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PECULIARITIES OF THE LEGAL ORDER OF THE EUROPEAN UNION IN TERMS OF THE ADOPTION AND APPLICATION OF EUROPEAN LAW

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CONCEPTUAL BENCHMARKS OF RESEARCH

Relevance of the research topic and importance of the issue addressed.

The European Union is a single inter-state economic and political union of 27 European countries. The peculiarities of the European legal order underlie the history of the formation of the European Union, which begins with the signing of several treaties after World War II [34, p.178].

The political and economic integration processes in Europe today are focused on the creation of a pan-European political system and involve the inclusion of all countries of the continent, regardless of their status, in Europe (members, candidates, participants, or potential candidates). This need is dictated by the current context of the international system, including the globalisation of the economy and inter-state relations. At this stage, the European Union has a legal personality and is a supranational entity operating under European law and international treaties.

Accession to the European Union is a controversial process for the Republic of Moldova. If other countries are asking the question of comparing costs and benefits, then for the Republic of Moldova it is a geopolitical and geostrategic question. After declaring its independence, the Republic of Moldova has set itself the strategic goal of creating a state based on the rule of law and global democratic values. The European Union is an example of democracy, political stability, and economic prosperity [15, p.119.].

Description of the research situation and identification of research issues

Aim and objectives of the dissertation. The stated aim of the research is to provide a theoretical foundation for the concept of the European legal order from the point of view of the adoption and application of European law, identifying the place and role of European legal characteristics in the modern legal system of the European Union and the Republic of Moldova.

The aim was to explore the essence of the European legal order and its significance for the Republic of Moldova, to identify differences

in approach and interpretation of the legal order and judicial practice, and to analyse how potential regulatory unification in the context of the expansion of a single European area may affect the system of sources of law in European law.

Achieving the proposed goal requires the following objectives: research of theoretical and methodological aspects of the implementation of European law; highlighting the main directions of the construction of European law from the point of view of adoption and application by the European Union; assessment of the European support granted to the Republic of Moldova for the reform of some legal institutions and their alignment with European standards; analysis of the historiographical research of the cooperation between the Republic of Moldova and European institutions for the harmonisation of legislation; analysis of the support granted by the Council of Europe to justice reforms in the Republic of Moldova; formulation of conclusions and proposals for deepening the cooperation between the Republic of Moldova and the European Union at the present stage for the adoption and application of the peculiarities of the European legal order.

The research aims to analyze the European Union law in its historical aspect, as well as in the framework of EU enlargement. EU legal standards are particularly relevant for the Republic of Moldova; therefore, the purpose of the present scientific approach is to analyze the current state of national institutions' activity, aiming to bring it in line with European standards.

Methodological basis of scientific research. Historical methods are used in the paper, presenting all approaches that reveal the historical conditions for the emergence of the EU.

Using the comparative method, it was possible to highlight the distinctive features of cooperation between EU Member States and the Council of Europe in applying the principles of establishing and building the rule of law.

The structural-functional method provided an opportunity to explore the process of creating a collective vision of the implementation in the participating countries of EU legislation governing the rules

dedicated to the protection of human rights and fundamental freedoms [19, p. 128].

The dialectical method, based on determinism, on cause-effect relations, allowed a systematic analysis of the scientific material, with emphasis on the capacities of the Member States and candidate countries (the case of the Republic of Moldova), as well as the analysis of advanced European practice for the democratisation of society.

The content analysis method allowed us to carry out a scientific study of the documents used in the European integration process.

The method of analysing the events was the one which dealt with the events that took place and based on which we highlighted their common and general peculiarities while following their dynamics in the Member States of the European Union.

From a general methodological point of view, the research has an interdisciplinary and comparative nature, and the main starting point will be constructivism. From a methodological point of view, constructivism is bound to follow the interpretive tradition, and this paper will follow the same logic [42, p.139-165].

