

## Moldova, Republic of

### PARLIAMENT LAW No. 174 of 11-11-2021 (2021)

*Unofficial translation*

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Republic of Moldova

# PARLIAMENT LAW No. 174 of 11-11-2021

## on the mechanism for examining investments of importance for state security

Published : 19-11-2021 in the Official Gazette No. 280-284 art. 384

ALTERED

LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25

The Parliament adopts this law.

This law partially transposes Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investment into the Union, published in the Official Journal of the European Union L 79 I of 21 March 2019, CELEX: 32019R0452.

[Harmonization clause introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

## Chapter I

### GENERAL PROVISIONS

#### Article 1. Regulatory scope and purpose of the law

(1) This law establishes the conditions for investors to carry out investment activities in areas of importance for state security, attributions and mechanisms for state supervision of such investment activities. The provisions of Law no. 131/2012 on state control over entrepreneurial activity do not extend to the mechanisms of control and supervision by the state of investment activities falling under the provisions of this law.

[Art.1 para.(1) amended by LP414 of 22.12.23, MO497/23.12.23 art.883; in force 23.12.23]

(2) The purpose of this law is to protect investments made in areas of importance for state security and to increase the transparency of investments of importance for state security.

#### Article 2. Main notions

For the purposes of this law, the following main notions mean:

beneficial owner – beneficiary as defined in Art. 52 of Law no. 308/2017 on preventing and combating money laundering and terrorist financing;

[Art.2 the notion amended by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

[Art.2 notion "Council for the Promotion of Investment Projects of National Importance" excluded by

LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

control – situation in which the natural or legal person meets at least one of the conditions provided for in art. 203 para. (3) of the Civil Code no. 1107/2002, as well as corresponds to the situation provided for in para. (4) of the same article;

indirect holder/acquirer – person, including beneficial owner, who holds/acquires a share in the share capital of the legal person through another person over whom he exercises control;

entity in the financial sector – as defined in art. 3 of Law no. 202/2017 on the activity of banks; [Art.2 the notion introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

exploitation of energy objects – management, operation, maintenance and protection of systems and equipment that ensure the production, transmission and distribution of energy, based on the license, in accordance with the provisions of Law no. 92/2014 on thermal energy and the promotion of cogeneration, Law no. 107/2016 on electricity, Law no. 108/2016 on natural gas, of Law no. 174/2017 on energy, carried out in accordance with the regulations and standards of energy security and efficiency; [Art.2 the notion introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

international financial institution – financial institution established on the basis of agreements between states, including any multilateral development bank as defined in art. 4 item 1. of Law no. 184/2016 on financial guarantee contracts;

potential investor – a natural or legal person or group of such persons acting in concert and intending to carry out by any means, directly or indirectly, including as a beneficial owner, investment activity and/or transaction in areas of importance for state security;

international restrictive measures – as defined in Article 2 of Law No 25/2016 on the application of international restrictive measures; [Art.2 the notion introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

operator in the field of importance for state security – economic agent that carries out economic or administrative activities in the fields of importance for state security provided for in art. 4; [Art.2 the notion introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

[Art.2 notion of "qualified participation" excluded by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

persons acting in concert – persons in the situations defined in the notion of "persons acting in concert" in Article 6 of Law no. 171/2012 on the capital market.

### **Article 3. Scope**

(1) This law shall apply to the legal relationships related to the performance of investment activities by natural and legal persons who, by any means, directly or indirectly, individually or together with persons acting in concert, including as beneficial ownership, intend to carry out or carry out the following types of investment activity and/or transaction in areas of importance for state security (hereinafter – investments/investment activities):

