HARMONIZATION OF THE NATIONAL LEGISLATION WITH THE EUROPEAN GREEN DEAL

Natalia ZAMFIR
Moldova State University

ABSTRACT. *The aim of the article is to sets priorities for further, very ambitious for Moldova legal approximation and implementation of EU acquis and actions in Moldova, taking in consideration of "a renewed discussions" the ongoing debate on the European Green Deal and how far the associated states could join possible join to the European Green Dealit. The article shall serve as a basis for further in-depth deliberations for implementation of EGD acquis in relevant fields.*

***Key words**:* climate change, emissions; national contribution; green deal; environment

INTRODUCTION

The Paris Agreement sets an ambitious collective target on climate change, allowing for individual countries to develop individual climate objectives through nationally determined contributions (NDCs) in line with their "state individual responsibilities to common response".

In conformity with the Third Biennial Update Report of the Republic of Moldova the energy sector, distinguished by the most important contribution to GHG emissions in the Republic of Moldova (67.5%, 2019), will significantly contribute to meeting the country's commitments to reduce GHG emissions. In 2019, sector "Industrial Processes and Product Use" contributed about 7.2% of total GHG emissions, of which 76.7% accounted for CO2 and 23.3% were F-gases (The Third Biennial Update Report of the Republic of Moldova to the United Nations Framework Convention on Climate Change).

Moldova is yet to fully implement the commitments ensuring from the EU - RM Associaction Agreement, which although being a political priority, it still polarizes Moldovan society.

Also, there is still insufficient political will to prioritize the mechanisms of the climate, environmental and energy at national level. For the past 10 years, environment and climate change legislation has not been on the government agenda's priority list.

In achieving more ambitious the NDC targets, it will be possible through advanced regional cooperation. In this regard, the Republic of Moldova should transpose and implement all commitments in conformity with the European Union Green Deal related Acquis, of the one part and with the Treaty establishing the Energy Community (2010) (Treaty Establishing the Energy Community).

MATERIAL AND METHOD

The present assessment contributes to the identification of legal gaps in national climate, environmental and energy legislation in Moldova, which has been undergoing substantial revision since the Association Agreement was signed.

The national environmental legislation has been continuously developing based on the most important international climate and environmental legal frameworks ratified by the Republic of Moldova.

The aim of the assessment of the European Green Deal (EGD) related acquis relevant for the Republic of Moldova is to sets priorities for further, very ambitious for Moldova legal approximation and implementation of EU acquis and actions in Moldova, taking in consideration of new candidate status of the RM.

RESULTS AND DISCUSSIONS

The commitment to implement the European standards on climate change mitigation in the Republic of Moldova-EU AA (Annex XII) is set in following acts: i) Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading; ii) Regulation (EC) no. 842/2006 on certain fluorinated greenhouse gases, replaced by Regulation (EU) no. 517/2014; iii)Regulation (EC) no. 1005/2009 on ozone-depleting substances; iv) Directive no. 98/70/EC on the quality of petrol and diesel.

Only one of the four EU acquis provided for in the Moldova-EU AA is transposed into the national legislation. Directive 98/70/EC on quality of petrol and diesel oil is fully integrated in the GD no. 1116/2002, amended in 2019. Rest of EU acquis regulations, for which the transposition deadline has already expired (in 2018-2019), are partially transposed into the national legislation with the exception of Directive no. 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading (until 2022).

Regarding climate change, Energy Community recommended for implementation following two EU provisions: i) Recommendation 2016/02/MC-EnC on preparing for the implementation of Regulation (EU) 525/2013 on the mechanism for monitoring and reporting greenhouse gas emissions; ii) Recommendation 2018/01/MC-EnC on preparing for the development of integrated national energy and climate plans. Only the Recommendation 2016/02/MC-EnC has been transposed into national legislation.

The European Green Deal (hereinafter – EGD) is the new growth strategy for an EU economy that aims to be sustainable, cleaner, safer and healthier by turning climate and environmental challenges into opportunities across all areas of policy in a way that is fair and inclusive. EGD sets out a plan of action for ensuring:

- an economy with net-zero greenhouse gas emissions by 2050;
- boost the efficient use of resources by moving to a clean, circular economy;
- restore biodiversity and cut pollution.