The novelty and scientific originality of the results obtained. They found their expression in the fact that, according to the conclusion reached in the process of investigation, the cooperation between the Republic of Moldova and the European Union institutions, including in the context of the reform of the judiciary system, must take into account the features of formal democracy, the specificity of the Republic of In this context, important issues should be mentioned, such as: activities to reform the Prosecutor's Office of the Republic of Moldova, the judicial system as a whole, the efforts made by the authorities to fight corruption, reforms of judicial institutions, etc.

The originality of the paper lies in the combination of modern methods (formal perspective on the implementation of democracy and the rule of law) with experimental ones (reform of the main legal institutions) and the use of newer research tools (constructivist method), which gives the study originality, focusing on the results obtained in the research process.

Theoretical significance and applied value of the paper. The scientific and practical significance of the doctoral dissertation lies in

the fact that a study has been carried out which completes the theoretical foundations of cooperation between the Republic of Moldova and international organizations, and the current situation of the process of harmonisation of legislation of the Republic of Moldova with European legislation is also addressed. The final part of the dissertation makes recommendations that can be used in the process of monitoring the application and implementation of the European legal order in the Republic of Moldova.

Degree of research on the topic. In the elaboration of the doctoral dissertation, the authors of both local and foreign papers were used, as well as press and internet sources, reports on the activities of the Ministry of Foreign Affairs in the field of cooperation between the Republic of Moldova and the European Union, between various institutions, which highlight the progress in fulfilling the obligations of the Republic of Moldova in terms of its intention to join the EU. Important for the analysis proved to be the regulatory documents of the EU and the Republic of Moldova.

Among the publications devoted to the analysis of the activities of international organizations, it is worth mentioning a study by Moldovan authors, which assesses the methods of representation of states in international organizations, the functions, structure, and staff of permanent missions, the features of diplomatic activity in international organizations, etc. In the same context, studies on the revision of the standards of the Council of Europe, and the principles of functioning of this institution are relevant.

The research issue presented in the doctoral dissertation is to assess the role of EU institutions in the creation of European law and in supporting the Republic of Moldova in the process of building a state based on the rule of law, oriented towards European integration.

Research hypothesis. This paper explores the hypothesis that bringing the national legislation of the Republic of Moldova in line with European Union law is a complex task. Given that the young state of the Republic of Moldova has inherited legal principles and standards that were deeply rooted in society during the Soviet period, overcoming them requires significant efforts. The factor of analysis in the process of

monitoring the implementation of legislation and legal order must include the formal application of the supremacy of law and legal order.

Main scientific results submitted for support: The paper examines the theoretical and methodological aspects of the implementation of European law; it analyzes the main directions of European law construction from the point of view of adoption and application by the European Union in connection with the EU enlargement process. The research is subject to the essence of European law and its significance for the Republic of Moldova, the differences in approaches and interpretations of the legal order and judicial practice, as well as the potential normative unification in the context of the enlargement of the Single European Space.

Approval of scientific results: The main results obtained have been presented and approved in articles and at national and international conferences.

Volume and structure of the paper. The paper consists of an introduction, three chapters, general conclusions and recommendations, bibliography.

Keywords: European Union, European law, legal system, European integration, harmonisation, judicial control, judicial system.

CONTENT OF THE DISSERTATION

The **Introduction** argues the topicality of the researched topic and its significance, the level of exploration of the research issue, the aim and objectives of the study, methodological and theoretical-scientific support of the dissertation, scientific novelty and theoretical significance, the applicative value of the paper is specified, etc.

Chapter I "Formation of a Single European Legal System: Framework and Context for Action in the EU Member States" deals with the historical aspects of the formation of the European legal order, highlighting the main reference papers in which this issue has been studied. Theoretical and methodological aspects of cooperation between States in the process of application and implementation of the European legal order are also explored.

The first sub-chapter, ***"Institutional Architecture of the Rule of Law in the European Union",*** examines the system of bodies and

structures that cooperate to ensure compliance with the legal order in the EU. Key elements include the European Commission, the European Council, the Council of the European Union, the European Parliament, the European Court of Justice, the Court of Auditors, and the European Central Bank [27, p.165].

As regards the European Commission, its members are elected based on their competence, with the general agreement of all Member States. Their independence must not be called into question and they may not seek or take instructions from any government or other institution [18, p. 297].