(a) controlling, procuring/acquiring or increasing a qualifying holding in the form of shares or shares in the share capital of a legal person, including a legal person already making investments in areas of importance for state security, or controlling such a legal person;

b) the conclusion of a works concession contract or a service concession contract in accordance with Law no. 121/2018 on works concessions and service concessions, as well as concessions in the field of defense and state security if the procedure for awarding and executing the concession contains information attributed to state secrets under the conditions of Law no. 245/2008 on state secrets, the object of which is part of the areas of importance for state security, established by this law; [Art.3 para.(1), letter b) amended by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

c) concluding a public-private partnership contract in accordance with Law no. 179/2008 on public-private partnership, the object of which is part of the areas of importance for state security, established by this law; [Art.3 para.(1), letter c) amended by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

d) concluding an investment agreement in areas of importance for state security in accordance with the provisions of Law no. 81/2004 on investments in entrepreneurial activity, whose object is goods of importance for state security or is part of areas of importance for state security, established by this law. If the subject matter of the investment agreement regulated by Art. 121 of Law no. 81/2004 on investments in entrepreneurial activity falls within one of the areas of importance for state security established by this law, that agreement is qualified as an investment agreement in areas of importance for state security;

e) the conclusion of a sale-purchase transaction of assets that are part of or belong to legal entities that already make investments in areas of importance for state security, the value of which represents at least 25% of the value of the assets of these legal entities, according to the latest financial statement, and/or whose value exceeds the RON equivalent of the amount of one million euros [Art.3 para.(1), letter e) amended by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

f) the conclusion, in the name and/or on behalf of a legal person that already makes investments in areas of importance for the security of the State, of financial transactions, through one or more interrelated operations, in the form of credit/loan or subsidy, with persons from other States that are directly or indirectly controlled by the governments of other States.

(2) The provisions of this law do not apply to the investment activities and transactions referred to in paragraph (1):

a) carried out by entities in the financial sector or those carried out with the participation of international financial institutions;

b) regarding the acquisition of goods, equipment and services from local or foreign suppliers that do not affect the control over the operator in the field of importance for the security of the state nor the continuity of its supplies of goods or services; [Art.3 para.(2), lit.b) amended by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

c) carried out within the same group of companies; [Art.3 al.(2), lit.c) introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

d) regarding the increase of the share held in the share capital of the operator in the field of importance for the security of the state, if the person or persons concerned already have control; [Art.3 para.(2), lit.d) introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

e) carried out in the areas referred to in Article 4 letters k)–q), by the same person or by a group of persons acting in concert, and whose cumulative value does not exceed the amount of one million euro or its equivalent in lei calculated at the exchange rate communicated by the National Bank of Moldova, valid for the last day of the financial year of the year prior to the investment; [Art.3 para.(2), lit.e) introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

f) carried out by state-owned enterprises and commercial companies with majority public capital, defined according to Law no. 121/2007 on the administration and privatization of public property; [Art.3 para.(2), let.f) introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

g) regarding the reorganization of the operator in the field of importance for the security of the state, if this does not imply the modification of the shares-held in the share capital, including in the case of the establishment of new legal entities; [Art.3 para.(2), lit.g) introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

h) carried out by the central and local public administration authorities. [Art.3 para.(2), lit.h) introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

## Chapter II

# AREAS OF IMPORTANCE FOR STATE SECURITY

[Chapter II name in the wording LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

### Article 4. Areas of importance for state security

The areas of importance for state security are the following:

(a) the operation of energy, transport, water and sewerage, communications, data processing or storage, aerospace, defence and electoral infrastructure, as well as real estate essential for the use of such infrastructure;

(b) the exploitation of information technologies in critical energy infrastructure, the exploitation of artificial intelligence, robotics, semiconductors and cybersecurity, aerospace, defence, quantum and nuclear technologies, nanotechnologies and biotechnologies;

(c) the management of airports, bus stations, rail traffic, inland waterways, ports and inland waterway quays, with the exception of temporary quays;

(d) the use of nuclear materials and the management of radioactive waste and hazardous chemical waste;

(e) television broadcasts/audiovisual services;

(f) the design, production, maintenance and operation of systems and components used in air traffic management and the provision of air navigation services;