The EGD contains proposals for action which cover a number of policy areas:

(i) The **Climate Action Initiatives** under the EGD include:

-the ***Roadmap - Key actions*** (COM (2019) 640) in above mentioned policy areas;

- the ***European Climate Law*** (OJ L 243, 9.7.2021), which includes a legal objective for the Union to reach the goals set out in the EGD. *The Regulation (EU) 2021/1119 (‘**European Climate Law’)*** will help to meet the European Green Deal objectives while taking fairness, solidarity and cost-effectiveness*;*

- as part of the EGD, the Commission through ***European Climate Pact*** encourages people, communities and organizations to connect and sharing knowledge, learning about climate change and development solutions to fight climate change;

- ***2030 Climate Target Plan*** (COM(2020) 788) Commission has proposed to increase the EU's ambition to cut greenhouse gas emissions by at least 55% by 2030 sets Europe on a

responsible path to becoming net-zero greenhouse gas emissions by 2050. The package contains legislative proposals under the ***"Fit for 55"*** to revise the entire EU 2030 climate and energy framework, including the legislation on effort sharing, land use and forestry, renewable energy, energy efficiency, emission standards for new cars and vans, and the Energy Taxation Directive;

- ***EU Strategy on Adaptation to Climate Change*** (COM(2021) 82) aims to realize the 2050 vision of a climate-resilient Union by making adaptation smarter, more systemic, swifter, and by stepping up international action. This would mean adaptation awareness and planning spread to every single local authority, company and household; adaptation implementation well underway for those most affected; and global leadership in areas such as climate services, climate proofing, or nature-based solutions.

(ii) **Taxation of GHG emissions and Emissions Trading System.** The taxation of energy products and electricity plays an important role in the area of climate and energy policy. The proposal for recasting framework for the taxation of energy products and electricity is part of the EGD and of the "***Fit for 55"*** legislative package focuses on environmental and climate issues to achieve the EU's domestic greenhouse gas emissions reductions objectives and air pollution reduction. Reducing man-made GHG emissions can help to limit global warming. The **EU Emissions Trading System** is a basic pillar of the EU's policy to combat climate change and its key tool for reducing greenhouse gas emissions cost-effectively. It is the world's first major carbon market and remains the biggest one. Companies that are regulated by the EU ETS include stationary installations (such as power plants, industrial plants and other large energy users) and airlines. The sectors of the economy not covered by the EU ETS must reduce emissions by 30% by 2030 compared to 2005 as their contribution to the overall target through the **Effort Sharing Regulation** (Regulation (EU) 2018/842) translates this commitment into binding annual greenhouse gas emission targets for each Member State for the period 2021–2030, based on the principles of fairness, cost-effectiveness and environmental integrity.

Finally, the ESR, its relevance as a regulatory instrument and its scope will be subject to review for the development of the climate and energy framework post-2030, taking into account the interactions between the various instruments, in particular the extension of emission trading to new sectors and the regulation of an agriculture land use and forestry pillar. The proposal (COM/2021/555) determines to reduce GHG emissions by ensuring parallel coverage of ESR and ETS in case of an extension of the ETS, to buildings and road transport.

(iii) **Carbon Border Adjustment** determines reduce GHG emissions by ensuring the fairness through dampening any negative competitiveness effects. The Carbon Border Adjustment Mechanism (CBAM) is intended to complement the **Emissions Trading System** and level the playing field between EU and non-EU businesses, ensuring that production of carbon-intensive goods does not shift from within the EU to third countries in order to take advantage of less stringent climate policies. It is due to take effect in a transitional form from 1 January 2023 and be fully operational from 1 January 2026.

- Proposal for a Regulation of the EU Parliament and of the Council establishing a carbon border adjustment mechanism (CBAM) 2021/0214 from 14.7.2021 (COM/2021/564) The CBAM seeks to replace the existing mechanisms (free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from GHG emission costs

(Directive 2003/87/EC)) by addressing the risk of carbon leakage in a different way, namely by ensuring equivalent carbon pricing for imports and domestic products.

(iv) **Transition to greener mobility.**

Sustainable and Smart Mobility Strategy (COM(2020) 789) sets out actions to transform the transport sector into a truly multimodal system of sustainable and smart mobility services. As the first pillar, uptake of low- and zero-emission vehicles as well as renewable and low-carbon fuels for road, waterborne, air and rail transport. Support research and innovation on competitive, sustainable and circular products and services, ensure that the right vehicles and fuels are supplied by the industry, put in place the necessary infrastructure, and incentivize demand by end-users.

