

## COMPARTIMENTUL

### ȘTIINȚE POLITICE

CZU 327(478):341.217(4)UE

DOI [https://doi.org/10.52388/1812-2566.2023.2\(99\).01](https://doi.org/10.52388/1812-2566.2023.2(99).01)

## ARMONIZAREA LEGISLAȚIEI NAȚIONALE A REPUBLICII MOLDOVA CU LEGISLAȚIA UE ȘI ACCELERAREA PROCESULUI DE ADERARE LA UNIUNEA EUROPEANĂ

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*Prezentul articol reprezintă o reflectare concisă a procesului de integrare în UE a Republicii Moldova, care constituie o componentă-cheie a strategiei de dezvoltare a țării. Interesul Republicii Moldova cu privire la viitoarea aderare la Uniunea Europeană nu este doar o chestiune politică și economică, este mai întâi de toate și o problemă juridică. Ținând cont de noul context geopolitic, la 3 martie 2022, Moldova a înaintat cererea de aderare la UE. La scurt timp, pe 17 iunie în același an, Comisia Europeană și-a dat avizul cu privire la cererea de aderare. Și la 23 iunie 2022, Consiliul European a acordat Moldovei statutul de țară-candidat la UE cu condiția realizării în practică a nouă condiții timp de un an. Drept urmare, la 5 octombrie 2023, Parlamentul European a votat Rezoluția prin care se recomandă începerea până la sfârșitul anului 2023 a negocierilor cu Moldova în vederea aderării la UE.*

***Cuvinte-cheie:** proces de integrare, aderare, negocieri, statut de candidat, acquis UE, aproximare, armonizare.*

## THE HARMONIZATION OF NATIONAL LEGISLATION OF THE REPUBLIC OF MOLDOVA WITH THE EU LEGISLATION AND THE ACCELERATION OF THE ACCESSION PROCESS TO THE EUROPEAN UNION

*This article is a concise reflection of the EU integration process of the Republic of Moldova, that represents a key component of the country's development strategy. Moldova interest regarding forthcoming accession to the European Union is not just a political and economic matter, it is also first a legal issue. Taking into consideration the new geopolitical context that appeared, on March 3, 2022, Moldova applied for EU membership. Shortly, on June 17 of the same year, the European Commission issued its opinion on the application for EU membership. And on June 23, 2022, the European Council granted candidate status to Moldova on the condition that it fulfills nine conditions in practice in one year. As a result, on October 5, 2023, the European Parliament voted the Resolution recommending the start of negotiations with the Republic of Moldova with a view of accession to the EU by the end of 2023.*

***Keywords:** integration process, accession, negotiations, candidate status, EU acquis, approximation, harmonization.*

## HARMONISATION DE LA LÉGISLATION NATIONALE DE LA RÉPUBLIQUE DE MOLDOVA AVEC LA LÉGISLATION DE L'UE ET ACCÉLÉRATION DU PROCESSUS D'ADHÉSION À L'UNION EUROPÉENNE

*Cet article est un reflet concis du processus d'intégration de la République de Moldova à l'UE, qui est un élément clé de la stratégie de développement du pays. L'intérêt de la Moldova pour la future adhésion à l'Union européenne n'est pas seulement une question politique et économique, c'est avant tout une question juridique. Compte tenu du nouveau contexte géopolitique, le 3 mars 2022, la Moldova a déposé sa candidature d'adhésion à l'UE. Peu de temps après, le 17 juin de la même année, la Commission européenne a donné son avis sur la demande d'adhésion. Et le 23 juin 2022, le Conseil européen a accordé à la Moldova le statut de pays candidat à l'UE à condition que neuf conditions soient remplies en pratique pendant un an. En conséquence, le 5 octobre 2023, le Parlement européen a voté une résolution recommandant le début des négociations avec la Moldova pour l'adhésion à l'UE d'ici la fin de 2023.*

***Mots-clés:** processus d'intégration, adhésion, négociations, statut de candidat, acquis de l'UE, rapprochement, harmonisation.*

## ГАРМОНИЗАЦИЯ НАЦИОНАЛЬНОГО ЗАКОНОДАТЕЛЬСТВА РЕСПУБЛИКИ МОЛДОВА С ЗАКОНОДАТЕЛЬСТВОМ ЕС И УСКОРЕНИЕ ПРОЦЕССА ПРИСОЕДИНЕНИЯ К ЕВРОПЕЙСКОМУ СОЮЗУ

