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Mechanisms and International Legal Instruments to Ensure the Economic Security of the Republic of Moldova (Historical Aspects)

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Abstract: Economic stability and security is one of the main elements of the process of ensuring national security. The risks, threats and dangers to various aspects of the economic security of the state are diverse. At the national level, states create and use various mechanisms and legal instruments to prevent and combat the negative effects on economic security. International organizations, bilateral and multilateral economic cooperation agreements are the most important cooperation mechanisms and instruments in order to ensure the economic security of the state. This article analyzes the range of international legal instruments and mechanisms that can contribute directly and decisively to the process of ensuring the economic security of the Republic of Moldova, through the lens of the provisions of the National Security Strategy.

Keywords: national security; economic security; legal regulation; international cooperation

Introduction

Proclaiming independence on August 27, 1991, the Republic of Moldova became one of the first sovereign states on the territory of the former Soviet Union, thus firmly expressing its intention to consolidate in international society. The Republic of Moldova has passed over 30 years of independence and sovereignty, being at the same time a subject of international law. Starting with the first year of independence, various challenges arose in the Republic of Moldova in the process of creating a democratic society and ensuring security.

Under this circumstances, it was necessary for the Republic of Moldova to adopt a series of legal norms, appropriate to the new realities and in accordance with the national interest, as well as necessary to ensure the transition from the planned to the market economy. The adopted legislation essentially changed the way the state developed, and the state's economy turned into a market economy. This change started from the moment of the adoption of the Law on property no. 459/1991, which alongside state property recognized and equated with it, private property, canceling all existing limits until then.

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On December 26, 1991, Parliament adopted Law no. 837/1991 regarding the organization of the executive power and the legal assurance of the radical economic reform (with the changes introduced according to Law no. 899-XII of January 28, 1992).

In order to establish the primary goals of external economic activity in the Republic of Moldova, the principles and bases of the regulation of this activity by the state, was adopted Law no. 849/1992 regarding the bases of foreign economic activity in the Republic of Moldova.

The Constitution of the Republic of Moldova establishes that the economy of the Republic of Moldova is a market economy, socially oriented, based on private property and public property, engaged in free competition, and the state must ensure the protection of national interests in economic, financial and currency activity.¹

At least one year after the approval of the Constitution of the Republic of Moldova, the Parliament approves Decision no. 445/1995 “Regarding the approval of the National Security Concept of the Republic of Moldova and the formation of the Coordinating Council for the elaboration of draft laws and other normative acts that will regulate the construction, training and use of the Forces”. The concept served as a basis for the elaboration of the state policy in the field of national security, the corresponding normative acts, for the optimization of the administration structures and organization of the activity of the national security assurance bodies. Later, in 2008, the Parliament of the Republic of Moldova, by Law no. 112/2008, approves a new National Security Concept of the Republic of Moldova, which according to the statement in the preamble claims to be a document that reflects the general assessment of the national and international security environment in which the Republic of Moldova operates and which defines the purpose of national security, the basic guidelines for national security, the general values and principles to be protected by the state and the Moldovan society². The concept includes in the list of threats to national security and threats of economic origin. The major risk factors of economic origin to the national security of the Republic of Moldova are generated by the excessive and unilateral dependence of the domestic electro-energetic and natural gas distribution systems on foreign monopolistic ones, this dependence also being an internal vulnerability of the state³.

Starting from national priorities, from the presence of factors whose action could endanger the security of the Republic of Moldova, as well as from the need to establish the basis for ensuring state security, the competence of supreme public authorities in this field, the system of state security bodies, the rights and obligations of citizens, of economic units regarding ensuring state security, the Parliament of the Republic of Moldova adopted the State Security Law, no. 618/1995. In accordance with this law, the security of the state is ensured by the establishment and application by the state of a system of measures of an economic, political, legal, military, organizational and other nature, aimed at the discovery, prevention and timely countering of threats to state security address⁴.

Together with the State Security Law, no. 618/1995, the Law on State Security Bodies is also adopted, no. 619/1995, which refers to the same field and contains many stipulations that are repeated. In this context, it is considered necessary to review these two laws and update the provisions to the new realities and visions regarding state security (Cauia & Albu, 2023, p. 51).

¹ The Constitution of the Republic of Moldova, adopted on 29.07.1994. In force on 08/27/1994. In: Official Gazette of the Republic of Moldova, 1994, no. 1, p.3-45, art. 126 (2) letter (c).