- The CO_2 emissions performance requirements for new passenger cars and for new light commercial vehicles are set out by the *Regulation (EU) 2019/631 setting CO2 emission performance standards for new passenger cars and for new light commercial vehicles*. In the context of "Fit for 55" legislative package, the Commission introducing amendments to Regulation (EU) 2019/631 (COM/2021/556) as regards the CO2 emission performance standards for new passenger cars and new light commercial vehicles.

The ***Zero Pollution Action Plan*** (COM(2021) 400) further supports the shift toward zero-emission vehicles. Emission standards for passenger cars and light commercial vehicles were seen as key drivers for reducing CO2 emissions in the sector throughout. This draft law aims to accelerate the transition by requiring average emissions of new cars to come down by 55% from 2030 and 100% from 2035 compared to 2021 levels. All new cars registered as of 2035 should be zero-emission.

In order to achieve the broadest possible use of alternative fuels for transport, while ensuring technological neutrality, and to promote sustainable electric mobility throughout the Union, must take suitable measures for the implementation of the strategy set out in the Communication entitled '***Clean Power for Transport: A European alternative fuels strategy***' (COM/2013/017). For this purpose the Commission propose the new Regulation for the deployment of alternative fuels infrastructure, which will repeal *Directive 2014/94/EU on the deployment of alternative fuels infrastructure*. This initiative seeks to ensure the availability and usability of a dense, widespread network of alternative fuels infrastructure throughout the EU.

(v) **Industrial policy package.** The ***update the 2020 New Industrial Strategy: Building a stronger Single Market for Europe's recovery*** (COM/2021/350) is a targeted update, which focuses on a tailored assessment of the needs of each industrial ecosystem and how all market players can best work together. And it identifies a set of strategic dependencies and capacities and proposes measures to address and reduce them.

(vi)**Biodiversity and ecosystems.** ***EU Biodiversity Strategy for 2030*** (COM/2020/380) is a main pillar of the European Green Deal and comprehensive, systemic, ambitious long-term plan for protecting nature and reversing the degradation of ecosystems. It addresses the five main drivers of biodiversity loss-changes of inland and sea use, overexploitation, climate change, pollution, and invasive alien species and it sets out an enhanced governance framework to fill remaining gaps, ensures the full implementation of EU legislation, and pulls together all existing efforts. The main regulatory instruments are the Birds and Habitats Directives, will focus on completing the Natura 2000 network, the effective management of all sites, species-protection provisions with strict protection for areas of very high biodiversity and climate value.

(vii)***A Clean Air Programme for Europe*** (COM(2013) 918) proposes legislation to reduce harmful emissions in the longer term which contribute to poor air quality and promote measures which mitigate atmospheric warming and climate change. The objectives for the emission reductions are fully consistent with the ***EGD*** and ***EU Action Plan: Towards Zero Pollution for Air, Water and Soil***.

(viii)**Circular economy.** ***The 8th Environment Action Programme*** (COM/2020/652) aims to achieve that by 2050 the prosperity within the planet's ecological limits that healthy environment stem from an innovative, circular economy where nothing is wasted and where natural resources are managed sustainably, and biodiversity is conserved, valued and restored in ways that enhance resilience to climate change. ***The new Circular Economy Action Plan*** presents a set of initiatives to establish climate-neutral, resource-efficient and competitive economy. ***Bioeconomy Strategy*** based on sustainability and circularity will drive the renewal industries, the modernization of primary production systems, the protection of the environment and will enhance biodiversity and will provide 'no emissions' economy, in line with the EGD.

(ix)**Renewable energy targets.** The common system to promote energy from renewable sources across the different sectors has established by the *Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources.* The key points of the Directive are part of the package of measures needed to reduce greenhouse gas emissions by at least 40% below 1990 levels by 2030 comply with the ***EGD*** and the ***EU climate and energy policies in the period from 2020 to 2030***. It establishes a common set of rules for the use of renewables in electricity, heating and cooling, and transport in the EU.

Clean Energy For All Europeans (COM/2016/0860) is the legislative proposal cover energy efficiency, renewable energy, the design of the electricity market, security of supply and governance rules for the Energy Union. This initiative sets out a range of specific measures to improve the regulatory, economic and investment environment for innovation in clean-energy technologies and systems.

Energy efficient buildings. The strategy to start a ***Renovation Wave for Europe*** proposed by the Commission Communication enhance the energy and resource-efficient renovation, supporting fresh investment over a sustained period starting from public and less efficient buildings, spurring digitalization and creating employment and growth opportunities across the renovation supply.

