



Republic of Moldova

parliament

**LAW No. 131
of 08-06-2012**

**regarding state control over
entrepreneurial activity**

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ADJUSTED

LP355 of 22.12.22, MO460-462/31.12.22 art.820 ; in force 01.03.23

Parliament adopts this organic law.

Chapter I

GENERAL DISPOSITIONS

Article 1. Purpose, object of regulation and scope
application of this law

(1) The purpose of this law is to strengthen the legal and institutional framework in the field of state control over the activity of an entrepreneur, hereinafter referred to as control.

(1¹) This law has the following objectives:

a) ensuring a higher level of protection of the environment, life, health and property of people;

b) supervising the introduction and circulation of products on the market in order to ensure their safety;

c) implementation of the risk analysis system based on the risk criteria.

(2) This law regulates:

a) organization and conduct of control;

b) establishing the fundamental principles of control;

c) establishing the control procedure.

(3) The provisions of this law are applied to the extent that they do not contravene the provisions of the legislation in force regarding the control and supervision activity of the central public regulatory authorities - the National Agency for Regulation in Energy, the National Agency for Regulation in Electronic Communications and Information Technology, The Competition Council, the Audiovisual Coordinating Council - within the limits of their fields of activity.

(4) The provisions of this law do not extend to:

a) the activity of the criminal investigation bodies, including the control actions carried out by the criminal investigation bodies, necessary to start and carry out the criminal investigation;

b) the controls carried out by the control bodies in the external and internal public audit process on the way of formation, administration and use of public financial resources and on the administration of public patrimony, which are regulated by special laws;

c) controls applied in the financial field (banking and non-banking);

d) controls applied to the process of crossing the state border and controls applied in the customs field, with the exception of subsequent customs control through post-customs audit, For the latter, the provisions of this law apply only to the part related to registration, supervision and reporting of controls in the State Register of Controls;

e) controls carried out by the State Fiscal Service, with the exception of the registration, supervision and reporting of controls in the State Register of controls;

f) controls carried out to identify cases/facts of carrying out the activity of an entrepreneur without registration at the Public Services Agency or at another competent public authority according to the law or with a registration document declared invalid.

(5) For the control of transport operations, as well as for the control of road vehicles, rolling stock, aircraft and ships, carried out by the control bodies in the field of transport for the purpose of supervising safety and security, the provisions of this law in the part related to planning do not apply of the control, drawing up the plan of controls and periodicity of the planned controls, initiation and notification of controls, content and procedure for issuing/registration of the control delegation.

(6) For the control carried out on the basis of Law no. 50 of March 28, 2013 regarding the official controls for verifying compliance with the legislation on animal feed and food products and with animal health and welfare rules, as well as for the control regarding compliance with the legislation in the field of work, safety and health at work, no the provisions of art. 18 para. (1) of this law.

Article 2 . Main concepts

For the purposes of this law, the main concepts used have the following meanings:

control - all the actions to verify the compliance of the persons subject to control with the provisions of the legislation, carried out by an authorized body with control functions or by a group of similar institutions;

joint control – control in which controllers from two or more control bodies participate simultaneously;

unannounced control - control that is not included in the annual plan of controls and that is carried out with the aim of verifying compliance with the requirements established by the legislation;

planned control – control carried out according to the annual control plan, based on the analysis and evaluation according to the risk criteria;

control delegation – act on the basis of which the planned and/or unexpected control is initiated;

checklist – procedural document, approved by normative act, in which the facts, goods, possessions, information sources, procedures and actions to be verified and/or executed within the limits of the procedural rigors for the type and method are indicated, in a predetermined order related state control;

monitoring of persons subject to control - all actions undertaken by bodies empowered with control functions, collection and analysis (periodic or continuous) of information or evidence through any other means than state control;

object of control – structural/functional unit of the person practicing entrepreneurial activity, which includes a distinct set of aspects that need to be subject to control in a control field (goods, processes, services, documents, information carriers), on to which the entire spectrum of risk

criteria can be applied when planning the control and following the analysis of which compliance with the requirements of the legislative framework can be ascertained;

authorized body with control functions (control body) – public administration authority, established by law, which acts in a public power regime for the purpose of achieving a public interest, is vested with control functions and is empowered with the right to initiate control ;

person subject to control (controlled person) – any natural and/or legal person who practices entrepreneurial activity and is subject to control. A subdivision of the person can be considered a separate person if it is identified as a full object of control in a control area and is located in a separate location from the headquarters of the legal person of which it is a part;

control plan (plan) – result of the risk analysis, based on the risk criteria, which identifies the persons who will be controlled, their priority and the order in which they will be controlled, depending on the risk related to each individual, and document under which the decision of a control body is made to carry out an exact number of planned controls on a predetermined number of persons during a calendar year;

control report – document drawn up following an unexpected or planned control, in which the findings/results of the control are recorded (in the findings part), as appropriate, methods for removing violations and/or restrictive measures are prescribed (in the prescriptive part) and , as the case may be, contraventions are found and sanctions are prescribed (in the sanctioning part);

State register of controls – consolidated public register of control records, completed by the control bodies and mandatorily kept by the central public administration authority for control supervision;

risk – the probability of causing damages and/or the occurrence of a danger as a result of the activity of the natural or legal person and the degree of these damages;

supervision of the bodies empowered with control functions - all the actions taken by the central public administration authority to supervise the controls, through the continuous or periodic analysis of some information or evidence that characterizes with probability the deviations from the provisions of the legislation, without intervening in the activity of the bodies empowered with functions Control.

Article 3. Fundamental principles of control

(1) The fundamental principles of control are:

- a) preventing the violation of the legislation through the advisory aspect of the control;
- b) objectivity and impartiality in the planning and implementation of state control, in the preparation of documents related to the control and the disposition of measures and sanctions. The exercise of state control cannot be influenced by any group by promoting its interests;
- c) carrying out control based on risk analysis and assessment;
- d) the presumption of good faith and compliance with the legislation by the person subject to control;
- e) transparency of individual and regulatory acts issued by the control body;
- f) legality and compliance with the competence expressly stipulated by the law by the control body, so that the state control is correct, coherent, carried out consistently and in accordance with the provisions of the law;
- g) proportionality of the control and opportunity to initiate it - recourse to the control, based on the risk assessment, only in the case when it is absolutely necessary for the performance of the functions of the control authority and only in the case when other ways of verifying compliance with the legislation have been exhausted to the persons subject to control;
- h) proportionality and appropriateness in terms of the duration and conduct of the control – the exercise of the control in the shortest possible time, depending on the basis invoked by the control body, as well as the correlation of the effort allocated and the control method applied with the level of risk;

- i) record of all control actions and acts;
- j) the right to dispute any fact or any act of the inspector and to repair the damage caused;
- k) non-admission of the patrimonial interest of the inspector by excluding the direct breakdown in the budget of the respective control body of the financial resources derived from the pecuniary sanctions;
- l) non-admission of affecting and/or suspending the activity of the person subject to control;
- m) the confidentiality of the information regarding the controlled person, obtained during the planning and carrying out of the control, especially the information that can influence the good reputation of the economic agent in its activity, the dissemination of the information in question being prohibited, except in the cases established by law;
- n) the conscientious performance of the control functions - the inspector will fulfill the duties and service obligations impartially and fairly, with the aim of establishing trusting relations between the control body and the person subject to control;
- o) avoiding the conflict of interests between the inspector or the head of the control body and the person subject to control.

(2) Control bodies and authorities involved directly or indirectly in the process of preparing and carrying out the control are obliged to apply and respect the following fundamental safety principles:

- a) risk analysis;
- b) preventive action;
- c) transparency;
- d) protection of consumer interests.