² The concept of national security of the Republic of Moldova. Law no. 112/2008.

³ Ibidem, pct. 1.3.4.

⁴ National security law, no. 618/1995, art. 3.

The national security strategy of the Republic of Moldova is approved by the Republic of Moldova for the first time on July 15, 2011. Later, on December 15, 2023, the Parliament of the Republic of Moldova approves the new National Security Strategy of the Republic of Moldova, by decision no. 391/2023. The strategy defines the national security objectives; establishes the principles that guide the effort to promote and defend national security objectives; describes the elements of the global and regional security environment relevant to national security; identify the spectrum of threats, risks and vulnerabilities that endanger national security; establishes the methods and outlines the directions of action in order to prevent, minimize or neutralize challenges to national security¹.

The major elements of the global system for ensuring the economic security of the Republic of Moldova must be mechanisms that allow making the long-term and short-term national interests real².

International legal mechanisms and instruments for ensuring economic security are in continuous development reflecting contemporary global realities, the basis of which are *international economic organizations and agreements*.

International organizations are an important subject of international economic relations, and respectively of ensuring the economic security of the Republic of Moldova. The role of international organizations in the sphere of international economic relations is determined by the fact that:

international organizations serve as forums to discuss the most important economic issues;

there are mechanisms in permanent action for the operative solution of complicated economic problems;

they present in themselves a qualified apparatus for the elaboration of draft economic treaties (Burian, et al., 2021, p. 476).

Due to the fact that our state tried to actively participate in international life through international organizations, it was much easier to determine and establish the foundations of the democracy of the Republic of Moldova³.

Geopolitical and economic situation oriented to the restoration of lost ties within the former USSR. Thus, in December 1991, the Republic of Moldova became a member of the CIS. The same situation dictated to the new state the tendency to establish relations with international organizations whose mission was to promote democratic freedoms, human rights and ensure security. Thus, the first European international organization of which the Republic of Moldova became a member as an independent state was the Organization for Security and Co-operation in Europe — January 30, 1992 (Galben, 2008, p. 212).

The Republic of Moldova became a member of the UN on March 2, 1992, with the adoption by the UN General Assembly of Resolution A/RES/46/223. One of the purposes of the UN is to achieve international cooperation in solving international problems of an economic nature. Likewise, specialized UN institutions are active in various spheres of economic collaboration, such as: Food and Agriculture Organization of the UN (FAO); World Intellectual Property Organization (WIPO); specialized institutions in the fields of international currency and financial relations: International Monetary Fund (IMF); International Bank for Reconstruction and Development (IBRD); International Finance Corporation (IFC); International Development Association (IDA).

¹ National security strategy of the Republic of Moldova. The vision of the President of the Republic of Moldova. Parliament decision no. 391/2023, point 4.

² Proceedings of the International Scientific-Practical Conference. The essence and structure of the mechanism for ensuring economic security, p. 182.

³ History files, year 9, no. 8, (120), 2006, p. 47.

In 1994, the Republic of Moldova became part of the NATO Program “Partnership for Peace”. Also, this year, the Partnership and Cooperation Agreement between the EU and the Republic of Moldova was signed (November 28, 1994). Until the Partnership and Cooperation Agreement between the EU and Moldova entered into force (July 1, 1998), the Interim Agreement on trade and related measures between the European Communities and the Republic of Moldova (signed on October 2, 1995 and entered into force in 1996) operated.

The relations of the Republic of Moldova with the Organization for Economic Co-operation and Development (OECD) are carried out through the Center for Cooperation with Non-Members (CCNM). The spheres of activity in which Moldova is involved within the CCNM are diverse: competition policy; trade and investments, privatization, legislative reform; accounting reform; insurance regulation and supervision; environmental protection policy (Cojocar, 2001, p. 50).

The Republic of Moldova became a member of the Council of Europe on July 13, 1995. In the years that have passed since its admission to the Council of Europe, the Republic of Moldova has ratified several international legal instruments adopted under the auspices of this institution.

In 2001, the Republic of Moldova became a full member of the World Trade Organization. Obtaining WTO membership for the Republic of Moldova was an important step, because this organization is the only international organization dealing with global trade rules and which, moreover, has already achieved considerable results in the promoted fields.