*Данная статья представляет собой краткое отражение процесса интеграции Республики Молдова в ЕС, который является ключевым компонентом стратегии развития страны. Интерес и намерения Республики Молдова относительно будущего вступления в Европейский Союз – это не только политический и экономический аспект. Прежде всего, это и юридический вопрос. Соответственно, процесс гармонизации законодательства зависит от возможностей разработки и принятия гармонизированного законодательства, его адекватного внедрения и последующего исполнения. Учитывая появившийся новый геополитический контекст, 3 марта 2022 года Молдова подала заявку на вступление в ЕС. Вскоре после этого, 17 июня того же года, Еврокомиссия дала свое заключение по заявке на членство в ЕС. А 23 июня 2022 года Европейский совет предоставил Молдове статус страны-кандидата в ЕС при условии, что она выполнит девять условий в течение одного года. Таким образом, 5 октября 2023 года Европейский Парламент проголосовал за Резолюцию, рекомендующую начать до конца 2023 года переговоры с Республикой Молдова о вступлении в ЕС.*

***Ключевые слова:** интеграционный процесс, присоединение, переговоры, статус кандидата, нормы ЕС, сближение, гармонизация.*

### Introduction

The main techniques of research used in this scientific article are content analyses, research and development, descriptive research, and case study. In the process of drafting this scientific investigation the research methods as collecting, interpreting, and writing the results of a study, systematic procedure and historical has been used by author. The present research constitutes an multidisciplinary approach

with the use of research methodology that involves the chronological presentation and systematization of the data developed through the results about harmonization of national legislation of the Republic of Moldova with the EU legislation and peculiarities of accession process to the European Union. Is well known that the EU integration process is of particular importance and represents a key component of the country's development strategy. This process is

not only a political and economic matter but also a legal one, particularly the approximation of national legislation with the EU acquis. Presently the legal approximation process is not dependent solely on legal drafting capacities and the adoption of harmonized legislation but relies equally on proper implementation and subsequent enforcement. This requires appropriate internal organization in the Government and improved policymaking and planning skills. It is worth mentioning that initially, at the meeting held in Copenhagen in 1993, the European Council adopted a conclusion which formulated the accession criteria. One of those criteria is a country's capacity to effectively implement the EU acquis. This accession condition is not open to negotiation, which means that the national legislation must be approximated to the EU legislation before Moldova is permitted to become a member state. The legal approximation effort is the largest and most comprehensive task in the accession process. Prior to accession, the Republic of Moldova, like any other country interested in acceding to the EU, must have brought its entire body of legislation into line with EU law. This process implies the use of methods and techniques for transposing EU legislation into Moldova's national legislation and applying implementation systems and procedures which will be manifested in the achievement of individual rights or fulfillment of commitments, within agreed timeframes.

This represents an important task, because Moldova's readiness to start accession negotiations will be assessed not merely on the fulfillment of very demanding political and economic criteria, but principally on the recognition of consistent progress towards legal approximation. This process of approximation covers not only the EU legislation defined by the Association Agreement, as has been the case so far, but EU legislation in its entirety.

Now, the situation has completely changed. The Republic of Moldova is not just a country associated

to the EU through the Association Agreement, it has been also given a very clear EU integration perspective and reached the status of a candidate country for EU membership in June 2022.

### **EU integration and the legal approximation process**

The legal approximation process requires professional and knowledgeable human resources and well-established institutions. By adopting the Law No. 100/2017 on Normative Acts and the Regulation on harmonization of the legislation of the Republic of Moldova with the EU legislation, approved by Government Decision No. 1171/2018, the Republic of Moldova determined responsibilities of institutions and the procedure for approximation of legislation.

These measures established the entities and legal approximation processes which – having ensured their mutual consistency – will bring Moldova's national legislation into line with EU law.

Drafting laws is a real challenge. Introducing the EU's legal acts into Moldova's national legislation represents an even greater challenge. Prior to drafting a law, a proper planning policy needs to be in place. After the drafting of a given law, the next important step is its implementation and enforcement. Therefore, developing a draft law is just one component of the legal approximation process.