(3) Risk analysis is carried out through risk assessment, communication and risk management processes and includes, but is not limited to, the following set of procedures:

- a) obtaining and communicating scientific conclusions regarding the determined dangers;
- b) submission of proposals for the development and improvement of planning and/or control methodologies based on risk assessment;
- c) research, collection and analysis of scientific and technical data;
- d) identification and description, as the case may be, of the new dangers;
- e) ensuring cooperation between the parties involved in the risk analysis process;
- f) obtaining scientific expertise on the application of exceptional measures or restrictive measures.

(4) Risk assessment includes the stages of identifying and describing hazards, determining how to establish the hazard, and characterizing the risk. The risk assessment is based on truthful data and scientifically substantiated information. The risk assessment is carried out independently, objectively and transparently.

(5) Risk communication is carried out continuously and provides for the timely exchange of information in the process of objective data analysis, conclusions regarding dangers, risks and the results of risk assessment, as well as decisions taken in the risk management process between risk assessor, persons responsible for risk management, consumers and economic agents.

(6) Risk management is the process of selecting appropriate risk prevention and control measures by identifying the best alternative based on risk assessment. The measures applied to prevent, reduce or eliminate the risk must be effective, objective and proportionate to the risk in question.

(7) According to the principle of preventive action, in situations where, based on the information held, but which is not scientifically substantiated at the time, a danger can be identified, the control body is obliged to apply temporary risk management measures. These measures must be proportionate to the danger and be reviewed as soon as possible, depending on the nature of the risk.

(8) According to the principle of transparency, the processes of risk assessment, development and application of risk management measures are public. In case of reasonable doubts regarding the existence of a risk, taking into account its character, size and imminence, the control body is obliged to communicate to the public the information about the risk and about the products that carry the risks in question, as well as about the measures taken to reduce and eliminate the risk identified.

(9) According to the principle of protecting the interests of the consumer, it is mandatory to provide truthful, necessary and complete information about products and services, which will allow consumers to make correct decisions. The control body, within the limits of competence, is obliged to remove and/or prevent false or incomplete information on the nature and characteristics of the product, which may mislead consumers.

Article 3¹. Crisis management plan

(1) The control body, within the limits of competence, is obliged to develop and propose to the Government for approval a plan for managing crisis situations in order to ensure the harmlessness and safety of the products. The plan will expressly establish:

- a) the level of risk whose prevention, removal or reduction to an acceptable limit is difficult;
- b) the complex of measures and actions necessary for the management of crisis situations, including the identification of the composition and the creation of the crisis management group;
- c) the way to inform consumers, compliance with the principles of transparency and proportionality.

(2) The crisis management group, created in accordance with the crisis management plan, will collect and evaluate the available information, identify possible options for actions and measures for the effective and timely removal and/or reduction of risks for environment, health, life and property of people. The crisis management group includes, as the case may be, experts necessary for providing scientific consultations, the group having the right to request help from any person whose knowledge and experience are necessary for the effective management of crisis situations.

Article 3². Infringement prevention and consultation the person under control

(1) With a view to the correct and unified application of the provisions of the legislation, the control bodies have the obligation to provide advisory support to natural and legal persons practicing entrepreneurial activity.

(2) In order to carry out the consultation function, the control bodies:

a) elaborate and publish on their official web pages the procedures regarding the granting of advisory support and those of control, to be followed by the persons competent to carry out the control;

b) publish on their official web pages cases with increased frequency, the typical violations found, as well as the recommendations and prescriptions issued for the respective cases;

c) elaborates and publishes on the official web pages documentary materials and guides, intended to provide information on the rights and obligations of control bodies, the rights and obligations of persons subject to control; on the relevant legislation in force, indicating the possible violations admitted by the persons subject to control, the facts that constitute contraventions, the corresponding sanctions and other applicable measures - for each control body;

d) actively exercise, within each control, the role of consultation to avoid violating the provisions of the legislation.

(3) The authority of the central public administration for supervision of controls publishes on the web page of the State Register of Controls the documents provided for in para. (2), developed by the control bodies.

Article 4. General provisions regarding controls

(1) Control is considered any form of verification, review, audit, evaluation and/or analysis exercised by a control body, with the aim of ascertaining compliance with the legislation and verifying some relevant facts for the control area of the body in question, on the spot and/or by direct request from the controlled person for the documentation and other information by post, including by e-mail, or by telephone, information that he, by virtue of the law, is not obliged to provide.

(1¹) The request for information by the control body without an on-site visit is not considered state control within the meaning of this law, if this information is indispensable for planning controls based on risk criteria, according to the methodology related to the control field, and is owned by the person subject to control.

(1²) During the control, the control body can only request the information that is mandatory to be held and granted according to the law by the person subject to the control.

(1³) When carrying out the planned or unannounced control, the control body takes priority into account the possibility of carrying out the control by direct request from the controlled person for the documentation and other information according to paragraph (12). Only in the case of insufficient documentation and information held to establish compliance with the legislation by the person subject to control or based on the type of control and risk analysis, the control body will carry out the on-site control.

(1⁴) In the case of carrying out the control by direct request from the controlled person for documentation and other information, within 5 working days from the date of receipt of the reasoned request, he is obliged to present the information and documents specified in the request to the control body. The non-presentation of the requested information constitutes grounds for the initiation, within 10 working days, of an on-site control.

(1⁵) Upon detection of errors and/or inconsistencies in the documents and information presented by the controlled person, the control body requests written explanations within 5 working days from the request. Along with the submission of written explanations on errors and/or inconsistencies, the controlled person has the right to additionally present supporting documents that confirm the authenticity of the information and documents presented.

(1⁶) During the on-site control, the control body does not have the right to request from the controlled person documents and information that were previously presented, following the direct request from him of the documentation and other information.

(2) The control body has the right to control the person subject to control only if the law establishes the procedure, the duration of the control, as well as the right of the body to control in the given case and circumstances. The control body has the right to carry out the control only with regard to the aspects related to its competence, expressly established by law.

(2¹) Only the public authorities/institutions established in the annex to this law have the right to initiate and carry out the control, within the appropriate limits.

(2²) The authorities vested by law with the attribution of state control over the activity of an entrepreneur within the meaning of this law do not carry out on their own initiative activities to maintain, ensure and restore public order and security or to prevent, investigate and discover crimes. The legal bodies vested by law with the attribution of maintaining and ensuring public order, as well as investigating and preventing crimes, cannot initiate and carry out control within the meaning of this law.

(3) If a control body finds that it is necessary to carry out, on a single person, controls in several areas that belong to the competence of the body in question, it has the obligation to reduce to the maximum the number of visits by combining and merging the areas of control. The control body carries out a single control for several areas relevant to the person subject to control if this is justified on the basis of risk analysis and assessment.

(4) It is forbidden to overlap control areas between control bodies.

(5) All expenses related to the performance of controls are borne by the control bodies, except for the cases expressly provided by law.

(6) It is mandatory to carry out joint controls, except in cases when they are not timely and/or substantially affect the efficiency of the control, in compliance with the conditions regarding the periodicity of the planned controls and other requirements regarding the manner of performing the controls, established by this law.

(7) Based on the published plans of the controls, the control bodies are obliged to coordinate their actions regarding the expected control and to exchange information in the case of the same object and/or in the case of the same person subject to control.

(7¹) The control body is not entitled to initiate the control if the information necessary to ascertain compliance with the legislation is held by the control body or can be obtained from other control and/or supervisory bodies, from official registers or from any sources accessible to the body in question, as well as if other ways than the state control, accessible to the control body, of ascertaining compliance with the legislation by the persons to be subject to control have not been exhausted.

(8) The control body is obliged to keep for 7 years all the documents related to the implementation of the control, including the control delegation, the control minutes, copies of the attached documents and other documents. Afterwards, they will be sent to the competent authorities in accordance with the legislation regarding the Archives Fund of the Republic of Moldova.