(g) the design, production, maintenance and operation of aircraft, including dual-purpose unmanned aircraft and components therefor;

(h) the design, maintenance and operation of aerodromes and heliports;

(i) the production, export, re-export, release for free circulation (import) of arms, ammunition and military equipment, products, technologies and services which can be used in the manufacture and use of nuclear, chemical, biological weapons and missiles;

(j) the administration of the public registers of the state and the security of public networks and information systems;

(k) activity in the hydrometeorological and geophysical field, including the geological study of subsoil resources and/or the exploration of deposits of useful natural substances;

(l) the production of cryptographic information protection means;

(m) the production and acquisition for marketing purposes of the means of protecting information

(m) the production and acquisition, for marketing purposes, of the means of protecting information attributed to state secrets;

(n) the production of explosive materials for industrial use and the activities for their distribution;

(o) the provision of mobile or fixed electronic communications networks and/or services;

(p) the provision of port services (loading, unloading and storage, domestic and international shipments of goods, removal of wrecks, unbunking of ships and recovery of goods in ports);

(q) the execution of topographic-geodetic and cartographic works in order to prepare and edit topographic and aeronautical maps, the development of special geodetic networks and the creation of geoinformation systems.

[Art.4 in the wording of LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

[Art.5 repealed by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

#### **Article 6 Restrictions on making investments in the areas of importance for state security**

Individuals and legal entities, including foreigners, may not make investments in areas of importance for state security:

a) who have standing to be suspected, accused or defendant in the criminal investigation initiated by the criminal prosecution bodies of the Republic of Moldova or other states regarding crimes committed for the purpose of money laundering or terrorist financing;

b) in respect of which the responsible State bodies have documented evidence and information that they have been or are involved in actions or inactions that pose a particular danger to the security of the State, as defined in Art. 4 para. (2) of the State Security Law no. 618/1995;

c) in respect of which the contractual relations have been terminated for non-performance or improper performance of the obligations assumed by contracts similar to those specified in art. 3 para. (1) letters b) and c);

d) who have been convicted, by a final court decision, under the Criminal Code, for acts of corruption, acts related to acts of corruption or corruptible acts, for money laundering or terrorist financing or for an offence under the criminal laws of foreign states that corresponds to the elements of a similar offence in the Criminal Code of the Republic of Moldova;

e) who is under criminal investigation for committing a serious, particularly serious and exceptionally serious crime;

f) who are or have been in the last 5 years in the lists of natural and legal persons subject to restrictive measures imposed by international bodies, such as the European Union, the United Nations or other international organizations with the capacity to impose international restrictions, following sanction measures. The indicated deadline is calculated from the date of submission of the application for the approval of investments.

[Art.6 in the wording of LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

## **Chapter III**

### **INVESTMENT EXAMINATION BOARD OF IMPORTANCE FOR THE SECURITY OF THE STATE.**

### **INVESTMENT SCREENING PROCEDURE OF IMPORTANCE FOR THE SECURITY OF THE STATE**

[Chapter III name in the wording of LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

#### **Article 6.1. Investment Review Board of Importance for State Security**

(1) The Council for the Review of Investments of Importance to State Security (hereinafter – the Council) is a collegial body established for the purpose of protecting national interests and ensuring State security by examining investments in areas of importance for State security.

(2) The Council shall operate under the regime of public power, in the sense provided for in art. 8 of the Administrative Code no. 116/2018, by issuing binding decisions, applying sanctions and monitoring their execution.

(3) The composition of the Council and its organization and functioning regulations shall be approved by the Government.

(4) The basic tasks of the Council are:

a) the examination of investments in the areas of importance for the security of the state, including the analysis of the risks associated with them;

b) issuing decisions on the approval, conditioning or refusal of approval of investments that may threaten the security of the state;

c) the application of sanctions under the conditions of this law;

d) developing recommendations for the Government on policies related to investments of importance for state security and measures to attract transparent and safe investments;

e) elaboration of recommendations on the modification of the list of areas of importance for the security of the state;

- f) providing access to detailed information on the procedure for examining investments of importance for state security and developing responses to requests for information from investors or potential investors;
- g) preparing annual reports on its activity;
- h) ensuring the transparency of its activity, in compliance with confidentiality requirements;
- i) monitoring the execution of the decisions issued.

