing the professional integrity testing, the identification data of which are kept by the institution that assesses institutional integrity,, with the prior approval and guarantees that they will not disclose the performed activity.

(3) The professional integrity tests shall be performed observing the fundamental rights and freedoms of the public agent. The possibility to restrict such rights and freedoms during the professional integrity testing shall be provided in the motivated decision to initiate the professional integrity test, endorsed under the conditions set in art. 14.

(4) During the professional integrity testing of judges, the institutions assessing the institutional integrity and the testers shall observe the guarantees of judges' independency, being prohibited to interfere in justice application in real cases pending in courts.

(5) To capture the conduct of the public agent under the professional integrity testing, there shall be used means for audio/video recording, communication means, other technical means for obtaining information in a concealed way, held by the institutions assessing the institutional integrity or from other sources, and with the possibility to send the goods, to provide services, to grant privileges and advantages, only if it is reflected in the motivated decision to initiate the professional integrity testing, endorsed by the judge under the conditions set in art. 14.

Article 17. Assessing the result of the professional integrity test

(1) The professional integrity test is appreciated as:

a) positive – if the tested public agent has proved professional integrity, observing the obligations laid down in article 7 para. (2) letters a) –c);

b) negative – if the tested public agent has not observed the obligations laid down in article 7 para. (2) letters a) –c);

c) inconclusive - if the conduct of the tested public agent test does not allow to assess the test's result neither as positive result nor as negative result, as well as the situation when the integrity test was performed with violations of the provisions set in this law.

(2) The materials of the professional integrity tests shall be verified by the judge from the law court which has endorsed the decision to initiate the testing. While verifying, the judge shall review how the tester has observed the motivated decision to initiate the test, shall confirm or change the proposal of the institution assessing the institutional integrity regarding the assessment of the tested public agent's conduct, and shall determine the test results' in compliance with the provisions set forth in para. (1).

(3) The judge shall decide upon the assessment of the public agents' testing results as positive, negative and inconclusive through a decision. Considering the testing results, the judge comments on the conduct of the tested public agent by checking the primary audio/video recording and confirms the registration of the tested public agents' conduct on the audio/video processed according to article 19 para. (8). In the situation stipulated in art. 21 (4), the court orders by the same or other decision, the restitution/recovery of assets by the tested public agent.

(4) Upon the request of the institution assessing the institutional integrity, the judge shall solve via a decision any other situation emerged during the professional integrity testing, in order to secure the observance of fundamental human rights and freedoms, not to disclose the identity of the testers and to conspire the testing activity.

Article 18. Report on institutional integrity assessment results and evidence-bearing materials

(1) After passing through all the stages set forth in art. 13, the institution assessing the institutional integrity shall compile a report on the assessment results, which will cover the following information:

a) the initiator and the stages of the institutional integrity assessment;

b) the corruption risks affecting the activity of the public entity;

c) the findings regarding the integrity climate in the public entity, in line with the provisions set in art. 5;

d) the integrity incidents admitted by the public agents;

e) the results of the professional integrity testing of public agents, describing the performed testing activities according to the test plan, as well as the behavior and actions of the public agents during the testing;

f) the level to which the human fundamental rights and freedoms are affected by the corruption manifestations within the public entity;

g) recommendations / minimum requirements for removing the corruption risks.

(2) The report drafted under the conditions of para. (1) shall be compiled so as not to allow the disclosure of the persons involved in performing the professional integrity test, the forces, means, sources, methods, and activity plans of the National Anticorruption Center and of the Security and Information Service, as well as other information with limited accessibility.

(3) The report mentioned in para. (1) shall be concluded in two versions:

a) full version, containing data about the tested public agents' identity;

b) depersonalized version, without including data about the identity of tested public agents, such as name, surname, as well as other data leading to public agents' identification.

(4) The primary audio/video recordings made during the integrity testing shall be annexed to the full version of the report concluded under the conditions set in para. (1) and shall be kept, on

mandatory basis, together with the full version of the report in the institution which has carried out the institutional integrity assessment, in the period prescribed by the present law.

(5) The full version of the report on institutional integrity assessment results shall be submitted to the head of the public entity or to the self-governing body, as appropriate, within three working days since the moment the report is finalized. Together with it shall be submitted the primary audio/video recording, or as appropriate, the processed audio/video recording under the conditions set in art.19 para.(8) and other materials confirming the negative results of the professional integrity test, with the note about their confidential nature and the liability for disclosing to other persons than those mentioned in art. 19 para. (9).