(9) The exchange of information between the control bodies and/or between them and the authority of the central public administration supervising the controls is carried out electronically. At the joint decision of the bodies that exchange information or at the decision of the central public administration authority supervising the controls, the exchange of information is also carried out on paper.

(10) The planned controls carried out during the first 3 years of activity from the date of state registration of the person practicing entrepreneurial activity are advisory in nature and will not result in sanctions or restrictive measures, except in cases where violations are detected during the control very serious in the sense of this law.

(11) The control body is not entitled to subject to control a period of activity of the person carrying out entrepreneurial activity of more than 3 years from the date of the start of the control. Acts and actions prior to the period under control are only checked for their consequences if they occurred within the period under control.

(12) Within free economic zones, only common controls are planned and carried out, based on a distinct and consolidated control plan, corresponding to a free economic zone, approved in accordance with the provisions of the law.

Article 5. Limits of the right to control

(1) The inspector exercises control over the person subject to control only within the limits of the competence assigned by law.

(2) No inspector can invoke, to justify his competence, the right to exercise control, to find a violation and to apply a sanction, a normative act that was not published in the Official Gazette of the Republic of Moldova and did not duly entered into force.

Article 5¹. General limits of control and measures within it

(1) The control is initiated only after the analysis and assessment of the risks. The effort and time allocated to control, as well as the control method applied, must be proportionate to the level of risk established.

(2) The control is carried out only on the basis and within the limits of the checklist applicable for the field, type and object of control in question. The checklist can only be applied if it is approved, according to the rigors established by the Government and this law, by the normative act of the central public authority with powers in the field of control, upon the proposal of the corresponding control body and following public consultations. The approved checklist is published in the Official Gazette of the Republic of Moldova and on the control body's website.

(3) The actions of the control body and the measures applied within the control are reported at the following levels of violations of the legislation:

a) minor – violations of the legislation whose removal can take place without the person's current activity being affected and which do not create an imminent danger to the environment, life, health and property of people;

b) serious – violations of the legislation whose removal is not possible during the control, it being necessary and possible to allocate a period of time for removal actions, and which create an imminent, but not immediate, danger for the environment, life, health and property of the person controlled and/or its employees or creates imminent, but not immediate, danger for the company, which, if not removed within the indicated period, will become immediate;

c) very serious – violations of the legislation, the removal of which is not possible during the control, but actions in this sense need to be taken immediately, and which create an imminent and immediate danger to the environment, life, health and property of the controlled person and/or employees it or creates imminent and immediate danger for society. Serious violations that have not been removed within the term indicated in the prescription are equated to very serious violations.

(4) In the case of minor violations, only prescriptions can be issued based on which ways to remove the violations are recommended and indicated, but sanctions provided by the contravention law or other law cannot be applied and restrictive measures cannot be applied.

(5) In the case of serious violations, in addition to recommendations for removal and offering the term in which the violations will be removed, sanctions may be applied, but restrictive measures may not be applied.

(6) In the case of very serious violations, the methods of removal are indicated, sanctions and/or restrictive measures are applied in accordance with the provisions of the law, as the case may be.

Article 6. - *repealed*

Article 7. - *repealed*

Article 8. Registration of controls

(1) The control bodies are obliged to register the following data in the State Register of Controls:

a) the name (name) of the person and object subject to control and the current assigned risk score;

b) number and date of approval of the control plan;

c) the number, date and time of issuing the control delegation;

d) duration of control;

e) type of control;

f) the purpose and aspects to be subject to control;

g) the date of entering the information regarding the control performed.

(2) The control bodies are obliged to include the data mentioned in paragraph. (1) in the State Register of Controls as follows:

a) for planned controls: the information specified in letter a) and b) - in no more than 5 working days from the date of approval of the control plan and the information from letter c)–f) – at least 5 working days before the start date of the control;

b) for unannounced controls: all the information specified in letter a), c)–f) – at the latest at the time of the start of the control.

(3) At the end of the control, the control bodies are obliged to include in the State Register of Controls the information from para. (1) lit. g), the motivation note for the unexpected control and the control report. In the case of drawing up on paper the control minutes and the note of motivation for the unexpected control, their electronic copies are included in the State Register of controls within no more than 5 working days from the date of their issuance.

(4) In the event that, when drawing up the control minutes by which a contravention is found, a remedial plan is also drawn up according to the provisions of Chapter V 1^{of} the Contraventional Code no. 218/2008, the control bodies include in the State Register of Controls the information about the respective plan within no more than 5 working days from the date of drawing up the plan.

Article 9. State register of controls

(1) The state register of controls is a specialized informational resource that ensures the centralized record of systematized information regarding state controls, planned and carried out, as well as the results of the respective controls, and is kept by the authority of the central public administration for control supervision, in the manner established by the Government.

(2) All persons' access to the State Register of Controls is guaranteed and free of charge. The electronic access of economic agents is achieved through authentication methods and/or techniques in the manner established by the Government.

(3) The data specified in art. 8 can be accessed by the authority established in art. 10 and by other authorities of the public administration to the extent necessary for the exercise of the functions and attributions established by law, as well as by the person subject to control, to whom the data in question refers. The information regarding the initiation of the unexpected control is accessible to the person subject to the control from the moment the control is initiated.

(4) The state register of controls is the only electronic platform for generating, modifying, processing and storing in electronic format the documents related to control in the fields to which this law applies.

(5) Electronic documents created on the basis of the State Register of Controls have priority over paper documents issued by the same control body or over electronic documents created on the basis of another program, in case of discrepancies or uncertainties regarding their content and authenticity. All electronic documents stored in the State Register of Controls, regardless of whether they are created based on the register or not, are presumed to be valid and authentic until proven otherwise.

(6) The form/parameters of documents related to the control – plan, delegation, control report – created on the basis of the State Register of Controls are mandatory. Documents that have a different form or other parameters than those expressly established in the State Register of Controls are null.

(7) The control bodies are obliged to use the State Register of Controls for the creation of documents related to the controls carried out and, if necessary, they can print copies and duplicates of these documents on paper.

Chapter II **SUPERVISION OF CONTROLS**

Article 10. The authority of the central public administration control supervision

The central public administration authority for control supervision is the State Chancellery, hereinafter referred to as *the control supervision authority*.

Article 11. Duties of the control supervision authority

The control supervision authority has the following attributions:

- a) supervises compliance with this law, including by central and local public authorities in the process of regulating the activity of state control over the activity of an entrepreneur;
- b) ensures the entry of data on controls, their planning and performance in the State Register of controls;
- c) collect and analyze the necessary information to ensure the application of the principles and mechanisms provided by this law;
- d) provides advisory support to the persons subject to control and the bodies empowered with control functions regarding the application of the principles and mechanisms provided by this law.

Article 12. The rights of the control supervision authority

In the exercise of its duties and obligations, the control supervisory authority has the right to:

- a) to request and receive from the bodies empowered with control functions, from the central and local public administration authorities and from other public institutions the information necessary to verify the correctness of the data entered in the State Register of Controls;
- b) to recommend the performance of joint controls in case their opportunity emerges from the analysis of the information held;
- c) to recommend the modification of the control schedules in order to guarantee compliance with the principles provided by this law;
- d) - *repealed*;
- e) to submit, according to the law, notifications to the competent bodies in order to remove the causes and conditions that favored the commission of actions not in accordance with the law by the bodies empowered with control functions and/or the persons within them;
- f) to elaborate and propose to the Government amendments to the legislation in force to bring it in line with the provisions of this law.