Energy system integration. ***Powering a climate-neutral economy: An EU Strategy for Energy System Integration*** (COM(2020) 299) proposes policy and legislative measures at EU level to gradually shape a new integrated energy system, while respecting the differing starting points of Member States in achieving the target to climate neutral economy at the least cost across sectors, while strengthening energy security, protecting health and the environment.

CONCLUSIONS

Climate change adaptation and mitigation in the Republic of Moldova is considered essential for the protection of well-being and the achievement of continuous progress in sustainable development, priorities that were reflected in the draft of the National Development Strategy "Moldova 2030".

The objectives to ensure functioning climate change adaptation and mitigation mechanism in context are:

• developing strategies at the national level and implement technologies that could reduce threats to global climate change over time;

• developing a legislative framework, which provides the institutional, legal and procedural framework, for establishing the efficient mechanisms implementing adaptation and mitigation policies on climate change;

• identifying lessons learned from implementation experience at the national level and initiate the enhancement and amending the secondary legislative application;

• developing IT tools for ensuring data accessibility and strengthening the data management;

• adopting an efficient enforcement mechanism (including sanctions).

The main barriers and constraints related to aligning the national legislation with the EU and EnC Treaty commitments are the lack of institutional, technical and financial capacities.

Despite the fact, that the approximation of European Green Deal (EGD) related acquis means that the Republic of Moldova as an candidate state must align their national laws, rules, and procedures in order to give effect to the entire body of EU legislative framework.

There are some technical impediments on transposition of the climate change Acquis EU due to the law-making procedure:

• all legislative drafts should be based on primary legislative justification, but we underline that there are no provisions on climate change mitigation and adaptation in primary legislation, which creates some impediments in promoting new administrative procedures, like a GHG permits etc.;

• the restrictions, authorization and calculation quotas should be based international or EU commitments justification, otherwise also it is difficult to adopt it, for ex. the law on F gases, the AA not included these provisions and the law on ratifying the Kigali amendment to the Montreal Protocol has not approved;

• the administrative procedure incorporated in the secondary legislation, without clear imperative norms in primary legislation, creates an inefficient and low application, for, ex. low data accessibility in implementation of the GD no.1277/2018 on establishment and operation of the National Monitoring and Reporting System for Greenhouse Gas Emissions and Other Information Relevant to Climate Change;

• the implementation mechanism of transposed in legislation the EU standards are no efficient due to lack of new secondary legislation elaborated in time;

• the implementation mechanism of transposed in national legislation the EU standards are no efficient due to lack of new sanctions incorporated in time in the Contravention Code No. 218/2008 and Criminal Code 985-XV/2002.

We underline the necessity of elaboration the new Climate Change Law, which will consolidate of adopted legal framework on: i) mitigating and adaptation policy actions; ii) inter-institutional coordination; iii) National Monitoring Reporting System and National Inventory System and will create the legal framework in enhancing the management of greenhouse gas emissions (inclusive the ETS MRV system).

REFERENCES:

1. The Third Biennial Update Report of the Republic of Moldova to the United Nations Framework Convention on Climate Change, available at: file:///C:/Users/WorkPC/Downloads/535782_en_bur3_en_211211_.pdf
2. Treaty Establishing the Energy Community. The Law no. 117/2009, available at: https://www.legis.md/cautare/getResults?doc_id=3445&lang=ro
3. COM (2019) 640, available at: https://ec.europa.eu/info/sites/default/files/european-green-deal-communication-annex-roadmap_en.pdf
4. *OJ L 243, 9.7.2021*, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32021R1119
5. COM(2020) 788, available at: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52020DC0788
6. COM(2021) 82, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021DC0082
7. COM/2021/555, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0555
8. COM/2021/564, available at:https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52021PC0564
9. COM(2020) 789, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0789
10. COM/2021/556, available at: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52021PC0556
11. COM(2021) 400, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021DC0400
12. COM/2013/017, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52013PC0017
13. COM/2021/350, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021DC0350
14. COM/2020/380, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1590574123338&uri=CELEX:52020DC0380
15. COM(2013) 918, available at:https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0918:FIN:EN:PDF
16. COM/2020/652,available at: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52020PC0652
17. COM/2016/0860,available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016DC0860
18. COM(2020) 299, available at: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM:2020:299:FIN