(6) The depersonalized version of the report on institutional integrity assessment results shall be released publically on the webpage of the institution which has performed the institutional integrity assessment, alongside with the submission of the full version of the report, under the conditions set in para. (5).

(7) By derogation from the provisions set in para. (5), the full version of the report on institutional integrity assessment results shall be published on the webpage of the institution which has assessed the institutional integrity if the subject of the assessment was one of the public entities which do not have a hierarchically superior public entity, and for whose public agents the legislation does not provide the possibility of being held disciplinary liable, as well as in the situations set forth in art. 20 para. (6).

Chapter III

CONSEQUENCES OF THE INSTITUTIONAL INTEGRITY ASSESSMENT AND PROFESSIONAL INTEGRITY TEST

Article 19. Public entity's actions after receiving the institutional integrity assessment report

(1) The public entity or the self-governing body, as appropriate, shall review the institutional integrity assessment report within 10 days after submission.

(2) If the institutional integrity assessment report determines corruption risks in the public entity, the public entity or the self-governing body, as appropriate, shall adopt an integrity plan within 30 days since the day the report was submitted.

(3) The integrity plan shall be implemented within 60 days since the day it was adopted, ensuring at least the fulfillment of the recommendations/minimum requirements formulated in the institutional integrity assessment report. The integrity plan shall cover:

- a) corruption risks (according to the report);
- b) actions for reducing/excluding the risks;
- c) deadlines;
- d) indicators;
- e) responsible persons.

(4) For the corruption risks described in the institutional integrity assessment report, the occurrence of which is determined by external risk factors, the public entity or the self-governing body, as appropriate, shall include in the integrity plan indirect actions preparing the mitigation of such risks.

(5) During the development of the integrity plan, the public entity or the self-governing body, as appropriate may organize consultations with the civil society. The institution which has assessed the institutional integrity shall provide, upon request, methodological support for the given process. The responsibility for adopting and implementing the integrity plan belongs exclusively to the public entity or self-governing body, as appropriate.

(6) Upon the expiration of the deadline set in para. (3), the public entity or the self-governing body, as appropriate, shall conclude a report regarding the implementation of the integrity plan, which should be published on its webpage and sent to the institution which has performed the institutional integrity assessment.

(7) Within 60 days since the receipt of the institutional integrity assessment report, the public entity or the self-governing body, as appropriate, shall examine the materials confirming the negative result of the professional integrity test, sent under the conditions set in art.18 para.(5) and shall inform the institution which has assessed the institutional integrity about the undertaken measures and applied sanctions, providing a copy of the respective decision.

(8) In order to ensure confidentiality and conspiracy, the copy of records sent to the public entity or self-governing body, as appropriate, for confirming the negative results of the professional integrity test, may present the image and the voice of other persons than the tested public agent, the images of cars, places, and other backgrounds, as well as the sounds of recorded circumstances in such a way so as not to be recognized. Moreover, the processed audio/video recordings of the discussions may contain subtitles of the discussion captured during the professional integrity test.

(9) While reviewing the materials provided under para. (8), the public entity or the self-governing body, as appropriate, shall ensure the access of the tested public agent or his/her representative, as appropriate, and of the law court to the materials sent by the institution which has performed the institutional integrity assessment.

(10) If the head of the public entity or a member of the respective entity's disciplinary body is in a direct kinship relation or affinity relation up to the fourth degree with the public agent subject to the professional integrity testing, the report about the negative result of the professional integrity test shall be communicated to the head of the hierarchically superior entity, who will take a decision on applying disciplinary sanctions to the tested public agent.

(11) After receiving the report on institutional integrity assessment, when taking the decision on promoting the public agents subject to the professional integrity testing, the public entity or the self-governing body, as appropriate, shall take into consideration the test results.

Article 20. Repeated institutional integrity assessment. Consequences of integrity plan failure

(1) Upon receipt of the report on implementation of the integrity plan, the institution which has performed the institutional integrity assessment shall assess the progress achieved in enhancing the institutional integrity climate of the public entity, verifying if the institutional integrity plan was successfully implemented or failed. For the purpose of creating and continuously maintaining the institutional integrity climate, the public entities shall be subject to periodical institutional integrity repeated assessments, carried out in line with the provisions set in Chapter II; the number of such repeated assessment is unlimited.

(2) The implementation of the integrity plan shall be deemed as successful in the following cases:

a) if all or majority of measures included in the plan were fulfilled, with some exceptions, due to reasons outside the control of the public entity;

b) if the results of the repeated institutional integrity assessment of the public entity reveals the non-involvement of the public agents in corruption manifestations, less involvement of public agents in such manifestations as compared to the results of the previous assessment, but in any case does not denote a higher involvement than the level set in para. (3) letter c).