Article 13. Obligations of the control supervision authority

In the exercise of its duties, the control supervisory authority is obliged to:

- a) to operate in strict accordance with the Constitution of the Republic of Moldova, this law and other normative acts;
- b) to ensure and coordinate the process of continuous completion of the State Register of Controls;
- c) supervise the correctness of the entry into the State Register of Controls of the data regarding the controls, their planning and performance by each body empowered with control functions;
- d) to analyze and compare the information from the State Register of controls, from petitions and any available sources of information in order to monitor the legality of control actions and procedures in the event of objections from the persons subject to control;
- e) when detecting alleged abuses, illegalities or violations of the principles provided for by this law, to collect and provide the necessary data to facilitate the ascertainment and probation process for the bodies empowered to investigate and ascertain these facts and, as the case may be, to sanction the bodies ability with control functions and of the persons within them;
- f) upon detection, in the process of analyzing and managing information in the field of competence, of alleged abuses, illegalities or violations of the principles provided for by this law on the part of the bodies empowered with control functions or on the part of the persons within them, to notify the bodies ability to apply disciplinary, contraventional sanctions and/or carry out criminal prosecution;
- g) to receive and register petitions, statements, communications, notifications and other information for the purpose of exercising the powers, rights and obligations established by law;
- h) - *repealed*;

i) to participate in the training and improvement of the cadres from the bodies empowered with control functions in order to implement the principles and mechanisms provided by this law;

j) to ensure the protection and preservation of information that constitutes a commercial secret, as well as other information protected by law that became known in the process of exercising the powers.

Chapter III TYPES OF CONTROL

Section 1

Planned control

Article 14. Periodicity of planned controls

(1) One and the same control body is not entitled to carry out the planned control more than once in a calendar year on one and the same person or on one and the same control object if the person owns several distinct objects, located separately from the headquarters and other objects, except in cases where a higher frequency of controls is required according to the control planning methodology based on risk criteria, applied to the control area in question.

(2) The time limit indicated in para. (1) does not apply to the initiation of unannounced controls, carried out according to section 2 of this chapter. The fact of carrying out the unexpected control is taken into account when drawing up the next control plan.

(3) The provisions of para. (1) does not apply in case of reorganization or liquidation of the person subject to control.

(4) The provisions of para. (1) also applies in the case of the reorganization of the control body and the total or partial assignment of its powers to another control body.

Article 15. Control plan

(1) The control body annually prepares the control plan for the following year.

(2) The control plan is registered by each authorized body with control functions in the State Register of controls until December 1 of the year preceding the calendar year to which the control plan refers.

(3) Until the end of the management year, the control body approves the control plan for the following year and publishes it on its website and in the State Register of controls. The plan is approved by the control body's decision and establishes an exact number of planned controls on a predetermined number of people during a calendar year.

(4) Control bodies are not entitled to change the order of planned controls after the registration and publication of the control plan and/or to carry out planned controls if they were not included in the plan. Within a maximum of 5 working days after the approval of the control plan, but before its publication, the control body is obliged to contrast it with the control plans of the other control bodies in order to identify the economic agents that are included in different plans and to coordinate carrying out common controls, as well as introducing the necessary adjustments in the order of execution of the plan.

(5) The control plan identifies the persons who will be controlled, their priority and the order in which they will be controlled, depending on the risk presented, the seasonal particularities in a control area, depending on the available resources, the body's work schedule on during the year and other relevant circumstances. The number of people included in the plan must be related to the sum of the possible controls and their total duration during the entire year, as well as to the available human and technological resources of the control body.

(6) The persons to be subjected to the control are exposed in the control plan in descending order of the risk score, from the highest degree of risk to the lowest, the score being awarded based on the risk criteria approved by the appropriate methodology. The plan indicates, for information purposes, for each person, the quarter in which the control is expected.

(7) The execution of the control plan must be clear, predictable and consecutive. The control body is obliged to comply with the order of execution established in the plan.

(8) In the case of initiation of a joint control of a person included in the control plan, if the planned control of this person has not yet been carried out, the control body will cancel the planned control for the current year, for the area related to the performed joint control, after the joint control has been carried out and will adjust the plan execution order accordingly.

(9) When carrying out the planned control, if an unannounced control has already been carried out on the same person in the current year, the control body will adjust/restrict the duration of the control and the area of the aspects necessary to be checked in accordance with the unannounced control already carried out.

Article 16. Criteria for drawing up the control plan

(1) The control plan is drawn up by the control body based on the risk criteria established according to the particularities of the object of control, the persons subject to control and previous relations with the control body (date of the last control, previous violations).

(2) At the proposal of the control bodies in their related fields, the Government will approve the risk criteria for all control fields, the method of establishing the degrees of risk, of weighting and using the criteria in question to determine the degree of risk of the persons in the planning state control.

Article 17. Joint control

(1) Two or more control bodies, if the conditions provided for in art. 4 para. (7), are obliged to decide by mutual agreement, with the prior notification of the control supervision authority, the exercise of a joint control over a person subject to control.

(2) Inspectors will be issued separate control delegations under the terms of art. 21 para. (2).

(3) If, although a joint control was approved, one or more of the authorized control bodies did not participate in it, they lose the right to exercise control over the respective person once the control report is issued by the body (the bodies) who exercised control.

(4) All decisions, actions and acts that, according to this law, must be carried out by a single control body shall be carried out by mutual agreement by the control bodies participating in the joint control.

(5) The divergences between the control bodies are interpreted in favor of the person subject to control, with a more favorable decision being taken.

Article 18. Notification of the control delegation

(1) The control body will send a copy of the control delegation to the person subject to control so that at least 5 working days pass, but no more than 15 working days, between the actual receipt of the copy and the start of the control. The control delegation is communicated to the person subject to control by any method that allows the control body to confirm reception by the respective person. Communication to the indicated electronic address of the controlled person and receipt of the control delegation in electronic format, signed with a qualified advanced electronic signature, is considered communication at its headquarters.

(2) The term provided for in para. (1) does not apply if there are grounds for carrying out an unannounced control, according to art. 19. In this case, a copy of the control delegation, signed by the person in charge of the control body, is handed, against signature, to the person who will be subject to control at the beginning of the control.

Section 2

Unexpected control

Article 19. The grounds and conditions for carrying out controls unforeseen

(1) The control body can decide to carry out unannounced controls on a person, based on the risk assessment, as well as can issue control delegation to the inspector, only in case:

1) - *repealed*.

2) the possession of information/indicia, supported by evidence in the possession of control bodies, about the existence of accident situations, incidents or serious violations of security or safety rules that present an imminent and immediate danger to the environment, life, health and property of people, if the following conditions are met:

a) the need to initiate the control is motivated in advance;

b) it can be reasonably established, from the information held before the initiation of the control and from the motivation note, that only the unexpected intervention through the control will prevent and/or stop the violations that are imminently causing damages or that in this way the damages already caused could be substantially reduced ;

3) verifying the information, which, according to the law, is compulsorily reported, if the following conditions are met:

a) this information was not presented within the term established by law or a normative act;

b) the body authorized with control functions or the body responsible for receiving the appropriate information did not receive a justifying notification from the person obliged to report the information within the deadline and/or this person did not respond within a reasonable time to the notification from the responsible body;

4) verifying the information obtained during another control at the entrepreneur with whom the controlled person previously had economic relations, if the following conditions are met:

a) the entrepreneur refuses to present the information in question;

b) there is no other way of obtaining the information in question;

c) the information provided is decisive and indispensable for achieving the purpose of the previously initiated control;

5) the direct request from the person who is to be subject to the control to initiate the control.

6) possession of information/indicia, supported by evidence in the possession of control bodies, other state institutions, about the existence of situations regarding the violation of the provisions of Law no. 202/2013 on credit contracts for consumers.

7) possession of information/indications regarding the use of undeclared work, payment of salary or other payments without their reflection in the accounting records, regarding human trafficking or labor exploitation at the employer.