Moldova was already involved in this process before the Association Agreement with the EU had been concluded. Once the Association Agreement was signed, the process became even more important. Meanwhile, the accession negotiations will inevitably pose a great challenge for the public administration, especially in terms of the restructuring of institutions. The Government has the task of managing the 35 negotiation chapters of the EU acquis. Tens of thousands of pages of acquis are transposed into the national legislation, with several hundred

civil servants applying a Europeanization process to Moldova's legal and institutional framework and engaging in coherent and coordinated communication with the EU's institutions and services. The systemic application of this process is aimed not only at constructing a legal framework that complies and aligns with the EU's requirements, but also at ensuring the administrative, jurisdictional, and other capacities which will be needed for the effective implementation and enforcement of that legal framework [1]. Therefore, comprehensive consultations and training are required at the level of the public authorities to enable them to lead and implement the accession process at different levels and stages. Any significant results in legal approximation are speeding up the EU integration process, as the progress towards accession is significantly dependent on the progress made in the approximation process.

It was back in 2010, while the Partnership and Cooperation Agreement with the EU was still in force, that the first Methodology for legal approximation was compiled in the Republic of Moldova. It was the product of a joint effort by an EU-funded project and the Centre of Legal Approximation, which was then situated within the Ministry Justice of the Republic of Moldova. A set of extensive training courses was implemented for the staff of all line ministries. Depending on which government was in office, in subsequent years Moldova was to a greater or lesser extent striving to catch up with the Western Balkan countries. Those countries were a step ahead in this process, due to a set of Stabilization and Association Agreements which had been signed earlier.

On June 23, 2022 Moldova received the status of candidate state to the European Union. Despite some implementation delays in connection with legal approximation, the Association Agreement remains the key contractual basis of Moldova's relationship with the European Union, and it will stay in force until the Treaty of Accession of the

Republic of Moldova to the EU is ratified by all the parties involved.

In this regard, Moldova took a further forward step during this process when it set up an internal EU integration coordination mechanism in November 2022. The proposed mechanism clearly follows the forthcoming negotiation structure, including a set of newly established working groups, and sends a clear signal that Moldova intends to be ready on time for the start of the accession negotiations. The setting-up of these working groups represents a new approach towards the organization of the legal approximation process.

In January 2023, the Head of the EU Delegation to the Republic of Moldova, H.E. Jānis Mažeiks declared that the well-established and functioning EU integration structure is a prerequisite for the successful implementation of the most demanding task on the way to the EU membership which is the legal approximation [2]. Contrary to the simplified belief, the legal approximation is not a simple method where the EU candidate country takes over the EU legislation by copy-pasting it into its legal system. On the contrary, it is a structured, systemic, and well-organized process composed of planning, drafting, and adopting legislative acts. Of course, the EU will continue providing help and support in this demanding process through advice, sharing experience, and through technical assistance.

### **Taking over good practices of EU integration process**

Characterizing this complex process, in last few years the representatives of central public administration and the State Chancellery participated in thematic events and training courses, such as the international conference "The Future of the Judicial System of the European Union", held from May 30 to June 1, 2019, in Iasi, Romania. The event was attended by the President of the EU Court of Justice,

Professor Koen Lenaerts, Judges of the Court and the Tribunal, officials of national institutions, as well as scientists and lawyers. During the conference participants discussed new developments in the European judicial system, changes in the procedural architecture of the EU Court of Justice, the role of the judge in the development of the law, and the prospects of the national judiciary.

For example, on June 1, 2019, the employees of the Centre for Harmonization of Legislation within the State Chancellery had a meeting with the Government Agent of the Court of Justice of the European Union, the Undersecretary of State at the Ministry of Foreign Affairs of Romania, Radu Cațar, during which were exchanged opinions on the process of compliance of the Moldovan legislation with the European one. The sides highly appreciated the open and constructive character of the bilateral relations, stressing the strategic cooperation at the level of the Moldovan-Romanian intergovernmental commission for European integration [3]. Also, the participants paid special attention to the importance of the technical assistance provided to Romania in the process of adjusting the legislation to the EU legislation, as well as to the discussion of the issues of continuity and cooperation between the institutions, to adjust the national structure to the European standards. It is worth to be mentioned that in 2012, the Centre for Harmonization of Legislation initiated and officially formalized dialogue with the Romanian side on institutional cooperation in the field of harmonization of legislation under the aegis of the Moldovan-Romanian intergovernmental commission for European integration.

### **Accelerating the EU accession process**

Shortly after the start of Russia-Ukraine war and taking into consideration the new geopolitical context including regional security vulnerability, on March 3, 2022 Moldova applied the demand for EU

membership. In few months, on June 17 of the same year, the European Commission issued its opinion on the application for EU membership. And on June 23, 2022, the European Council granted candidate status to Moldova. Therefore, it invited the European Commission to report to the Council on the fulfillment of nine conditions specified in the Commission's opinion on the membership application. The Council will decide on further steps once all these conditions are fully met.