[Art.6]1 introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

#### **Article 7. Request for approval of investments of importance for the security of State**

[Art.7 name in the wording LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

(1) Any potential investor, prior to carrying out investment activities in the areas of importance for the security of the State referred to in Article 4, shall be obliged to obtain prior approval from the Council, the responsibility being entirely with the investor. [Art.7 para.(1) in the wording of LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

(2) In order to request prior approval, the potential investor shall submit documents and information referring to:

- a) the structure of the share capital (of the shareholders/associates), including that of the beneficial owner;
- b) the expected value of the investment, expressed in monetary units; [Art.7 para.(2), lit.b) amended by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]
- c) the basic activity, products and commercial services;
- d) the country or countries in which it operates and the main business partners in the country or abroad with whom it collaborates;
- e) the financial statements for the last 3 years, in the case of legal entities, or the statements on the income earned in the country where he/she is resident, for the last 3 years, in the case of natural persons; [Art.7 para.(2), letter e) in the wording of LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

- f) the source of the financial means for financing the investment;
- g) the date on which the investment is planned to be made or on which it has been made;
- h) the criminal record, in the case of natural persons shareholders/associates and beneficial owners; [Art.7 para.(2), lit.h) amended by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]
- i) the declaration regarding the intention to carry out the investment individually or in a concerted manner, as well as the supporting documents confirming the concerted action. The concerted action of the potential investor can also be ascertained by the Council on the basis of its own assessments.

(3) The Government is entitled to establish by normative act other documents and information than those provided for in para. (2), necessary for the examination of the request for prior approval.

(4) The Council shall examine the request within 45 days of its receipt. If the application is not accompanied by all the necessary documents and information, the examination period starts to run from the date of receipt of all those documents and information.

(5) Within the term provided for in para. (4), but no later than the 30th day of the respective deadline, the Council is entitled to request, if necessary, additional documents and information that are relevant for the examination of the request for prior approval. The request shall be made in writing, specifying the documents and additional information to be submitted.

(6) The prospective investor shall submit the requested additional documents and information no later than 20 days from the date of their request. During that period, the examination term provided for in para. (4) shall be suspended.

(7) The Council and the staff involved in the procedure for examining investments of importance for state security are obliged to comply with the legal provisions on professional secrecy and the protection of personal data. [Art.7 para.(7) introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

#### **Article 7.1. Access of investors and potential investors to information on the procedure for examining investments of importance for state security**

(1) Investors and potential investors may submit requests to the Council for information regarding the procedure for examining investments of importance for state security.

(2) In the content of the requests for information, investors and potential investors shall indicate their identification data, the expected value of the investment, the fields of activity in which the investment is to be made.

(3) The Council shall respond to the request for information within 10 working days from its receipt, a period that may be extended by a maximum of 7 days, in accordance with art. 19 of Law no. 148/2023 on access to information of public interest.

[Art.7.1 introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

#### **Article 8. Criteria for the examination of investments of importance to state security**

The examination of investments, as well as of the documents and information provided for in art. 7

para. (2), shall be carried out in the light of the following criteria:

