

THE PARLIAMENT OF THE REPUBLIC OF MOLDOVA

LAW on amending and completing some legislative acts [Magnitsky Law]

The Parliament passes the given organic law:

Art. I. – Law no. 200/2010 on the regime of foreigners in the Republic of Moldova (Official Gazette of the Republic of Moldova, 2010, No. 179-181, article 610), with the subsequent amendments and completions, shall be amended and completed as follows:

1. Article 8 paragraph (1):

letter c) will read as follows:

“c) there are clues, official or public information that they are members of transnational organized criminal groups, or that they support or supported in any way the activity of such groups, have participated in or funded armed rebellion, diversion, mercenary actions, which are causing violation of human rights on the territory of other states, deaths, injuries and serious damage, or that their criminal actions were motivated by political reasons.”

letter g) will read as follows:

“g) during their stay in the Republic of Moldova or abroad, they have committed crimes against a citizen of the Republic of Moldova and have an active criminal record, have committed crimes that threaten the security and public order in the Republic of Moldova or in European Union states that the Republic of Moldova has signed an Association Agreement with.”

letters m), n), o) and p) will be added as follows:

“m) are on the list of persons mentioned in Annex, on the basis of evidence that they have committed or contributed to human rights violations and particularly serious acts of corruption that are harmful to international political and economic stability. When amending the list of persons mentioned in the Annex, the Parliament may request the opinion of the Government, the Intelligence and Security Service, the National Anticorruption Center and other competent bodies;”

“n) are responsible or involved in extrajudicial killings, torture or other serious violations of human rights and freedoms committed against citizens of the Republic of Moldova or of other states, if those citizens have denounced the illegal activities of government officials of any state, but who also defend and promote human rights and freedoms recognized by international treaties, such as the right to free elections, freedom of speech, freedom of assembly and association, freedom of religion;”

“o) there are clues, official or public information that they are part of, collaborate or have collaborated with foreign intelligence services;”

“p) are public officials or public associates in any state and are responsible or accomplices in ordering, managing or conducting acts of significant corruption, expropriation of public or private property for personal benefit, corrupt government procurement or extraction of natural resources, giving or taking bribes, facilitating and transferring goods acquired as a result of acts of corruption into foreign jurisdiction, or if they are individuals who organize, finance, prepare, support in any way or commit those activities;”

2. Article 9 paragraph (2) will read as follows:

“The entry ban to the Republic of Moldova, stipulated in paragraph (1) shall also be ordered against persons specified in art. 8 paragraph (1) letters b) - e), letter g) and letters m) - p).”

3. Article 10 paragraph (3) will read as follows:

“For foreign individuals who have committed intentional crimes, or grave, particularly serious or exceptionally serious crimes because of negligence, on the territory of the Republic of Moldova, the interdiction to enter the Republic of Moldova is 5 years, and when they pose a serious threat to public order or to national security, the duration of the ban shall be set for a period of up to 10 years. For the persons referenced in article 8 paragraph (1) letters b)-e), letter g) and letters m)-p), the duration of the ban is 10 years, with the possibility to renew it if it is found that the reasons which have led to this measure have not ceased.”

4. Annex will be added to the law, which will read as follows:

“Annex

List of people who have committed or contributed to human rights violations and particularly serious corruption actions, which threaten international political and economic stability

ALAUDINOV, Aпти Karonovich, date of birth 05 October 1973, Stavropol, Russian Federation;

ALISOV, Igor Borisovich, date of birth 11 March 1968, Russian Federation;

ANICHIN, Alexey Vasilyevich, date of birth 01 December 1949, Sevastopol, Ukraine;

ANTONOV, Yevgeni Yuvenalievich, year of birth 1955, Russian Federation;

BASTRIKIN, Alexander Ivanovich, date of birth 24 August 1953, Russian Federation;

BOGATYRYOV, Lecha (or BOGATIROV Letscha, or BOGATYREV Lecha), date of birth 14 March 1975, Atschkoi, Chechen Republic, Russian Federation;

DAUDOV, Magomed Kozahmedovich (or DAUDOV Magomed Khozhakhmedovic), date of birth 24 February 1980, Stavropol, Russian Federation;

DROGANOV, Alexey O., date of birth 11 October 1975, Russian Federation;

DUKUZOV, Kazbek, date of birth 1974, Urus-Martan region, Chechen Republic, Russian Federation;

GAUS, Alexandra Viktorovna (or GAUSS Alexandra Viktorovna), date of birth 29 March 1975;

GORDIEVSKY, Stanislav Yevgenievich, date of birth 09 September 1977, Russian Federation;