[Art.19 para.(1), point.7) introduced by LP355 of 22.12.22, MO460-462/31.12.22 art.820 ; in force 01.03.23]

(2) Unannounced controls cannot be carried out based on unverified information and/or from an anonymous source.

(2¹) Complaints and petitions, including referrals or requests from legal or other state bodies, can constitute grounds for an unannounced control only under the conditions of compliance with the provisions of paragraphs (1) and (2) and only if the circumstances or information on that they contain, being analyzed based on the risk assessment, reasonably indicate a possible violation that is imminently causing damages and if these circumstances and information are proven in any way. Complaints, petitions or other notifications that do not justify the immediate initiation of an unexpected control, based on the risk analysis, can be taken into account in the next annual control planning.

(3) Unannounced controls cannot be carried out if there are any other direct or indirect means of obtaining the necessary information by the body authorized with control functions, including those held by other supervisory/control bodies, holders of public registers, authorities and public institutions.

(3¹) Reasoning note for the initiation of the surprise control pursuant to para. (1) point 2) contains the necessary analysis and argumentation regarding the meeting of the conditions established in the point in question. In the note, the need for intervention will be argued by

exposing in detail the circumstances and information that are the basis of the conclusions and actions of the control body, the possible violations resulting from the information and evidence held before the initiation of the control and the reasonable estimation of the danger and consequences in case of non-intervention the control body.

(4) The control carried out in accordance with the basis specified in para. (1) point 5) is initiated by the body empowered with the given right and has exclusively an advisory and ascertaining aspect, except for cases when during the control, indicators of the offense are detected. The expenses of the control action carried out in accordance with the basis specified in paragraph (1) point 5) will be borne by the applicant if the person to be subject to the control is not obliged by law to request the control.

(5) - *repealed*.

(6) In the framework of the unexpected control, only the aspects that served as grounds for the initiation of the control can be subject to control, according to para. (1).

(7) The expenses for the performance of the state control, including those for analyses, expertises, investigations necessary within the framework of the state control, are borne by the control body. An exception to this provision is the control provided for in paragraph (1) point 5), for which expenses are regulated in paragraph (4).

(8) The payments collected from carrying out the controls carried out on the basis specified in paragraph (1) point 5) are distributed between the budget of the control body and the state budget. The criteria and methodology for establishing the amounts of payments, the amounts of these payments and the manner of distribution, between the budget of the control body and the state budget, of the revenues obtained from these payments are approved by the Government. The income from the payments from the checks carried out on the basis specified in paragraph (1) point 5), which are distributed in the budget of the control body, are used, to the extent of their collection, to cover the expenses for the state checks and to develop the institution.

Article 19¹. Control within the release procedure a
the permit and/or license

(1) Control within the procedure for issuing the permit and/or license is initiated upon request, pursuant to art. 19 para. (1) point 5).

(2) The inspector's on-site visit, requested by the economic agent, with the purpose of taking some samples necessary for the issuance of a certificate/document attesting to the quality, conformity or harmlessness of some products is not qualified as control in itself, except in cases where this the visit involves a more complex assessment or is part of a longer-term supervision and control process.

(3) The control in the procedure for issuing the permit and/or license is carried out only if this is expressly provided for by the legislative acts as a procedural condition for issuing a permit and/or license. Within the control in question, only the aspects necessary to establish the meeting of the conditions expressly and exhaustively indicated by law for the issuance of a permissive act and/or license can be verified.

(4) The control in the procedure for issuing the permit and/or license is initiated following the request for the respective documents within 5 days at most from the receipt of the request by the body issuing the permit/license and does not require the drawing up of the control delegation in this sense.

(5) All expenses related to the control in the procedure for issuing the permit and/or license will be included in the payment for the act in question and borne by the economic agent requesting the permit/license by paying the payment for them.

(6) The control within the procedure for issuing the permit/license has exclusively an advisory and ascertaining aspect, so that within or following this control, restrictive measures or sanctions cannot be applied, except in cases where during the control, indicators of the crime.

(7) If the person who is to be controlled through a planned control requests a control within the procedure for issuing the permit/license from the same control body, within the term from the notification of the control delegation until the planned control is carried out, the control body will cumulate these two control actions. The control in the procedure for issuing the permissive act and/or the license will be carried out on the aspects related to the issuing of the respective act with the application of the restrictions of this article. In order to verify aspects other than those necessary for the issuance of the permit and/or license, the rules for planned control established by this law will be applied.

Chapter IV CONTROL PROCEDURE

Article 20. Delegation of control

(1) The control is carried out on the basis of the delegation signed by the head of the body empowered with control functions.

(2) The control delegation will contain:

- a) issue number and date;
- b) identification data of the issuing control body;
- c) reference to the legal provisions that expressly grant the respective body the power of control in the case for which the delegation is issued;
- d) the type of control and the basis for its initiation (for unannounced controls, the applicable provision from art. 19 is also indicated, and for planned controls, the number of the control plan, the date of approval and the place of publication are indicated);
- e) data about inspectors (surname, surname, position held);
- f) data about the person subject to control (name/name of the person; fiscal code; registered office/address of the controlled subdivision and its code, as the case may be, other contact data);
- g) the object/objects to be subject to control;
- h) the purpose, the control method and the aspects to be checked, express reference to the applicable check list and the normative act by which it is approved;
- i) the start date of the control and its expected duration.

(3) In the case of planned controls, the control delegation is drawn up based on the control plan, approved and registered. In the case of unannounced controls, the control delegation is drawn up, pursuant to art. 19, as well as the related explanatory note. The delegation for unannounced controls shall be accompanied by the motivation note on the basis of which the delegation was issued, so that the person to be subject to the control can become aware of the note in question.

(4) The inspectors specified in the delegation are selected randomly, taking into account their specialization according to the relevant control field.

Article 21. The right to start the control

(1) The inspector has the right to start the control according to the procedure established by this law only if the following conditions are cumulatively met:

- a) presentation of identification;
- b) handing over the copy to the control delegation;
- c) the existence of evidence that demonstrates the presence of one or more of the grounds specified in art. 19, in the case of unannounced controls;
- d) expiration of the minimum notification period specified in art. 18, in the case of planned controls;
- e) - *repealed*;
- f) registration of the control delegation in the State Register of Controls.

(2) The control can be exercised only by the inspectors expressly specified in the control delegation and only during the activity schedule of the controlled person or its subdivision. In order to carry out the control, no persons may be appointed whose appointment is likely to generate

situations of conflict of interest within the meaning of Law no. 16-XVI of February 15, 2008 regarding the conflict of interest.

(3) If it is necessary to replace the inspector or to appoint additional inspectors, a new control delegation is issued.

(4) In case the provisions of para. (1)–(3), the person subject to control is entitled to:

a) to prohibit access to the premises and to refuse any cooperation with the person claiming to be an inspector;

b) to call on the support of the police bodies for the evacuation from the premises of the person who claims to be an inspector.

(5) In case the provisions of para. (1)–(3), the person subject to the control is obliged to notify the control supervisory authority about the detected violations.

(6) By way of derogation from para. (1), in cases expressly established by the special law and if necessary for the control method chosen, the inspectors can reveal their identity and hand over the copy of the control delegation after carrying out the control, but before completing and signing the control minutes. An express mention is made in the text of the delegation about the possibility of subsequent handover of the control delegation until it is approved by the head of the control body.

(7) The control can be carried out by at least two inspectors, delegated from the same control body or from several control bodies, in the case of joint controls. In the case of the presence of only one inspector, the control cannot be started, and the controlled person has the right to refuse access to the object for the initiation of the joint control.

Article 22. Duration of control

(1) Regardless of the basis invoked and the type of control, it cannot be carried out and the control delegation is no longer valid after the expiry of 5 calendar days from the date of the start of the control.