- a) the investor's experience in carrying out similar investment projects;
- b) transparency and clarity regarding the source of money, shareholders, founders, administrators and beneficial owners;
- c) if the investor acts individually or in concert, including as beneficial owner, and is resident in jurisdictions that do not implement international transparency standards or if its share capital includes holdings/shares of natural and legal persons, including foreign persons, held directly or indirectly by such persons, acting individually or in concert, including as beneficial owner, residing in jurisdictions that do not implement international transparency standards. The list of jurisdictions that do not implement international transparency standards is approved by the Government;
- d) whether the investor is controlled, directly or indirectly, by the government of a foreign state, including its public authorities/institutions, its armed forces, the commercial and non-commercial companies in which it has control, including through its ownership structure or constant financing, and whether this may threaten the security of the state;
- e) the extent to which an investment is likely to ensure, directly or indirectly, access to the personal data of citizens of the Republic of Moldova, of the governments of foreign states or of foreign persons in order to exploit such information in a way that threatens the security of the state;
- f) the possibility that an investment will have the effect of intensifying or creating new cybersecurity vulnerabilities or the possibility that a government of a foreign state may have the capacity to engage in cybersecurity activities that may affect national security;
- g) whether there is a risk that the foreign investor will pursue the objectives of a third country or facilitate the development of a third country's military capabilities;
- h) the possibility that an investment creates a particular danger to the security of the state, as defined in art. 4 para. (2) of the State Security Law no. 618/1995.

[Art.8 in the wording of LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

#### **Article 9. Council decisions**

1. Following consideration of the potential investor's request for prior approval, the Council shall adopt one of the following decisions: [Art.9 para.(1) amended by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

- a) acceptance of the prior approval;
- b) refusal of prior approval;
- c) conditional acceptance of prior approval.

2. Decisions of the Council shall be adopted by a simple majority of votes of its members.

3. The Council shall communicate its decision in writing to the potential investor within 10 working days from the date of its adoption, indicating the reasons in the event of a refusal decision. [Art.9 para.(3) amended by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

4. The Council shall adopt a decision accepting prior approval in the following situations:

- a) following the cumulative examination of the criteria provided for in art. 8, is convinced that the quality of the investor does not imply a particular danger to the security of the state; [Art.9 para.(4), lit.a) in the wording of LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]
- b) has no suspicion that the beneficial owner of the investment is a person other than the one declared in the application; [Art.9 para.(4), lit.b) amended by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]
- c) the information and documents provided by the investor are complete and/or do not contain erroneous data; [Art.9 para.(4), lit.c) amended by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

d) the investment will not affect the state's supply capacity with production resources indispensable for national security, especially in a state of emergency, siege or war declared under the conditions of Law no. 212/2004 on the state of emergency, siege and war regime. [Art.9 para.(4), lit.d) in the wording of LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

[Art.9 para.(5) repealed by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

(6) In case of the adoption of the decision of conditional acceptance of the prior approval, the Council shall establish the conditions for compliance with the cumulative criteria provided for in Article 8 and a deadline for achieving them, but not more than 90 days.

(7) Until the expiry of the term provided for in para. (6), the potential investor shall inform the Council in writing about the fulfillment of the conditions set out in the decision, with the presentation of the documents and confirmatory information provided for in art. 7 para. (2). [Art.9 para.(7) in the wording LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

(8) If the Council has verified evidence and information that the intended investment and/or the potential investor poses a particular danger to the security of the state according to the provisions of art. 4 of the State Security Law no. 618/1995, the decision is preceded by an in-depth assessment.

[Art.9 para.(8) introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

[Art.9 para.(9) introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

(9) The Council shall adopt the decision refusing prior consent in the following situations:

- a) the investor is in the situations provided for in Article 6 or does not meet the criteria for examining the investment provided for in Article 8;
- b) incomplete and/or erroneous information has been submitted which may mislead the Council in its decision-making;
- c) the conditions laid down in the conditional acceptance decision have not been fulfilled or the confirmatory information on the fulfilment of those conditions has not been submitted to the Council in writing;
- d) there is a particular danger that threatens the security of the State or public order, as determined by the analysis and verification of the information with reference to the investor's request.