GRIN, Victor Yakovlevich (or GRIN Viktor), date of birth 01 January 1951;
KADYROV, Ramzan Akhmatovich (or KADYROW Ramzan Achmatowisch), date of birth 05 October 1976, Chechen Republic, Russian Federation;
KARPOV, Pavel, date of birth 27 August 1977, Moscow, Russian Federation;
KATAEV, Ayub Vakhaevich (or KATAEV Aiub, or KATAEV Ayubkhan Vakhaevich), date of birth 01 December 1984, or 01 December 1980, Russian Federation;
KHIMINA, Yelena, date of birth 11 September 1953, Moscow, Russian Federation;
KHLEBNIKOV, Vyacheslav Georgievich (or KHLEBNIKOV Viacheslav), date of birth 09 July 1967, Russian Federation;
KIBIS, Boris Borisovich (or KIBISS Boris Borisovich), date of birth 20 November 1977, Russian Federation;
KLYUEV, Dmitry Vladislavovich (or KLYUYEV Dmitriy), date of birth 10 August 1967, Russian Federation;
KOMNOV, Dmitry (or KOMNOV Dmitriy), date of birth 17 May 1977, Kashira region, Moscow, Russian Federation;
KOVTON, Dmitry (or KOVTUN Dmitri), year of birth 1965, Russian Federation;
KRATOV, Dmitry Borisovich, date of birth 16 July 1964, Russian Federation;
KRECHETOV, Andrei Aleksandrovich, date of birth 22 September 1981, Russian Federation;
KRIVORUCHKO, Alexey (or KRIVORUCHKO Alex; or KRIVORUCHKO Alexei), date of birth 25 August 1977, Moscow, Russian Federation;
KUZNETSOV, Artyom (or KUZNETSOV Artem), date of birth 28 February 1975, Baku, Azerbaijan;
LAPSOV, Pavel Vladimirovich (or LAPSHOV Pavel Vladimirovich), date of birth 07 July 1976, Russian Federation;
LITVINOVA, Larisa Anatolyevna (or LITVINOVA Larisa Anatolievna), date of birth 18 November 1963, Russian Federation;
LOGUNOV, Oleg, date of birth 04 February 1962, Irkutsk region, Russian Federation;
LUGOVOY, Andrei Konstantinovich (or LUGOVOI Andrei Konstantinovich), date of birth 19 September 1966, Russian Federation;
MARKELOV, Viktor Aleksandrovich, date of birth 15 December 1967, Russian Federation;
MAYOROVA, Yulia (or MAJOROVA Julia), date of birth 23 April 1979, Russian Federation;
PAVLOV, Andrey (or PAVLOV Andrei Alexeyevich), date of birth 07 August 1977, Russian Federation;
PECHEGIN, Andrei I. (or PECHEGIN Andrei I.), date of birth 24 September 1965, Moscow, Russian Federation;
PLAKSIN, Gennady Nikolaevich, date of birth 31 August 1961, Russian Federation;
PODOPRIGOROV, Sergey G., date of birth 08 January 1974, Moscow, Russian Federation;
PROKOPENKO, Ivan Pavlovich, date of birth 28 September 1973, Vinnitsa, Ukraine;
SHESHENYA, Alexei Nikolaevich (or SHESHENYA Alexey Nikolaevich), date of birth 16 April 1971, Moscow, Russian Federation;
SILCHENKO, Oleg F., date of birth 25 June 1977, Samarkand, Uzbekistan;
STASHINA, Elena (or STASHINA Helen, or STASHINA Yelena), date of birth 05 November 1963, Tomsk, Russian Federation;
STEPANOV, Vladlen Yurievich, date of birth 17 July 1962, Russian Federation;

STEPANOVA, Olga G., date of birth 29 July 1962, Moscow, Russian Federation;
STRIZHOV, Andrei Alexandrovich (or STRYZHOV, Andrey Alexandrovich), date of birth 01 August 1983, Russian Federation;
SUGAIPOV, Umar (or SUGAIPOVS Umars), date of birth 17 April 1966, Chechen Republic, Russian Federation;
TAGIEV, Fikhret Gabdulla Ogly (or TAGIYEV Fikhret, or TAGIYEV Fikret), date of birth 03 April 1962;
TOLCHINSKY, Dmitry M. (or TOLCHINSKIY Dmitry M.), date of birth 11 May 1982, Moscow, Russian Federation;
UKHNALEV, Svetlana (or UKHNALEVA Svetlana V., or UKHNALYOVA Svetlana), date of birth 14 March 1973, Moscow, Russian Federation;
URZHUMTSEV, Oleg Vyacheslavovich, date of birth 22 October 1968, Russian Federation;
VAKHHAEV, Musa (or VAKHAYEV Musa), year of birth 1964, Urus-Martan, Chechen Republic, Russian Federation;
VINOGRADOVA, Natalya V., date of birth 16 June 1973, Michurinsk, Russian Federation;

Art. II. - Law no. 308 / 2017 on the prevention and combat of money laundering and terrorist financing (Official Gazette of the Republic of Moldova, 2018, 58-66, article 133), shall be amended as follows:

1. Article 33 paragraph (1) will read as follows:

“The reporting entities, the Service, the judiciary and the law enforcement authorities shall apply effective measures for the identification, prosecution, seizure and confiscation of goods resulting from money laundering and related offenses, terrorist financing and from proliferation of weapons of mass destruction, as well as of goods owned by entities referenced in article 34 paragraph (11) letter e), in line with their functional competencies.”