(2) In the case of unannounced controls, the 5-day period can be extended by another 5 days by the head of the control body based on a reasoned decision, which can be contested by the person subject to the control.

(2¹) The planned control that was not started within the term provided for in art. 18 paragraph (1) and the unexpected control that was not started on the date indicated in the control delegation, regardless of the reason invoked, can no longer be carried out and the control delegation loses its validity after the expiration of this term - for the planned control - and, respectively, after the start date of the control, established in the delegation - for the unexpected control.

(3) The control procedure is concluded and the control report is drawn up if it is obvious that the inspector's possibilities to exercise the control have been exhausted, even if the term established in the delegation has not yet expired.

Article 23. Rights of the inspector

(1) In the process of carrying out the control, the inspector has the right:

a) to enter any room used by the entrepreneur in his activity, to the extent that this is part of the object of the control, except for the residence, in case the permission of the legal owner is missing. In case of necessity, the inspector will be able to enter the home or the room assimilated to the home only with the assistance of the police, under the law;

b) to request information, certificates, licenses, authorizations and other mandatory documents, in compliance with the provisions of art. 5 para. (2), relevant to the object of control;

c) to make copies, photo or video recordings of documents or other objects carrying information;

d) to inspect and measure goods, to take samples from them, with the inclusion of information about the taking of samples in the control report. For this purpose, the inspector has the right to open packages, packaging, to break seals. At the request of the injured person, the inspector, as the case may be, will also take the second sample, unless the normative act provides otherwise;

e) to inspect the means of transport only if he has information that they contain goods that are the object of the control or if the means of transport are the object of the control in accordance with the scope of the control.

(2) - *repealed*.

(3) The controller will exercise the rights specified in paragraph (1) only within the limits of its administrative competence and only to the extent that this is required by the object of the control stipulated in the control delegation.

Article 24. Obligations of the inspector

(1) In the process of carrying out the control, the inspector is obliged to:

a) to inform the person subject to control about his rights and obligations;
b) to make available to the person subject to control, in electronic form or on paper, all the normative documents and normative acts that will be used during the control and on the basis of which the control is carried out;

c) to provide the necessary support to the person subject to the control for the full understanding of the provisions of the normative documents and normative acts on the basis of which the control is carried out;

d) to assess objectively and equidistantly all aspects related to the performance of the control;

e) to ensure the integrity of the assets and documentation of the person subject to control;

f) - *repealed*;

g) to present the service card to the person subject to control and allow him to take notice of it;

h) not to divulge the contents of the documents and information that he became aware of in the process of carrying out the control, except in the framework of collaboration with other control bodies;

i) to attach to the control report any documents or copies thereof and written explanations of the person subject to control and/or of his employees;

j) draw up the control report and hand a copy of it to the person subject to the control.

(2) In the process of carrying out the control, the inspector is not entitled to:

a) to request and examine documents and information that do not belong to his competence and are not relevant to the object of control;

b) to verify aspects which, according to the law, are subject to the control of other control bodies or are not indicated in the minutes and the control delegation;

c) to carry out, in the case of unexpected control, controls in the absence of the representatives of the person subject to the control, if there are grounds to consider that their absence is unjustified;

d) to ask the person under control for resources (rooms, transport, computing equipment, copiers, office supplies, etc.) and use them without the consent of the person in question;

e) to pick up goods, machines, documents, data storage devices, computing equipment or other objects carrying information;

f) to request from the person subject to control information that was previously presented by him to the control body and which are not related to the object and aspects subject to control;

g) to apply restrictive measures and/or contraventional sanctions for violations detected during the control in violation of the limits established by this law.

Article 25. The rights of the person subject to control

In the process of carrying out the control, the person subject to the control has the right to:

- a) to verify the control delegation and take note of the inspector's work ID;
- b) to be informed about his rights and obligations;
- c) to dispute the inspectors' actions;
- d) to present evidence and explanations in his favor;
- e) to request the annexation to the control report of any documents or their copies, on which he has the right to apply his signature and to give written explanations, as well as to request the inclusion in the control report of mentions regarding some facts or rights/obligations;
- f) to request only once, in thoroughly justified cases, the control body to suspend or postpone the control for another period in case the control will affect its normal functioning or will lead to the suspension of its activity or if, for reasons objectives, it cannot be subject to control;
- g) to take cognizance of the control minutes and other documents drawn up during the control;
- h) to assist personally or through his representative in the control process;
- i) to obtain free and authorized access to all the information and documents that refer to the controls carried out or to be carried out on him, including through the State Register of controls;
- j) to indicate to the control body its electronic address to which the concerned body is obliged to send the notifications and the information/documents related to the control.

Article 26. Obligations of the person subject to control

(1) The person subject to control is obliged:

- a) to present the documents and information directly related to the object of the control, requested by the inspector in order to carry out the control;
- b) - *repealed*;
- c) to allow inspectors access to his service rooms during working hours;
- d) to ensure, at the initiation of the control and during its performance, the presence of its manager or representative.

(2) The person subject to control and his employees, within the limits of competence, have the obligation to cooperate with the inspector and to contribute to the exercise of his rights specified in art. 2. 3.

(3) The person subject to control who, by virtue of the provisions of the law, is bound by an obligation of confidentiality may refuse cooperation only to the extent and to the extent that the inspector's request conflicts with the obligation of confidentiality.

(4) Any finding of a fact, which subsequently cannot be proven or which prevents the inspection (absence of the person at the indicated address, restricted access, refusal to present the requested documentation, etc.), established by the inspector during the inspection, will be recorded in the control report, signed by the inspector and the representative of the person subject to the control or, in case of refusal or impossibility of his presence, by at least 2 witnesses.

Article 27. Inadmissibility of affecting and/or suspending the activity
the person under control

(1) The control bodies and their collaborators are forbidden, in the process of carrying out the control functions, to affect the normal functioning of the person subject to control and/or to undertake measures that will lead to the complete or temporary suspension of his activity, except in cases of very serious violations, within the meaning of this law, which require the application of appropriate restrictive measures.

(2) Any damage caused to the person subject to control by violating the provisions of para. (1) by the control bodies and their collaborators in the process of carrying out the control functions, through the prescriptions and decisions taken following the control, will be repaired from the

account of the control body and/or from the account of its collaborators. If the conflict is not resolved amicably, the aggrieved person can sue the control body and/or its collaborators in court.

(3) The fact of causing damage and the amount of compensation in the cases specified in para. (2) are established by the court, at the request of the interested person.

Article 28. Termination of the control procedure

(1) The control procedure ends with the inspectors drawing up a control report, which is completed and signed by all the inspectors indicated in the control delegation, at the place of the control.

(2) The control report is the document that confirms the fact that the control was carried out and which contains all the information about the control carried out, the procedures applied and the findings as a result of it, the prescriptions and recommendations submitted based on the findings, the restrictive measures applied and the sanctions established following the control. The control report is made up of the ascertaining part, the prescriptive part and the sanctioning part and must contain:

a) the full name of the control body, the full name and function of the persons who performed the control;

b) data regarding the delegation of control and the basis for carrying out the control;

c) full name/name of the person subject to control and identification of the object of control;

d) type of control;

e) applied checklist;

f) data on all aspects, documents, goods, rooms, products, equipment and other objects that were subject to control, relevant for the purpose of control;

g) findings and control results;

h) the express reference to the provisions of the legislative and normative acts that the person subject to control violated;

i) copies of the examined documents that confirm the violation of the law, of other documents drawn up during the control;

j) data on the duration of the control;

k) the written explanations of the person under control and/or of his employees;

l) the recommendations and indications for removing the violations established in the prescriptive part, as the case may be;

m) the prescription for the application of restrictive measures, as the case may be;

n) ascertaining contraventions or other types of violations provided by law, with the indication of the sanction provided by law, as the case may be.

o) the description of the signs of the composition of the offense found during the control procedure and the express reference to the relevant criminal law norms.