(3) The integrity plan shall be deemed failed in the following cases:

a) if the plan is not adopted within the set deadlines;

b) if the measures included in the plan are not fulfilled due to reasons under the control of the public entity;

c) if at least one third or more of the public agents are involved in corruption incidents and this is revealed during the repeated institutional integrity assessment.

(4) If the integrity plan implementation failed, the institution which assessed the institutional integrity shall ask the hierarchically superior public entity to apply disciplinary sanctions, including the sanction of dismissing the head of the public entity. The limitation period for applying the disciplinary liability shall start since the receipt of the request.

(5) The refuse of the hierarchically superior public entity to apply the disciplinary sanction proposed by the institution assessing the institution integrity under the conditions set in para. (4) may

be challenged in the administrative dispute court, observing the prior procedure. The challenge of the refuse in this case shall suspend the limitation period for the disciplinary liability.

(6) If the integrity plan adopted by the self-governing body of the public entity subject to repeated institutional integrity assessment failed, the full versions of the initial and repeated, as appropriate, institutional integrity assessment reports shall be deemed as being of public interest and shall be published on the webpage of the institution assessing the institutional integrity.

Article 21. Consequences of the negative result of the professional integrity test

(1) The disciplinary sanctions as a result of the negative result of the professional integrity test, including the dismissal of the tested public agent, shall be applied according to the legislation regulating the activity of the public entity where the respective public agent works. The limitation period for applying the disciplinary liability shall start since the receipt of the institutional integrity assessment report.

(2) As of the date of receiving the institutional integrity assessment report containing the negative results of the professional integrity test until finishing the disciplinary procedures, the public agent may not be dismissed based on the resignation application or transferred based on the transfer request.

(3) When finalizing the disciplinary procedure, the employees of the public entity in which the tested public agent works shall be informed about the main aspects established during the testing process and about the applied sanctions.

(4) The goods received during the professional integrity testing or their equivalent value shall be returned /recovered by the tested public agent who received them.

(5) The record regarding the professional integrity of the public agents shall be kept by the National Anti-corruption Center and Security and Information Service, which shall issue information upon request. The purpose of professional integrity record is to keep track of professional integrity testing results, and situations when the employer requests information from record are set in the regulation on keeping and using the professional integrity record, approved by the Government.

(6) The information is entered into the record on the professional integrity after the appreciation of the the professional integrity test's results by the court under article 17. In the record is made the note about the date of the appreciation by the court of the negative result, the date of informing the public agent subject of professional integrity testing, as well as the information about the challenge/ not challenging in the court by the tested public agent. The information on the negative test result shall be excluded from the professional integrity record on the basis of final and irrevocable decision of the court.

(7) The information about the negative results of the professional integrity test, assessed according to the provisions of art.17 shall be kept in the public agents' professional integrity records for 5 years – regarding the violation of art.7 para.(2) letter a) and for 1 year – regarding the violation of art.7 para.(2) letters b) and c), starting with the moment of the communication on the negative result of professional integrity test to the public entity.

Article 22. Challenge of applied disciplinary sanctions

(1) The professional integrity test and disciplinary sanction applied further to the negative result of the professional integrity test may be challenged by the tested public agent in the administrative dispute court, without observing the prior procedure as provided by the legislation.

(2) If the tested public agent resigned before the receipt by the public entity of the report on institutional integrity assessment results, the period for contesting the result of the test starts from the moment of the announcement of the result of professional integrity test to the tested public agent.

(3) The disciplinary sanction applied to a judge further to the negative result of the professional integrity test may be challenged according to the provisions set in the [Law No.178 dated July 25, 2014](#) on Judges' Disciplinary Liability.

(4) The challenge of the disciplinary sanctions set forth in para. (1) and (2) shall suspend the limitation period of the disciplinary liability.

(5) The competence to examine the challenges submitted according to this article in the administrative offence regime belongs to the specialized court. The judge who has endorsed the decision to initiate the test and who has verified the test results cannot participate in examining the challenge.

Article 23. Keeping the recordings performed during the professional integrity tests

(1) The audio/video recordings performed during the professional integrity testing shall be kept observing the rules for personal data protection, as set forth in the Law No. 133 dated 08.07.2011 on Personal Data Protection:

a) in case of a positive result – until the information of the employees working in the public entity the public agent subject to testing is part of;

b) in case of a negative result – until the court decision remains final and irrevocable or until the expiry of the limitation period for challenging the sanction, if the institution which has assessed the institutional integrity holds no information on a possible challenge;

c) in case of an inconclusive result – until the final and irrevocable court decision.

