

DECARBONIZATION BY APPROVING THE CLIMATE FRAMEWORK LAW

DECARBONIZAREA PRIN APROBAREA LEGII-CADRU PRIVIND CLIMA

Natalia ZAMFIR, ORCID: 0000-0001-6023-7091
Universitatea de Stat din Moldova

CZU: 341.232:349.6(478)

e-mail: nataly.zamfir@yahoo.com

A strong transition to net-zero greenhouse gas emissions by the middle of the century is essential for containing the risks of dangerous climate change effects. Limiting global warming to 1.5°-2°C, the central goal of the 2015 Paris Agreement, will require climate policy and legislative packages that drive transformative changes within their harmonization with the EU standards.

The Republic of Moldova has committed in 2020 in its updated Nationally Determined Contribution (NDC) the intention to achieve more ambitious reduction targets than those included in the Intended Nationally Determined Contribution (INDC) from 2015. The updated unconditional target provides for a reduction of GHG emissions by up to 70% by 2030 compared to the level of the reference year 1990, instead of 64-67% undertaken in the INDC. Regarding the conditional target, instead of the 78% undertaken in the INDC, the reduction commitment expressed above could be increased to 88% as compared to the 1990 level, provided that external support is obtained, including in form of low-cost financial resources, technology transfer, and technical cooperation, etc. [1]

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 Association Agreement between the Republic of Moldova, of the one part, and the European Union and the European Atomic Energy Community, and their Member States (2014), and with the Treaty establishing the Energy Community (2010) [2].

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).

Multilateral climate, energy and environmental conventions and protocols as well as the EU policy and legislative framework contain obligations for countries to provide increasingly ambitious targets into their national climate plans, monitor, assess and report on the climate change impacts and risks, the related social and economic vulnerability, helping them to revise and improve their own policies and legislation to reach these targets.

The Republic of Moldova became an official candidate for joining the EU and the whole body of EU policies and legislation will be applicable, either directly or through the transposition.

The climate, environment and energy legislation in Moldova has been under transition period from a passive environmental approach to a new modern strategy by turning climate and environmental challenges into opportunities while taking fairness, solidarity and cost-effectiveness into consideration. This certainly provides a good opportunity for greater and more ambitious alignment with the EU.

However, this challenge requires significant changes in the structure, content as well as terminology of national policy documents and legal framework to successfully transpose implementation practices and approaches based on the international and EU standards.

Currently, a favorable legal framework has been created for the alignment with the EU standards measures in climate, environmental protection and energy areas, but some constraints can be observed:

- the multitude of strategies, programs, activity plans (many of them outdated), as well as the lack of a special legal framework causes fragmentation of responsibilities in the field, thus leading to the lack of an integrated management; the competent authorities do not have effective procedures and mechanisms to prevent and sanction legislative infringements, nor they have mechanisms for removing the negative consequences and introduction of penalties for non-compliance in this respect;

- Reaching the appropriate level of institutional, administrative and technical capacity in the field of climate, environmental protection and energy would need to reflect the volume of investments needed to implement the measures and technologies that contribute to adaptation process of EGD Agenda to domestic priorities;

- capacity needs for harmonization of EGD legislative framework and integrated relevant implementation measures is required to be available in two dimensions: conducting studies on estimating projections of anthropogenic emissions by sources and negotiating the issues at the international level, mainly to attract funds to carry out the proposed measures in development policy documents. The Republic of Moldova plans a long-term sustainable development, however, until the development paradigm changes, the Republic of Moldova will continue to rely on development partners support (EU, WB, IMF) and others multinational organizations and bilateral donors.

It is more than evident that the global mitigation policies will largely be based on market instruments and carbon pricing. This approach has been championed by the European Union and its Emissions Trading System (ETS), successfully setting emission limits and CO₂ emissions price. For the Republic of Moldova this will influence institutional and legislative change and a change of the paradigm for all of the GHG emitting installations and its operators as soon as the preparations for introduction of a carbon market start.

The legal design of EGD related Acquis is a particular challenge in command and control based legal systems, which have little experience with cooperative approaches. In conclusion, following the analysis carried out on the transposition of climate legislation, we underline that there are no legal provisions on climate change mitigation and adaptation in primary legislation, which creates some impediments in promoting new an administrative procedures for introduction of a carbon market start.

The screening process of the national legislation confirms that the Republic of Moldova initiated establishment of the MRV/MMR system at the national level. Most of the legislative acts contain requirements relevant for collection of the sectoral activity data, information on policies and measures and functioning of the system. Actually, primary and secondary legislation represent good starting point that shall be kept in process of development of the climate legislation.

The climate legislation needs to establish a basis for implementation of:

- o Decisions adopted under Paris Agreement;
- o EU Climate Law [3];
- o Governance Regulation 2018/1999[4]; Implementing Regulation (EU) 2020/1208[5] and Delegated Regulation (EU) 2020/1044[6];
- o MRV provisions of the EU ETS Directive[7], ESR[8] and LULUCF Regulation[9].

In order to establish the primary legal framework for mitigation and adaptation mechanisms in achieving net-zero GHG emissions targets set out in the policy documents are imperative to elaborate and adopt the Climate Change Law, which creates a legal framework for implementation of administrative procedures and strengthening clear institution obligations in the GHG emissions management and decarbonisation and research, innovation and competitiveness, promoting renewable energy sources.

References:

1. The Third Biennial Update Report of the Republic of Moldova to the United Nations Framework Convention on Climate Change, June 2021, p. 23. Disponibil: file:///C:/Users/WorkPC/Downloads/535782_en_bur3_en_220203_%20(1).pdf [Accesat: 22.04.2021] .
2. Law no.112/2014 Official Gazette no 112 from 2014.

3. Regulation (EU) 2021/1119 establishing the framework for achieving climate neutrality and amending Regulations (EC) No401/2009 and (EU) 2018/1999 ('European Climate Law'). OJ L 243, 9.7.2021.
4. Governance Regulation 2018/1999 on the Governance of the Energy Union and Climate Action. OJ L 328, 21.12.2018.
5. Commission Implementing Regulation (EU) 2020/1208 of 7 August 2020 on structure, format, submission processes and review of information reported by Member States pursuant to Regulation (EU) 2018/1999. OJ L 278, 26.8.2020.
6. Commission Delegated Regulation (EU) 2020/1044 of 8 May 2020 supplementing Regulation (EU) 2018/1999 of the European Parliament and of the Council with regard to values for global warming potentials and the inventory guidelines and with regard to the Union inventory system. OJ L 230, 17.7.2020.
7. Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC. OJ L 275, 25.10.2003.
8. Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013. OJ L 156, 19.6.2018.
9. Regulamentul (UE) 2018/841 al Parlamentului European și al Consiliului din 30 mai 2018 cu privire la includerea emisiilor de gaze cu efect de seră și a absorbțiilor rezultate din activități legate de exploatarea terenurilor, schimbarea destinației terenurilor și silvicultură în cadrul de politici privind clima și energia pentru 2030. OJ L 156, 19.6.2018.