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NBM expresses its deep concern over the way of conducting of the criminal investigation procedure and house searches of some key function employees

The National Bank of Moldova (NBM) expresses its deep concern over the house searches proceedings and the way of conducting of the criminal investigation against some key function employees, under the pretext of misuse of their rights granted under the Law on banking activity, the allegedly abusive interpretation of factual and legal situations, which served as the basis for an allegedly abusive issuance of a decision of the NBM Executive Board on the concerted action of some shareholders and the failure to obtain the NBM prior permission to hold qualified shares in the share capital of a bank.

The investigation refers to a decision of the NBM taken in accordance with the commitments assumed by the Republic of Moldova in the Memorandum with the IMF, in the context of the extensive process of reforming the banking system, carried out in the last almost four years by the National Bank, in order to ensure shareholders' transparency, a sound corporate governance in banks and a regulatory framework needed to establish a stable banking sector.

The NBM exercises a complex mandate aimed at protecting the public interest. The supervisory measures are based on qualitative assessments and professional judgment of a particularly complex nature done by the NBM employees, susceptible of divergent interpretations by the persons who are subjects of the supervisory act, as well as by third parties and authorities. The high financial interests that may be affected by the measures adopted by the NBM, on the one hand, and the complexity of the professional reasoning applied by the NBM staff, on the other hand, increase significantly the litigious risks to which the NBM and its employees are exposed.

According to the law, the NBM is the single and only authority entitled to formulate judgements on considerations of appropriateness, assessments and qualitative analyses that constitute the basis for issuing its acts regarding the application of sanctions, sanctionary measures and other measures.

Thus, the judicial and pre-judicial proceedings of any nature, regardless of the final solution, directed against the NBM and /or its employees have a strong deterrent effect on the NBM and intimidate its employees in exercising in good faith their functional tasks of risks assessment, thus compromising the NBM ability to exercise its powers objectively and independently in order to achieve the public interest objectives.

In this context, given that the NBM decision is in force and benefits from the presumption of legality, and the institution and its employees have fully cooperated with the criminal investigation authorities, the actions of the latter ones could be perceived as an infringement in the exclusive competence of the NBM to evaluate and supervise the banking shareholders, which is inadmissible even from the perspective of the separation of powers in a state governed by the rule of law. Such actions prevent the staff of a central bank from carrying out its duties properly and reduce the institution's ability to ensure the supervision, transparency and stability of the banking sector.

The Executive Board of the National Bank of Moldova

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