The Council of the European Union is an intergovernmental body, led by Ministers of the Member States, and holds the Presidency alternately for six months. Together with the European Parliament, it approves the budget. It is responsible for coordinating the economic policies of the Member States.

The European Parliament exercises its powers of oversight and scrutiny over the Commission's activities through a "motion of censure", which it can table and which - if accepted - results in the Commission being recalled. Nowadays, the Parliament's consent is required for decisions on the admission of new Member States, on association agreements with non-EU countries, and the conclusion of international agreements [10, p.31].

The European Court of Justice is the judicial institution of the Union whose main task is to ensure that Community law is respected. To this end, the Court of Justice of the European Union may, at the request of an individual, an institution, or a national state, annul decisions of the Council or the Commission that infringe EU law. In addition, it has the right to express an opinion on the validity or interpretation of provisions of EU law or to express an opinion on the compatibility of international agreements with EU law.

The Court of Auditors has the right to audit the financial activities of the EU and other EU institutions.

The European Central Bank is the central bank of the euro area. Together with the national central banks, it forms the Eurosystem and conducts monetary policy in the euro area. Its main aim is to maintain price stability, in cooperation with the national supervisory authorities.

The Bank carries out banking supervision in the euro area and other member countries under the Single Supervisory Mechanism (SSM) [5, p.71.].

In addition to the institutions mentioned above, the EU's institutional set-up includes an increasing number of specialised agencies, most of them newly created. The most important of these are: the European Monetary Institute; Europol; European Environment Agency; European Ombudsman; Office for Harmonisation in the Internal Market; European Agency for the Evaluation of Medicinal Products; European Agency for Veterinary Inspection and others [41].

In the second sub-chapter, ***"Conceptual Underpinning of the Supranationality Theory of the European Union and its Institutions",*** it is argued that in the process of harmonising European law, national law continues to exist, but cannot determine finality itself. It must change and develop under the requirements defined and imposed by EU law, so that the various national systems have a degree of homogeneity and coherence between them, resulting from common objectives [38, p.26].

It is obvious that this convergence and harmonisation must accompany and complement the effect of the law on direct action, the generalisation of which has been both technically and politically impossible. It is equally important that EU law, intended to regulate this type of operation, should take the form of directives. These directives are, by their very nature, well suited to the function of not creating a single law, but rather of defining EU objectives. National legal systems must achieve these objectives using their own forms and means [2, p.78].

Adapting national laws in the form of harmonisation has proved to be a long and difficult process. Harmonisation has progressed much more slowly than the development of the common market. The remedies that have been applied to this situation have ultimately distorted the relationship between Community law and national rights that was identified with the previous regime [21, p. 121].

EU law is complementary law, which must have the characteristics of unified law to fulfil its functions. It is important to stress that it does not replace national rules, but maintains their

integrity, acting as a factor in reducing differences in their consequences.

In the third sub-chapter, ***“Role and Place of the Judiciary in the Institutional System of the European Union”,*** the author concludes that, under international law, treaties must be applied by the States that are parties to them. Thus, any act or conduct that results in a breach of a treaty obligation is an illegal act.

However international law does not oblige States to ensure that international rules are applied domestically as a matter of priority [39, p.44].

Some EU States provide in their constitutions that international rules (or at least some rules) take precedence over domestic rules (except for the Constitution). Others do not. In dualist approaches, in states where the sources of international law do not themselves have legal force in domestic law, their place in the domestic hierarchy depends solely on the act introducing them.

On the other hand, in the EU legal order, all legal entities are guided by the principle of priority of application of EU law over Member States’ law. This principle is based on the EU legal system itself [7, 9, 13].

Gradually, national courts have recognised all the consequences of the application of the priority principle, except for the issue of possible incompatibility of EU law and the Constitution.

The principle of priority application was reaffirmed in the Van Gend judgment insofar as the Court indicated that direct effect should enable the national court not to jeopardise Union law by applying a subsequent national provision.