(2) If the recordings set forth in para.(1) contain state secret information, the keeping and management of such materials shall be performed in line with the legislation on state secret protection.

(3) After the expiry of the deadlines established in para. (1), the primary and the processed audio/video recordings performed during the professional integrity testing shall be destroyed by the institution which has performed the institutional integrity assessment, and those which public entities or, where appropriate, self-administration bodies have received from the institution which evaluated the institutional integrity should be destroyed by those institutions, entities or bodies which hold them.

(4) In case of violation of the regime set for keeping, accessing, and destroying the audio/video recordings performed during the professional integrity testing, the liability for violation of provisions set forth in the Law No. 133 dated 08.07.2011 on Personal Data Protection or the Law No. 245 dated 27.11.2008 on State Secrete, as appropriate, shall arise.

Chapter IV

CONTROL AND FINANCING OF INSTITUTIONAL INTEGRITY ASSESSMENTS

Article 24. Parliamentary control over the institutional integrity assessment activity

(1) The parliamentary control over the institutional integrity assessment activity shall be exercised by the National Security, Defense and Public Order Commission and the Legal, Appointments and Immunity Commission.

(2) The National Anticorruption Center and the Security and Information Service shall submit to the commission mentioned in para.(1), on annual basis, until March 30, a public report on institutional integrity assessment activities, to include:

a) the number of public entities subject to the institutional integrity assessment;

b) the number of performed professional integrity tests and their results;

c) the number of integrity plans adopted and implemented with success or failed;

d) the number of challenges related to applied disciplinary sanctions.

(3) The National Security, Defense and Public Order Commission and the Legal, Appointments and Immunity Commission may request, within their competence limits, any additional information on the activity of institutional integrity assessment of public entities and the professional integrity testing of public agents, if they consider that the submitted reports are incomplete.

Article 25. Judicial control over the professional integrity testing activity

(1) The endorsement of the professional integrity testing activity, the verification over observance of the endorsement conditions for assessing the results of the professional integrity tests, examining the challenges related to professional integrity test performance and disciplinary sanctions

as a result of such testing negative results, as well as the refusal to apply disciplinary sanctions as a result of failed integrity plan shall be under the judicial control.

(2) The appointment of judges shall be carried out by the Superior Council of Magistrates based on the Regulation approved by this Council after consultation with the National Anti-corruption Center and the Security and Information Service.

(3) The list of judges appointed in line with para. (2) shall be public and shall be posted on the official webpage of the Superior Council of Magistrates.

Article 26. Financing the measures for fulfilling the provisions of the law

The measures for organizing and performing the institutional integrity assessment, the professional integrity testing, as well as the measures for recording, keeping, and systematizing the information obtained during the tests shall be financed from the state budget within the limit of available means, other sources not- forbidden by the legislation.

Chapter V FINAL AND TRANSITORY PROVISIONS

Article 27. Final provisions

This law shall come into force from its publication data and be enforced as follows:

a) in case of the employees of the National Anticorruption Center and competences of the Security and Information Service – since the date of publication;

b) in case of the employees of other public entities – after the expiry of the 6-month term since the date of publication.

Article 28. Transitory provisions

(1) Within 10 days from the publication of this law, the public entities falling under it shall inform, under signature, public agents of the possibility to apply professional integrity tests. The refusal to sign shall not exonerate public agents from their disciplinary liability in case of a negative result of the professional integrity test.

(2) The financial resources necessary for the application hereof shall be provided in the budget of the National Anticorruption Center and of the Information and Security Service.

(3) Until the application of this law, the National Anticorruption Center shall verify the public entities regarding the information of public agents according to para. (1), as well as the manner of keeping the gift registers and inappropriate influence denunciation registers, granting them methodological support, if necessary.

(4) The Government of the Republic of Moldova, within 3 months since the enforcement of this law:

a) shall submit to the Parliament proposals on harmonizing the legislation in force with this law;

b) shall make its normative documents compliant hereto and ensure the adoption by the subordinated institutions of the normative documents necessary for the application hereof;

c) shall ensure, from available means, the financial and technical resources necessary for the immediate application hereof.

(5) The National Anticorruption Center and the Security and Information Service shall submit, within 12 months since the coming into force of this law, a report regarding the implementation of the law to the National Security, Defense and Public Order Commission and to the Legal, Appointments and Immunity Commission of the Parliament.

THE PRESIDENT OF THE PARLIAMENT

Igor CORMAN

Chisinau, December 23m 2013.

No. 325.