[Art.9 para.(9) introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

(10) The Council shall examine of its own motion the investments made, irrespective of when they were made, if they have received confirmed evidence or information from the competent authorities that such investments constitute a particular danger to the security of the State. [Art.9 para.(10) introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

(11) The ex officio examination shall also be carried out in the case of the investor in respect of whom a previous approval decision has been issued. The investor is obliged not to be in the situations provided for in Article 6 and to meet the criteria provided for in Article 8 throughout the period of carrying out investment activities and carrying out economic activity in areas of importance for state security. [Art.9 para.(11) introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

(12) In the case of the examination procedure referred to in para. 10, the Board shall notify the investor of the need to submit, within 20 days from the date of the request, the documents and information necessary to be valued in accordance with the criteria set out in Article 8 and decide on the application of the legal consequences provided for in Article 11. [Art.9 para.(12) introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

#### **Article 10. Requests for information**

(1) For the thorough examination of the requests of potential investors, the Council shall cooperate with central and local public administration authorities, public institutions, private sector entities from the Republic of Moldova and other countries.

(2) The Council may request any national and other State authority and/or public institution involved to examine and submit information and/or documents that it deems relevant for the purpose of examining investments. The national public authority and/or institution may refuse to examine and present the information requested by the Council only in situations exhaustively regulated by the regulatory framework.

(2.1) If the investment involves an economic concentration, the Council shall notify the Competition Council within 5 days of receipt of the request for approval. The Competition Council will provide, within 30 days, an opinion on the compatibility of the investment with the competition law. [Art.10 para.(21) introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

(3) For the purpose of realizing the right provided for in para. (2), the Council may conclude collaboration agreements with the mentioned subjects, in compliance with the legal provisions on professional secrecy and personal data protection.

#### **Article 11. Legal consequences arising in the absence of prior approval**

(1) In the case of investments made in the areas of importance for the security of the state after the entry into force of this law without having the approval of the Council, in case of non-execution of the Council's decisions or in case of non-compliance with the Council's request provided for in art. 9 para.

(12) The following legal consequences occur:

a) The Council shall order the parties involved in the investment activities that required approval to revert to the situation prior to the investment by submitting the supporting documents to the Council. The deadline for returning to the previous situation shall be set by the Council taking into account the specific circumstances of each situation, but shall not be less than 10 days for investments made after the entry into force of this law and shall not be less than 20 days for investments made before the entry into force of this law. The Council shall decide to extend this deadline, at the request of the investor, at least 5 days before the expiry of the initial deadline, solely on the basis of justified reasons that prevented the parties involved in the transaction from reverting to the previous situation within the established period, in order to ensure the financial stability of the operator in the area of importance for the security of the State or the protection of a public interest.

The Council decides to extend the deadline set for the return to the previous situation in the following cases:

- the investments were made until the entry into force of this law;
- the investor demonstrates that the extension is necessary in order to avoid affecting the financial stability of the operator in the area of importance for the security of the State;



– there is a justified public interest, established by assessing the negative impact on the community or the relevant economic sector;

b) in case of failure to comply with the deadline established according to the provisions of letter a), at the decision of the Council, the investor shall be sanctioned with a fine in the amount of 5% of the annual turnover in the year prior to the sanction, but which shall not exceed 5,000,000 lei. If the company has not achieved a turnover in the year prior to the reference year for the calculation of turnover for the purpose of applying the sanction, the last turnover recorded by the company shall be taken into account. New enterprises, established as a result of an investment in areas of importance for state security, which did not register a turnover in the year prior to the sanction shall be sanctioned with a fine between 2,000,000 and 5,000,000 lei;

(c) if the parties involved in the investment activities exceed the time limit allowed to return to their previous situation for reasons attributable to them, the Council shall order the suspension of economic activity in areas of importance for State security, if such a measure is justified by the existence of an imminent danger of irreparable damage. The suspension shall be maintained until either party submits the confirmatory documents on the return to the pre-investment situation and the Council assesses the documents submitted and decides on the lifting of the suspension.

(2) The financial means obtained from the application of the fine according to para. (1) letter b) shall be transferred in full to the state budget.

