



To: IPN News Agency
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Assessment of the law for capital liberalisation and tax stimulation

1. Content of the draft law

- On 16 December the Moldovan Parliament passed a law initiative (Nr. 451 and 452), which proposes “capital liberalisation and tax stimulation”.
- Individuals and legal entities are provided the possibility to voluntarily declare assets that have previously not been declared to fiscal authorities, understated in their value or attributed to other persons.
- Assets include money, real estate, shares and transportation means, which are held within or outside the country.
- In the case that the asset declaration is accepted, all the taxes, social insurance and healthcare contributions, penalties and fees supposed to be paid to state institutions will be cancelled.
- In return, the individual / enterprise will pay a flat tax of 2% of the value of the declared assets to the state budget.
- The procedure is supposed to be conducted in two steps: asset declaration statements can be filed until 15 April 2017. Liberalisation will be concluded until 1 July 2017.

2. Assessment of the draft law

- Generally, it is a positive intention to decrease the share of the shadow economy, to incentivise tax evaders to declare hidden assets and increase tax compliance in general. However, the proposed capital and tax amnesty is unlikely to achieve those objectives as it has several shortcomings.
- **International best practice** defined in the guide for voluntary tax compliance programmes (VTC) provided by the Financial Action Task Force on Money Laundering (FATF) demands for an extraordinary situation, e. g. a severe economic crisis, to conduct a VTC programme. This is not the case in Moldova, which has a sustainable public budget and expects to receive sufficient international financial support in 2017.
- The **rate of 2%** to be paid in the case of capital liberation is extremely low compared to international experience. Typically, such rates are set at least at 5%. For example, Italy applied a rate of 5-7% in its tax amnesty in 2009, Argentina set it at 10-15% (2016) and German tax evaders

had to pay even 25% of assets declared during the amnesty in 2004. The rate envisaged by the Moldovan draft law is too low to send any signal of punishment.

- The draft law's provision to **prohibit the investigation of the origin** of the assets declared in the course of the liberalisation process goes totally at odds with international best practice of anti-money-laundering measures. As such the proposed law also violates the principles of the FATF of which Moldova is a member of.
- Although article 5 paragraph 3 of the draft law states that the country's National Bank should develop rules so that **anti-money-laundering principles** are abided, it is not clear how this can be achieved if the origin of the money cannot be investigated.
- Furthermore, **international evidence** of tax amnesties is ambiguous and depends highly on a country's administrative capacity. Only an effective fiscal administration can ensure that the declared assets are properly audited to avoid money laundering and re-offenses. Moldova's fiscal administration may not have the capacity to ensure that.
- Indeed, the FATF guide for tax amnesties recommends **sufficient staffing** of financial institutions additional to the regular staff in order to cope with the declarations to be investigated in order to avoid the possibility of money laundering. The draft law does not foresee such kind of additional staffing, such that the authorities will be overwhelmed by the amnesty and not be able to abide by all principles of anti-money-laundering.
- The **hasty approval process** of the draft law meant a breach of democratic procedures: Neither the civil society nor other representatives of the private sector were included in the preparation of the document or were given a proper chance to file comments.
- **No assessment of the economic impact** of the envisaged capital liberalisation and tax stimulation has been made, which raises doubt in the sincerity of the intention to target the informal sector of the country's economy.
- Indeed, it is likely that the law had the opposite effect and **reduces tax compliances** as the law makes tax evasion less risky. Especially, as the last tax amnesty had been conducted quite recent in 2007. Thus, amnesties lose their character of uniqueness giving the opportunity to legalise illicitly acquired assets on a regular basis. Finally, the law is also a negative example for social and economic fairness.
- In the **context of the bank fraud**, which occurred in 2014 the law gives a highly negative political signal to the population. It provokes the impression that people who had been involved in the theft are now given the chance to launder their money.
- The law is at odds with the **Memorandum signed with the IMF**, in which the Moldovan government obliged itself to fight against corruption. This can hardly be achieved, if the official sector with its high level of corruption is not exempted from the amnesty. The IMF had also explicitly criticised the tax amnesty conducted in 2007. Also the World Bank has voiced its concerns about the draft law. Thus, it threatens to damage relations with international donors.

3. Conclusion

The proposed draft law is not designed in a way to increase tax compliance. Rather it provokes the opposite: tax evaders are motivated to continue their behaviour due to the absence of any character of punishment and the lack of measures preventing the chance of money laundering. The draft is a negative signal to both the Moldovan population and international donors. Consequently, the German Economic Team holds the opinion that the law initiative should be abandoned and other measures to sincerely fight the shadow economy should be considered.