2. Article 34:

the title of the article will read as follows:

“Application of financial sanctions related to terrorist activities and the proliferation of weapons of mass destruction, corruption and human rights violations”

paragraph (3) will read as follows:

“The restrictive measures provided for in paragraph (1) and (2) shall apply immediately and shall be maintained indefinitely. With the exception of the list referred to in paragraph 11 letter e), the restrictive measures shall be lifted only on the date indicated in the decision on the lifting of the restrictive measure, communicated by the Service, in accordance with paragraph (10).”

paragraph (10) will read as follows:

“The decision on the lifting of the restrictive measure shall be adopted by the Intelligence and Security Service on the grounds of the amendments made on one or more persons, groups or entities being removed from the lists referred to in paragraph (11) letters a)-c) or the modification of the list referred to in paragraph (11) letter d)-e), if the criteria

that was the basis for the person, group or entity to be included on the supplementary lists disappears. The decision shall be taken immediately but no later than 24 hours from the moment of modification and shall be communicated to the Service for further information by the latter to the reporting entity that has applied the restrictive measure.”

paragraph (11) will have letter e) added to read as follows:

“e) the list from Annex to the Law no. 200/2010 on the regime of foreigners in the Republic of Moldova”

paragraph (16) will read as follows:

“The Intelligence and Security Service develops, updates and publishes in the Official Gazette of the Republic of Moldova a consolidated list of persons, groups and entities involved in terrorist activities and the proliferation of weapons of mass destruction, corruption and human rights violations, which includes all categories of lists referred to in paragraph (11) letters a)-e).”

paragraph (17) will read as follows:

“Information concerning the modification of the lists referred to in paragraph (11) letters a)-e), which regards the including or excluding one or more persons, groups or entities, shall be transmitted immediately by the Intelligence and Security Service to the reporting entities, to the bodies that have supervision functions over the reporting entities, and to the Service.”

Art. III. – Article 23 paragraph (1) of the Law on Citizenship of the Republic of Moldova no. 1024/2000 (republished in the Official Gazette of the Republic of Moldova, special edition of 9 December 2005), and its subsequent modifications and additions, will have letter e) added and will read as follows:

“is found in the list included as Annex or in the category of persons listed in article 8 paragraph (1) letters b)-e), letter g), and letter m)-p) from Law no. 200/2010 on the regime of foreigners in the Republic of Moldova.”

Speaker of the Parliament

EXPLANATORY NOTE
to the bill on the modification and completion of
several legislative acts [Magnitsky Law]

During the last decade numerous suspicious money laundering transactions have been carried out through Moldovan domestic banking system in very large proportions. These transactions involved companies registered in offshore jurisdictions and economic agents from the Russian Federation. The purpose of these transactions is to transfer the goods acquired as a result of corruption acts to foreign jurisdictions. Such acts are accompanied by the serious violation of human rights, which take place mostly outside the Republic of Moldova. A similar corruption case with a global impact was uncovered by the Russian lawyer Sergei Magnitsky, who was illegally placed in detention by the Russian authorities, tortured and murdered. Human rights violations and corruption undermine the fundamental values of a secure, stable and functional society, they erode the independence of the institutions and the rule of law.

Several states have made changes to their legal framework, because the gravity of corruption acts pose a threat to the international political and economic stability. These laws are intended to protect the financial systems from the negative influence of the persons who commit serious acts of corruption and to impose restrictive measures on the given individuals. On December 14, 2012 the US Congress adopted the Law of Accountability dedicated to Sergei Magnitsky (Russia and Moldova Jackson-Vanik Repeal and Sergei Magnitsky Rule of Law Accountability Act of 2012) no. 112-208, following the investigation of the corruption and money laundering case uncovered by the lawyer Sergei Magnitsky. In the past years, this initiative has been promoted globally and has been endorsed with broad support in several countries, including Latvia and the UK. We need to mention that the suspicious amounts of money that transited the Republic of Moldova were largely the money that went to the Latvian banks and many of the offshore companies involved in such transactions resided in the UK.