[Art.11 in the wording of LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

#### **Article 11.1. Determination of applicable sanctions and means of defence**

(1) The application of the legal consequences provided for in Article 11 shall be determined according to the duration of the delay in submitting the application or the fulfilment of the conditions in case of conditional acceptance of the approval, the area of importance for the security of the State in which the investor carries out its activity, as well as the real risks of the occurrence of threats to the security of the State. In all cases, the Council decides to apply sanctions in an effective, proportionate and dissuasive manner.

(2) The decisions of the Council adopted pursuant to Art. 11 para. (1) letter b) shall be executed voluntarily within the term mentioned therein. The application and follow-up of the execution are entrusted to the State Tax Service.

(3) The decisions of the Council adopted pursuant to Art. 11 para. (1) letter c) shall be executed by the issuing authorities of the permissive acts.

(4) Potential investors or investors may exercise their rights of defence by submitting a prior request to the Council within 30 days of the date of notification of the Council's decision in respect of them.

(5) If the prior application submitted according to para. (4) remains unanswered or in case of disagreement with the answer received, the applicant may apply to the competent court under the conditions provided by the Administrative Code.

[Art.11]1 introduced by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

#### **Article 12. Change of control clause**

(1) The change of control clause is the provision in the contracts/transactions concluded within the investment activities carried out in the areas of importance for the security of the state, established by this law, which obliges the potential investor to obtain the acceptance of the Council in the event that the owner intends to transfer the control of the investment to another natural or legal person. [Art.12 para.(1) amended by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

(2) If the contracts/transactions concluded in the framework of investment activities carried out in the areas of importance for the security of the State do not provide for the change of control clause, this shall be presumed. [Art.12 para.(2) amended by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

(3) The Council may not give acceptance if the natural or legal person taking over the investment falls under Article 6.

[Art.13 repealed by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

#### **[Art.13.1 repealed by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]**

#### **Article 14. Suspension of the execution of Council decisions in the administrative court**

(1) By derogation from the provisions of art. 214 para. (1)–(7) of the Administrative Code no. 116/2018, until the final resolution of the case, the execution of the Council's decisions cannot be suspended.

(2) The final and irrevocable decision of the administrative court on the partial or total annulment of the Council decision shall be immediately transmitted to the Council and shall be published without delay on the official website of the Council.

## **Chapter IV**

### **FUNDING AND REPORTING**

#### **Article 15. Financing of the examination of investments important for state security**

1. The financing of the investment screening activity of importance for State security shall be

determined by the Council, taking into account the objective of ensuring the effectiveness and efficiency of the deployment of the investment screening mechanism.

(2) The financing of the Council's activity shall be provided from the state budget and from other sources not prohibited by law.

**Article 16 Reporting on the examination of investments important for state security.**

(1) The Council shall prepare and submit annually, by March 31 of the year following the reporting year, to the Government, the Parliament and the Supreme Security Council its activity report.

(2) The Council shall notify the European Commission and the Member States of the European Union of any foreign direct investment that has been the subject of its examination. [Art.16 para.(2) in force 01.01.30]

(3) The Council shall submit to the European Commission annually, by 31 March, a report for the previous calendar year, including aggregated information on the investments covered by this Law and on the application of the mechanism for examining them. [Art.16 para.(3) in force 01.01.30]

(4) The Court of Auditors shall assess, every two years, the results of the examination of investments of importance for State security. [Art.16 in the wording of LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]

## **Chapter V**

### **FINAL AND TRANSITIONAL PROVISIONS**

**Article 17.**

(1) This law shall enter into force on the date of its publication in the Official Gazette of the Republic of Moldova.

(2) The Government, within 3 months from the date of entry into force of this law:

a) adopt the normative acts necessary for the implementation of this law, including approve the composition and organization of the Council's activity for the promotion of investment projects of national importance;

b) shall submit to the Parliament proposals for bringing the normative acts in accordance with this law;

c) bring its normative acts in accordance with this law.

[Art.17 para.(3) repealed by LP33 of 27.02.25, MO144-147/20.03.25 art.148; in force 20.04.25]