(3) The control protocol is drawn up in two copies, and in the case of finding signs of criminal composition - in three copies, numbered and signed on each page by all the inspectors who performed the control and by the person subject to the control. If the control report is drawn up in electronic form, the act is signed with an electronic signature by all the inspectors and by the person subject to the control.

(4) A copy of the control report is handed to the person subject to control, with a written mention about it on the second copy, confirmed by the signature of the person receiving the report. If the person subject to control refuses to sign and/or receive the control report, the respective mention is made under the signature of the inspectors. The control report in electronic format that has not been signed by the person subject to control is transmitted to him by any method that allows the control body to confirm the receipt of the report by the controlled person. The

communication and reception of the minutes signed with advanced electronic signature qualified to the electronic address indicated by the person subject to control is considered communication at his headquarters.

(5) The second copy of the control report is presented to the head of the control body for examination.

(6) The person subject to control has the right, within 10 working days from the signing of the control report, to present his disagreement with the act in question, bringing additional evidence confirming his position. The inspector examines the materials presented and, if necessary, draws up an additional control report, without making corrections in the basic act. In the additional control report, the basic report is indicated, and in the verifying part the changed positions are reflected, respecting the procedure for drawing up the control report, including the one for annexing the documents. The right to present the disagreement does not affect or limit the possibility of contesting the control report in the manner established by law.

(7) The control report enters into force on the date of its communication to the person concerned if it has not been disputed according to this law.

(8) It is prohibited for the control body to make public the findings contained in the control report until it enters into force.

(9) When establishing violations that contain signs of the composition of a crime, but which did not result in causing damage to the person's life and health, the control body prepares the control report indicating the damage it established, in the limit of competences, as being caused by the observed violations of the legislation, and the prescription regarding the removal of these violations. The control body notifies the prosecutor or the competent criminal investigation body regarding the identification of the signs of the criminal composition, through a notification, to which, mandatorily, the control report and the materials related to the control in question are attached, which are transmit to him within 5 working days from the date of exhaustion of the procedures established in art. 29 and the expiration of the term established in art. 30 paragraph (1¹) or para. (1²), if the control report has not been challenged, or from the date of issuing the control body's decision on the prior challenge request, issued in accordance with the provisions of art. 30 para. (2).

(9¹) If, upon establishing the violations that contain signs of the composition of a crime, it was found that they resulted in causing damage to the person's life and health, the control body, within 3 working days from the date of drawing up the process- control report, sends to the prosecutor or the competent criminal investigation bodies a notification about the identification of the signs of the composition of a crime, to which, compulsorily, the control report and the materials related to the control in question are attached.

(10) If a contravention is found in the control report, it replaces the report establishing the contravention, having similar legal regime and legal force. The detection of contraventions identified during the control and the application of sanctions, according to the competence, will be carried out within the limits established by this law and with the application of the requirements established by the Contravention Code.

Article 29. Prescriptions issued and sanctions applied pursuant thereto
control report

(1) If, during the control carried out by the control body, violations of the legislation that do not constitute crimes are found, the body in question includes in the control report a prescription regarding the removal of these violations, according to the limits established in art. 51.

(1¹) In the case provided for in art. 28 paragraph (9), the respective body includes in the control report a prescription regarding the removal of the violations found, according to the limits established in art. 51, and a prescription regarding the restitution of the damage that determined to be caused by these violations.

(2) The prescription will establish:

- a) expressly and clearly, the violations committed by the person subject to control with direct references to the violated legal provisions;
- b) recommendations (indications) regarding the removal of violations and the nature of the recommendations;
- c) the normative provisions on the basis of which the recommendations were issued;
- d) the term in which the violations are to be removed;
- e) restrictive measures, as appropriate.

(3) - *repealed*.

(4) The person subject to control is obliged to remove the indicated violations within the term expressly established in the prescription. The control body is obliged to establish the term for fulfilling the prescription taking into account the complexity of the actions to be performed, the degree of danger of the violations that need to be removed, the possibilities of the controlled person to fulfill the prescribed actions, as well as the previous prescriptions, issued in similar cases. The deadline for executing the prescription cannot be less than 30 working days and more than 90 working days.

In the case provided for in art. 28 paragraph (9), the deadline for executing the prescription cannot exceed 30 days. The term is calculated from the date of handover against signature or from the date of receipt of the control report by the person subject to control by any method that allows the control body to confirm receipt.

(5) Within the term established according to para. (4), the person subject to control will present to the body that issued the prescription the strict confirmations regarding the removal of violations of the legislation.

(6) - *repealed*.

(7) If the person subject to control does not remove the violations of the legislation within the term established according to para. (4), the control body that issued the prescription, depending on the degree of danger found, according to the limits established in art. 51, may issue another prescription, with or without restrictive measures, and/or may apply sanctions provided by law.

(8) If the inspector finds that the respective violations have been removed, the person subject to the control is released, totally or partially, from the sanction to which he was liable according to the law.

(9) By derogation from art. 32, in the event of the existence of a danger to the life and health of people or to public order, or in the event of an obvious damage caused to third parties as a result of the violations, the controller draws up a report on the application of the sanction immediately after issuing the control act and/or applies corrective measures in the case of dangerous products that present a risk and/or do not meet the essential requirements established in accordance with the Market Surveillance Law.

(10) If it is found that the violations have been removed by the controlled person, the inspector makes the appropriate mention in the control report. If, following the verification, it is necessary to prescribe additional measures or find a violation, the inspector prepares an additional report, connected with the initial control report, completes it with the mention of the fact of the verification, with data about the initial control report, the findings following the verification and the measures applied. The additional report is signed by the inspectors and the inspected person, is attached to the initial control report and is registered in the State Register of Controls.

(11) By way of derogation from para. (7)–(10), in the case and within the term indicated in art. 28 para. (9) and (9 1), the control body ^{submits} to the criminal investigation body a notification regarding the identification the signs of a crime component, to which the control report and the

materials related to the control in question are attached. In the control minutes, the record is made regarding the non-execution of the established prescription and about the restitution or not of the established damage or its counter value.

Article 29¹ . Restrictive measures

(1) The restrictive measures provided by this law represent actions and/or inactions ordered by the control body with the aim of eliminating or reducing an imminent and immediate danger to the environment, life, health and property of people, found during the control. Depending on the provisions of special laws, these measures are prescribed to the person subject to control in the form of restrictions on certain activities, restrictions on the use or making available for consumers of certain goods or in the form of imposing certain actions and can be identified as corrective measures , coercive measures, coercive procedural measures.

(2) Restrictive measures are prescribed and imposed in accordance with the cases in which some measures can be applied and the types of measures assigned to the control body, according to the specialized laws. Any restrictive measure can only be imposed within the limits established in art. 51 of this law.

(3) If a restrictive measure prescribes the suspension or withdrawal of a permissive act and/or license, the control body that prescribes the restrictive measure in question is obliged to apply within 3 working days to the competent court in order to validate the prescription of the suspension or withdrawal of the permit and/or license, in accordance with the procedure established by Law no. 235-XVI of July 20, 2006 regarding the basic principles of regulation of entrepreneurial activity.

(4) The prescriptive part of the control report by which restrictive measures are imposed will also contain the information regarding the causes of the prescription of restrictive measures and the danger found to be avoided by the prescribed measure, the legal grounds for prescribing the measure, the term - limit for the application of the measure, the procedural rights of the controlled person, the detailed identification of the actions/inactions that are required and the express identification of the assets to which the restrictive measures are extended.

(5) The person subject to control has the right to include in the control minutes explanations and/or objections regarding the prescribed restrictive measures, which will be mandatorily examined by the head of the control body.