The Republic of Moldova is targeted directly by the Magnitsky law approved by the US Congress, as well as by the suspicious transactions conducted through the Moldovan domestic banking system. However, the existing legal framework does not provide restrictive tools against persons involved in acts of corruption and human rights violations.

The objective of the law is to restrict the entry into the Republic of Moldova of those who have committed serious acts of corruption and violation of human rights, to withdraw or refuse to grant the Moldovan citizenship to these persons, to prohibit the use of the domestic banking system and to apply restrictive measures on goods owned by such persons on the territory of the Republic of Moldova.

The purpose of the bill is to create legal instruments both to protect the domestic financial and banking system from abuse and to impose restrictions on persons who commit acts of corruption and violation of human rights.

Thus, in the Law on the regime of foreigners in the Republic of Moldova no. 200/2010 were introduced additional criteria concerning the prohibition to enter the territory of the Republic of Moldova, if the persons are responsible or involved in extrajudicial killings, torture or other serious violations of human rights and freedoms, all of these committed against citizens of the Republic of Moldova or citizens of other states.

The mentioned law was supplemented with the Annex 1, which lists the persons responsible for the assassination of lawyer Sergei Magnitsky, published by the US Treasury Department's Office of Foreign Assets Control (OFAC). Those persons will be banned from entering the territory of the Republic of Moldova.

Also, the prohibition on entering the territory of the Republic of Moldova has been extended to civil servants from any state or their associates who are responsible or complicit in carrying out major corruption acts, including those concerning state procurement or extraction of natural resources and the transfer of goods acquired as a result of acts of corruption into foreign jurisdictions.

Amendments introduced in the Law on the prevention and combating of money laundering and terrorism financing no. 308/2017 imply the prohibition of the use of the domestic financial system and the application of restrictive measures to the assets held by the persons included in the above mentioned OFAC list.

Similarly, in the Law on Citizenship of the Republic of Moldova no. 1024/2000 was included the provision for the refusal to grant or withdrawal of the citizenship of the Republic of Moldova for the persons covered by the OFAC restrictive list.

The Moldovan civil society, represented by a significant number of NGOs, supports the initiative to adopt the Magnitsky Law with a view to strengthening the response and sanction measures to

persons who have committed or are likely to commit serious human rights violations, who create serious threats to the country's financial and banking security or create other risks in the exercise of citizens' rights and freedoms in the Republic of Moldova.

- Reiterating the importance of human rights and unabated respect for the law as an integral part of international law that the Republic of Moldova has repeatedly expressed its unwavering commitment to promote human rights and enforcement of laws;
- Emphasizing the special significance of the 70th anniversary of the UN Universal Declaration on Human Rights (1948-2018), in the context of which the UN defines major corruption as a scourge that erodes the legitimacy of any government, and which diminishes confidence in governance, economic stability and respect for the law;
- Recalling the experience of lawyer Sergei Magnitsky who was arrested and awaited trial in detention prison for 358 days for opposing the federal prosecution system in Russia, in protest to federal budget fraud and money laundering worth 5.4 billion rubles, who ended up tortured and killed in detention, without an independent and impartial trial, in the environment where no Russian officials who were responsible for his murder have been held responsible for their crimes and some of them were even later decorated and advanced in ranks for such deeds;
- With a great appreciation of the fact that the countries that have ratified international human rights conventions have committed to fully honoring their obligations and that democracies bear a special moral responsibility, with the duty to prevent impunity for violations of human rights, serious corruption, financial fraud, to not pass laws to give cover to companies they represent, including imposing severe sanctions or the ban to travel to certain countries and the freezing of assets for those who have committed such offenses;
- In reference to the Resolution of the Parliamentary Assembly of the Council of Europe 1966 (2014) of 28 January 2014 and the European Parliament's Recommendation No. 2 adopted on 2 April 2014, P7-TA (2014) 0258, including the Member States' address to apply sanctions precisely against those involved in criminal actions or those who have provided biased trial to these crimes;
- In reference to the law on the annulment of the Jackson-Vanik law and the adoption of the Rule of Law Accountability Act dedicated to Sergei Magnitsky (Russia and Moldova Jackson-Vanik Repeal and Sergei Magnitsky Rule of Law Accountability Act of 2012) 112-208, adopted by the US Congress on December 14, 2012, whereby the Republic of Moldova and Russia were allowed to signing the permanent normal trade regime with the US;

- Appreciating the example of the US Congress, as well as that of the Parliaments of Estonia, Canada, Great Britain, Latvia and Lithuania, to adopt corresponding laws bearing the symbolic Sergei Magnitsky name, imposing sanctions against concrete persons for acts of corruption, human rights violations and other serious crimes, we consider it absolutely necessary to adopt the respective draft law.