To coordinate the efforts of the national authorities, an action plan was developed for the implementation of nine conditions formulated by the European Commission. The draft plan was discussed at the meeting of the National Commission for European Integration on 13 July 2022 and was adopted a month later, on 4 August. The action plan contains the following steps, to be carried out by the summer of 2023. The action plan approved by the National Commission for European Integration was consulted by the Ministry of Foreign Affairs and European Integration, together with the team from the State Chancellery and national institutions, with civil society representatives and the European Commission.

The document contains actions, terms, and institutions responsible for each of the 9 areas: justice reform, the electoral framework, fighting corruption, deoligarization and reducing the influence of private interests, combating organized crime and money laundering, improvement of public services and reform of public administration, public finance management, the involvement of civil society, human rights [4].

Earlier this year, in March 2023, the European Council reaffirmed that the European Union would continue to provide all relevant support to Moldova to strengthen the country's resilience, security, stability and economy and to help on its path to EU accession. The European Council invited the Com-

mission to present a support package ahead of its next meeting. After analyzing the presented reports regarding realization of specified conditions, on October 5, 2023, the European Parliament voted the Resolution recommending the start of negotiations with the Republic of Moldova with a view of accession to the EU by the end of 2023 [5].

### **EU support for Moldova during the Russia-Ukraine war**

The EU has allocated €13 million for the Republic of Moldova in humanitarian assistance to help civilians affected by the war in Ukraine. Also, Moldova activated the EU Civil Protection Mechanism to support Ukrainians arriving to their country. In this regard, EU member states have offered various assistance to Moldova, including shelter, hygiene kits and power generators.

On April 24, 2023, the European Union launched the EU civilian mission in Moldova (EUPM Moldova) under the Common Security and Defence Policy. The objective of this civilian mission is to enhance the resilience of the security sector of the country in the areas of crisis management, hybrid threats, cybersecurity, countering foreign information manipulation and interference.

To this end, the mission will provide advice at strategic level on the development of strategies and policies, and identify the needs for capacity building for early warning, detection, identification, attribution of threats and the response to hybrid threats. The mission features a project cell responsible for identifying and implementing projects in the aforementioned areas, in close coordination with other like-minded actors. In response to Moldova's request, EUPM Moldova will have an initial mandate of two years and its Operational Headquarters in Moldova. Stefano Tomat, EEAS Managing Director of the Civilian Planning and Conduct Capability (CPCC), the Civilian Operation Commander; a Head of Mission

leading operations on the ground was appointed recently.

In light of the Russia-Ukraine war, and its detrimental effects also on Moldova's economic and financial stability, the Council decided on April 4, 2022 to provide a new macro-financial assistance operation of €150 million in the form of loans and grants to benefit the Republic of Moldova.

The assistance contribute to strengthening Moldova's resilience in the current geopolitical context, and covering Moldova's balance of payments needs as identified in the International Monetary Fund (IMF) program. It intends to support Moldova's economic stabilization and reform agenda. This financial assistance is meant to help Moldova cover, in 2022-2024, part of its residual external financing needs, which are estimated at USD 480 million. This is in the context of the new IMF program over the period of 2021-2025.

The disbursement is expected to start quickly. It consists of three tranches to be released between 2022 and 2024. Of the total amount, up to €120 million provided in the form of medium- to long-term loans at favorable financing conditions and up to €30 million in the form of grants.

The EU and the Republic of Moldova have developed a close political and economic relationship over the years. Relations continue to develop within the framework of the European Neighborhood Policy and the Eastern Partnership. Moldova joined the Union's Eastern Partnership in 2009. An EU-Moldova Association Agreement, which includes the gradual introduction of a Deep and Comprehensive Free Trade Area (DCFTA), entered into force on July 1, 2016 [6].

Moldova's economic ties with the EU are also well developed. The EU continues to be Moldova's largest trading partner, accounting for 52% of its total trade in 2020 (approx. 67% of total exports and 45% of Moldova's total imports), followed by Russia (9%) and China (8%). Countries that are covered

by the European Neighborhood Policy are eligible for macro-financial assistance (MFA). It is designed to help countries in an acute balance of payments crisis. MFA is provided on an exceptional and temporary basis and is based on economic policy conditions, one of those being that a MFA operation must complement an International Monetary Fund (IMF) adjustment program.