(6) The term indicated for the restrictive measure begins to run from the receipt by the controlled person of the control report containing the corresponding prescription, being communicated to the person subject to control by any method that allows the control body to confirm receipt.

(7) Restrictive measures can only be imposed for a limited period, within the limit of the need to eliminate the imminent danger, a period that is expressly indicated in the prescription by the control body. Regardless of the term indicated, any restrictive measure ends with the execution of the prescription by removing the indicated violations and presenting within the deadline confirmations of rigor by the person subject to control or on the date of suspension and/or cancellation of the prescription by the issuing body, the higher hierarchical body or the court of judgment.

(8) If the existence of a risk regarding certain products intended for consumers is identified that cannot be removed with available resources, the control body applies, in the manner regulated by this law, the restrictive measures specified in Law no. 7 of February 26, 2016 regarding market surveillance regarding the sale of non-food products and Law no. 50 of March 28, 2013 regarding official controls to verify compliance with feed and food legislation and animal health and welfare rules. The measures are applied, as the case may be, in order to temporarily restrict the free movement or introduction of the product on the market, to inform consumers adequately about the risks,

Article 30. Challenging the control and/or its results

(1) The person subject to the control who considers himself injured in his right, recognized by the law, by the control delegation, the decision to extend the control duration or by the control minutes, by the actions or inactions of the inspector, is entitled to disputes, in whole or in part, by submitting to the control body a prior appeal request, in written form. The control report is contested at the control body if it does not contain the finding of the contravention or signs of the composition of the crime under the conditions of art. 28 paragraph (9 1) ;

(1¹) The prior request to challenge the delegation of control, the decision to extend the duration of the control or the control minutes in which no prescriptions or restrictive measures are ordered shall be submitted within 30 days from the date in that the person subject to the control was or should have been informed of the control delegation, the decision to extend the control duration or, respectively, the control report.

(1²) The prior request to contest the control report in which the restrictive measure of suspending the activity of the economic agent was ordered shall be submitted within the term established for the execution of the restrictive measure in question.

(2) The examination and issuance of the decision on the preliminary appeal request is carried out within 10 working days from the date of submission of the request. If the prescription or the restrictive measure is challenged, the examination and issuing of the decision on the preliminary appeal request is carried out within the term established in the control report for the execution of the prescription or the restrictive measure, but not more than 10 working days from on the date of submission of the application. The examination and issuance of the decision on the preliminary request to contest the restrictive measure of suspension of the activity of the economic agent is carried out within up to 5 working days from the date of submission of the request.

(3) Challenging the prescription and the restrictive measures or the sanctioning part of the control report suspends their effect only within the term and within the limits set by the control body after submitting the prior challenge request and only at the request of the person subject to control.

(4) The inspectors' actions and inactions can be appealed to the head of the control body, in written form.

(5) The examination of petitions and preliminary appeal requests, according to the preliminary procedure in administrative litigation, submitted by the controlled person to the control body is carried out only within the dispute resolution councils, whose functionality is ensured by the head of the control body. The dispute resolution councils operate within the control body, and their composition must include at least three representatives of business associations (relevant to the area of control or disputed aspects), the heads of the main subdivisions within the control body and the representative of the central public authority related to the field. Representative of business associations, within the meaning of this law,

The dispute resolution councils organize and carry out their activity according to the framework regulation approved by the Government.

(5¹) The decision regarding the results of the examination of the preliminary appeal request can be appealed in accordance with the provisions of the Administrative Code, with the exception of the decision regarding the results of the examination of the preliminary appeal request, issued in the case provided for in art. 28 paragraph (9) .

(6) In order to examine the systemic defective practices in the field of state control, the National Council for the Resolution of Disputes in the Field of State Control (hereinafter – National Council) is created. The National Council does not resolve individual petitions, these being examined only as examples to attest to deficiencies in the law or defective application of the law. The regulation of the National Council is approved by the Government.

(7) The functionality of the National Council is ensured by the control supervision authority. The members of the National Council are the heads of the control bodies, representatives of entrepreneurs' associations (or from the business environment), elected on the basis of parity, and the head of the control supervision authority, who presides over the council meetings. The meetings of the National Council are held considering the petitions/addresses that have arisen or the themes proposed by the members and end with the adoption of binding decisions for the concerned members.

Article 31. Nullity of control results and sanctions applied under them

(1) The results of the control are considered null and cannot serve as a basis for the execution of the prescription regarding the removal of violations and/or for the application of the respective sanctions in the event that the control was carried out by the control body and/or its collaborators in violation of the provisions of this law .

(2) The nullity of the control results is determined, at the request of the interested person, by the body that performed the control or by the court.

(3) Declaring the nullity of the control results results in the nullity of the prescriptions issued and the sanctions applied based on the control results.

(4) Any damage, including moral or image damage, caused to the person subject to control as a result of carrying out a control whose results were declared null and/or as a result of the application of sanctions declared null will be repaired at the expense of the control body.

(5) The fact of causing damages and the amount of compensation are established by the court, at the request of the injured person.

Article 31¹. Internal supervision of the legality of the control Done

(1) The leader of the control body or of the higher hierarchical body will order periodically, but not less than once a semester, the verification of the legality, appropriateness and motivation of the unexpected control actions carried out by the inspectors of the control body in question.

(2) In the case of detection of unexpected control actions not adequately justified and initiated and/or carried out in violation of this law, including in the cases provided for in art. 31, the head of the control body or of the higher hierarchical body will order the sanctioning of the responsible persons within the control body in question depending on the seriousness of the violations, he will also take the necessary actions to recover the damage caused to the persons subject to the control or the control body following the actions of unjustified control and/or carried out in violation of the law.

(3) In order to have a more effective internal supervision, the control body can request the assistance of the control supervision authority.

(4) The control body is obliged to inform the control supervision authority and the higher hierarchical body about the results of the internal supervision carried out, including about the violations detected as a result of the supervision and the sanctions applied in this regard, within no more than one month from the end of the verification carried out according to para. (1).

Article 31². Reporting of control activity

(1) The control bodies annually establish appropriate objectives and performance indicators in order to achieve maximum efficiency and constantly reduce the pressure on the business environment.

(2) The control bodies are obliged to draw up and publish on the electronic page and in the State Register of Controls annual reports on the control activity carried out during the year and the result of this activity, the way of execution of the control plans and the level of achievement of of the set objectives and predetermined performance indicators.

(3) The methodology for establishing objectives and performance indicators for achieving maximum efficiency in the activity of control bodies and for constantly reducing the pressure on the business environment is approved by the Government. The achievement of the objectives and performance indicators established in accordance with this article is taken into account in the evaluation of the professional performances of the inspectors within the control bodies and in the collective evaluation of the control bodies.

Article 32. The right to defense

Any person subject to control, before and after being ordered to apply the sanction, the control body ensures the opportunity to be heard and to present evidence. It will not prevent her from being assisted by the experts she needs (including legal consultants).

Article 32¹. Liability for violation of this law

(1) The control body and/or the public official within it bear, as the case may be, civil, contraventional or criminal liability for violating the provisions of this law.

(2) Initiating, conducting and ending the control in violation of the limits and requirements established by this law are also considered disciplinary violations and are subject to disciplinary sanctions in accordance with Law no. 158-XVI of July 4, 2008 regarding the public office and the status of the civil servant.

Article 33. Final provisions

(1) This law enters into force 6 months after the date of publication.

(2) The Government, within 6 months from the date of publication of this law:

- a) will develop the risk assessment methodology;
- b) will establish the manner in which the control bodies will keep the register of controls;
- c) will present proposals regarding bringing the legislation in line with this law;
- d) will bring its normative acts in accordance with this law.

PARLIAMENT PRESIDENT Marian LUPU

No. 131. Chisinau, June 8, 2012.

attached