But this is particularly reflected in the Costa decision, in which the Court very clearly condemned the application of the Italian dualist system to EU law (in two decisions - of 24 February and 7 March 1964 - the Italian Constitutional Court stated: “Only the treaty has force deriving from the law of ratification”) [29, p.19].

The Court has made the principle of priority application strongly conditional on the principle of integration, making the former a consequence of the latter. This integration into the law of each Member State of provisions deriving from the source of Union law and, more

generally, from the terms and spirit of the Treaty, results in the impossibility for States to go beyond the legal order adopted by them based on reciprocity, a consistent unilateral measure against which it was impossible to argue in this way.

The principle of priority of application applies to all sources of EU law. In this sense, secondary legislation is placed on the same level as constituent agreements.

Thereby, "the effect of the provisions precludes the application of any legislative measure, even subsequent ones, not in conformity with their provisions" (14 December 1971, Politi). Likewise, any act of internal application of EU law must be strictly compatible with it (7 February 1984, Jongeneel Kaas). National authorities are obliged to respect the general principles from the moment they fall within the scope of EU law (30 September 1987, Demirel). These principles shall apply irrespective of the category of sources of national law (2 June 1965, San Michele; 17 December 1970, International Handelsgesellschaft).

The principle of priority application shall also apply to provisions of private origin, such as contracts (8 April 1976, Defrenne; 7 February 1991, Nimz) [8, p. 51].

The Court's statement that a State cannot invoke its Constitution to apply EU law does not apply to the compatibility testing procedures that States apply to treaties and revision acts which, although not treaties, are subject to their approval under their constitutional rules.

EU legislation should have the same meaning and effect in all Member States. This, in turn, requires that the final authority likely to decide on such matters should lie with a single court with jurisdiction over the EU. The only such court is the European Court. It also follows from these assumptions that EU law must prevail over national law in the event of a conflict. Otherwise, Member States could avoid applying EU rules that are not in their interest by simply adopting legislation that contradicts them. Moreover, for the rules of Union law to have a direct effect, which is an integral feature of the supranational system, the last word on their validity and interpretation must lie with the European Court [21, p.11].

In Chapter II, ***"Legal Nature of the European Union and Peculiarities of its Structure and Functioning",*** the author analyses the work of the national judicial authorities of the EU Member States as well as the features of the development of rules related to the law.

In the first sub-chapter, ***"Reform Treaty and Development of the European Union's Legal System",*** it is mentioned that the creation of communities based on international treaties concluded between states led to the existence of provisions laid down in these treaties which initially bound these states to international law. However, the EU system created in its modern form seems much more complicated. It is characterised by two features with all the consequences that follow. The first of these is the existence of the "EU legal order", i.e. a system of diverse and hierarchical rules comprising not only the founding treaties but also various acts adopted by the institutions or other bodies, as well as the principles laid down in the general EU rules [22, p.75].

Since their inception, Communities have been seen as organisations with a unique set of characteristics. However, the key achievements of the countries that signed the Treaties of Paris, Rome, and Maastricht go beyond their stated objectives. The legal construction of the Communities was the desire of their authors to build an internal legal order through legal methods, the basis of which is an international treaty. A further stage was reached in the Nold judgment, in which the Court indicated that to confirm the existence of general principles of law, it could rely not only on the national law of the Member States but also on international instruments with which the Member States had cooperated or to which they had acceded (14 May 1974) [31, p.78].

Historically, the sources of EU law have formed a hierarchy of legal norms, culminating in the Treaties of Paris and Rome. In terms of basic structures, the legal order has remained that of the European Union, with the Communities as its "pillars".

This is not a method of legal integration, but a method of political cooperation, which has involved the elaboration and implementation of common positions and actions taken by certain procedures.

Van Gend en Loos judgment: In this judgment, delivered on 5 February 1963, the Court stated that "the purpose of the EEC Treaty, which is the creation of a common market, the operation of which

directly concerns the Community parties, implies that the Treaty is more than an agreement which will only create reciprocal obligations between the Contracting States", to which it added that "the Community is a new legal order of international law, in the interests of which the States restrict, albeit in limited areas, their sovereign rights and whose subjects are not only the Member States but also their citizens" [1, p.77].