The Council adopted a previous decision on providing MFA to Moldova in the amount of €100 million in loans on May 25, 2020. The assistance was fully disbursed during 2020-2021. In view of a worsening economic situation and outlook, the Moldovan government requested a new MFA from the EU on November 19, 2021. The Commission submitted a proposal to this effect to the Council and the Parliament on January 4, 2022.

The long-term EU budget 2021-2027 allows the use of MFA for an overall amount up to €11.6 billion in loans and up to €350 million in grants. The MFA for Moldova adopted today is the second new MFA under the current long-term budget, following the MFA for Ukraine adopted on February 21, 2022.

It is worth to be mentioned that the Council adopted a decision on the signing of a status agreement between the EU and the Republic of Moldova regarding operational activities carried out by Frontex. The agreement signed implies that Frontex operational support can be provided to Moldova as soon as possible under the provisional application of the agreement. A status agreement will allow Frontex to assist Moldova in border management, through the deployment of teams which can support Moldovan authorities in tasks such as registration and border checks.

Following Russia's invasion of Ukraine over 300 000 refugees have entered Moldova and the number continues to grow. Moldovan border management authorities are facing the challenge of regulating this influx of refugees while monitoring a border with an active war zone.

The EU is currently providing support to these efforts through an existing working arrangement with Frontex concluded in 2008, which allows for information exchange, training and coordination of certain joint operational measures. On March 14, 2022, the Council authorized the opening of negotiations on a status agreement, which will allow for additional operational support to quickly respond to the current challenges.

In June 2022, the Council adopted a regulation temporarily liberalizing trade in the seven Moldovan agricultural products that are not already fully liberalized: tomatoes, garlic, table grapes, apples, cherries, plums and grape juice. This means that Moldova can at least double its exports of these products to the European Union without any tariffs. The measures were extended until July 24, 2024 [6].

The measures continue to cover all seven agricultural products for which exports from Moldova into the EU are not yet fully liberalized under the Deep and Comprehensive Free Trade Area (DCFTA), as they are subject to duty-free quotas. The difference in coverage, compared to last year, consists in fully liberalizing the import to the EU as the current legislation suspends all tariff rate quotas (TRQ) that are still in place. The regulation also includes more stringent reporting obligations for the Commission and foresees that the Committee on Safeguards (instead of the Customs Code Committee) is to be involved in implementing the safeguard mechanism. A more expedited safeguard mechanism is proposed, and it should be more effective if the imports cause adverse effects on the EU market. As last year, the EU is expected to see a loss of customs revenue about €0.3 million annually so the impacts on EU own resources will be very limited.

## **Conclusions**

The process of legal approximation with the EU *acquis* is the most demanding part of the implemen-

tation of the Association Agreement between Moldova and the EU. The EU legislation require a significant legal effort on the part of Moldova, and the financial resources for its proper implementation. Thus, can be said that Moldova's approximation effort is a process of transposing the EU legislation into the national legal system, by incorporating EU rules into the national legislation and procedures so that they match those of the EU. Transposition is followed by the implementation of national legislation (previously approximated with the EU *acquis*) by competent authorities and legal and natural persons in Moldova, and enforcement by the national courts and law enforcement agencies.

Parallel to the enlargement process, the EU and Moldova also cooperate to strengthen political and economic relations, including through the Eastern Partnership. Since 2016, an association agreement between the EU and Moldova is in force and the partners have been continuously working on its implementation, aimed at further deepening Moldova's political association and economic integration with the EU.

Is well known that the Council of the European Union adopts conclusions on enlargement and the stabilization and association process, which take notice of progress made in each of the Western Balkans partners and Türkiye on their European path. In this regard, on December 2022, the Council referred to Moldova for the first time in its conclusions. As a result, the Council acknowledged the considerable efforts Moldova has made in pursuing the objectives underpinning its candidate status and encouraged the country to continue with its reform agenda and fulfill the conditions specified in the Commission's opinion on its EU membership application. The same was emphasized the need to further deepen sectoral integration and further integrate Moldova in the EU internal market, based on the enhanced implementation of the Moldova-EU deep and comprehensive free trade area.

From the first day of war in Ukraine, the European Union built a common front along with its partners to support the Republic of Moldova. The citizens of Moldova, a neighbor country with an active war zone, are still facing the repercussions of a war only tens of km away, hundreds of thousands of Ukrainian refugees at its borders and a series of unprecedented challenges. Consequently, Moldova also needs to expedite the implementation of domestic systemic reforms in the justice sector, as well as the EU approximation process aiming to start EU accession negotiations at the end of 2023.

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