International economic agreements/treaties are the legal instruments that give external form to international legal norms, through the consent of states or other subjects of international law. International economic treaties, bilateral and multilateral, are just as varied as the multiple international economic relations. They include trade treaties, investment treaties, international settlements, credits, etc (Burian, et al., 2021, p. 471).

The Republic of Moldova, as a subject of international law, concludes treaties, agreements, conventions whose purpose is to strengthen national security, including economic. Some of these international regulations are: Treaty no. 44 of 24.09.1993 on the creation of the Economic Union (CIS countries)¹; Agreement no. 375 of 14.02.1994 between the Republic of Moldova and the Republic of Turkey regarding commercial-economic cooperation²; Agreement no. 144 of 09.12.1994 between the Government of the Republic of Moldova and the Government of Ukraine regarding economic and commercial collaboration³; Agreement no. 2 of 16.01.2015 regarding the economic and technical cooperation between the Government of the Republic of Moldova and the Government of the People's Republic of China⁴; Agreement no. 183 of 02.10.2000 between the Government of the Republic of Moldova and the Government of the Federal Republic of Germany regarding the “economic law reform” project⁵; Agreement no. 124 of 07.09.2006 between the Government of the Republic of Moldova and the Government of the Republic of Poland regarding economic cooperation⁶; The Association Agreement between the Republic of Moldova and the European Union, ratified in 2014, which provides for cooperation in areas such as trade, security policy and culture, and contributes to building a deeper integration both from a political and economic point of view between the Republic of Moldova and EU.

¹ https://www.legis.md/cautare/getResults?doc_id=118154&lang=ro.

² https://www.legis.md/cautare/getResults?doc_id=116112&lang=ro.

³ https://www.legis.md/cautare/getResults?doc_id=116249&lang=ro.

⁴ https://www.legis.md/cautare/getResults?doc_id=78812&lang=ro.

⁵ https://www.legis.md/cautare/getResults?doc_id=116424&lang=ro.

⁶ https://www.legis.md/cautare/getResults?doc_id=116964&lang=ro.

The Association Agreement also includes a Deep and Comprehensive Free Trade Agreement, which aimed to reduce barriers to trade between the EU and the Republic of Moldova, thus contributing to the growth of the economy¹.

During 2022, the Republic of Moldova signed 52 external grant and loan agreements. Likewise, during 2022, 3 strategic development cooperation documents of external partners for the Republic of Moldova were coordinated and signed: EBRD Strategy for the Republic of Moldova 2023-2028; The Country Partnership Framework (CPF) for Moldova for the period 2023-2027; The Republic of Moldova - United Nations Sustainable Development Cooperation Framework 2023-2027, signed November 24, 2022².

On June 23, 2022, the European Council granted the Republic of Moldova the status of candidate for accession to the European Union. In December 2023, EU leaders decided to open accession negotiations. In parallel with the enlargement process, the EU and Moldova are also cooperating to strengthen their political and economic relations, including through the Eastern Partnership³.

Finally, we highlight that the Republic of Moldova is determined to continue reforms in order to become part of the great European family as soon as possible, integrate the country's economy into the international system of economic relations, attract investors and promote exports.

The analysis of the normative acts of the Republic of Moldova that were the basis of the building of statehood in general and the economic security of the Republic of Moldova in particular, denotes a systemic compatibility both at the level of principles and common objectives, as well as at the level of mechanisms and democratic tools for achieving those set by Romania.

Even if Romania was not part of the USSR, the Romanian economy was affected by the planned economy and has consistent experience on the procedures and legal mechanisms of transition towards a market economy capable of facing the challenges generated by the risks and threats specific to the current period on the economic security of the Republic of Moldova, as an inherent element of the European integration process

The European Union is the main destination of exports from the Republic of Moldova, and Romania is the country with the largest share in the list of export destinations. Through the prism of the main foreign policy objective, which consists in the integration of the Republic of Moldova into the European Union, the assimilation of good practices, experiences at the legislative, executive and systemic level, of Romania's expertise in the process of ensuring the economic security of the Republic of Moldova is one of the highest priority.

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²<https://mf.gov.md/sites/default/files/Raport%20privind%20asisten%C5%A3a%20extern%C4%83%20pentru%20Republica%20Moldova%202022.pdf>. Report on the external assistance granted to the Republic of Moldova in 2022.

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