Judgment in the Costa case: In this judgment, delivered on 15 July 1964, the Court went further in its legal reasoning than in the Van Gend judgment. For the first time, it abandoned the description of the legal order as "international law" and used the formula "its own legal order", adding that the law arising from a treaty has a "specific original nature" [14, p.62].

The specificity of EU law as a legal order and in its relation to the legal orders of the Member States has been expressed by the Court in two judgments that can be considered fundamental for all case-law: these judgments were made under the EEC Treaty.

According to the Court's consistent case-law, the EU Treaties established a new legal order, in the interests of which States limited their sovereign rights in ever-expanding areas and whose subjects were not only the Member States but also their citizens (Opinion 1 of 14 December 1991).

In the second sub-chapter, ***"Sources of European Union Law",*** the author concludes that Union law is any legal act and the practice of its application in a given situation and a given area of competence, aimed at protecting and maintaining the integrity of the internal market and ensuring a high level of protection for individuals.

Primary EU law includes: institutional agreements, protocols, and declarations annexed to them, as well as treaties and amending acts.

EU Basic Law consists of the three founding treaties of the Communities, which have been amended to suit the specific circumstances of the deepening and widening construction of the Community, as well as the founding treaty of the EU (the Maastricht Treaty) and the Lisbon Treaty.

On 18 April 1951 in Paris, the Foreign Ministers of Belgium, the Federal Republic of Germany (FRG), France, Italy, Luxembourg, and

the Netherlands signed the Treaty establishing the European Coal and Steel Community (ECSC). The Euratom Treaty, officially the Treaty establishing the European Atomic Energy Community, established the European Atomic Energy Community. It was signed on 25 March 1957, at the same time as the Treaty establishing the European Economic Community (EEC Treaty) [6, p.99].

The Treaties and amending acts have emerged not only from the Treaties themselves but also from a variety of legal acts of the Community institutions adopted through simplified examination procedures, as well as from other acts of a special nature, such as decisions requiring ratification. Another category of Community and EU sources is represented by different categories of external obligations arising from participation in international relations.

The main feature of the EU is that the right to create rules of law is institutionalised, i.e. transferred to certain bodies (institutions), which implement them according to a pre-established procedure. In this respect, although the drafters of the Treaties were reluctant to use the term “law” or “legislation”, today the Court does not hesitate to speak of the “EU legislative system” [19, p.26].

In the third sub-chapter, ***“Application by National Courts of the European Legal Order”,*** the author notes that some national courts are in some cases reluctant to recognise the direct effect of European rules to the extent given to them by the Court.

The case-law shows that a directive leaves the Member States free to choose how to implement the directive, which is not sufficient to establish that the provision in question is conditional and therefore does not have a direct effect [46, p.91].

For the provision in question to appear conditional, the State must have a wide margin of discretion in implementing the Directive. Thus, cases in which the provisions of directives are regarded by the Court as not having a direct effect appear to be exceptional.

If some provisions in the same directive are sufficiently clear and precise to have a direct effect and others are not, then the question is whether these provisions can be separated. If they cannot be separated, then the entire regime organised by the directive is not subject to direct action (application in the Francovich decision) [28, p.10].

In the Van Duyn judgment, the Court emphasised that a directive is “a legislative act which does not have full direct effect in itself”. It is necessary to examine in each individual case whether the nature, structure, and conditions of the provision are capable of giving rise to a direct effect on relations between Member States and individuals. Subsequent decisions have held that provisions that are “unconditional” and “sufficiently precise” or “sufficiently precise and unconditional” can have a direct effect (1 July 1993, Van Gend en Loos) [17, p. 131].

The same criterion was applied to the decision sent to the Member States, Keck and Mithouard, 12 December 1990. It is difficult to establish in advance whether a particular provision of a directive meets these two criteria. National courts therefore often refer preliminary questions to the Court on the interpretation of the direct effect of certain provisions [31, p.359].

The Directive itself does not create obligations for individuals. Therewith, it follows that it cannot be applied in disputes between individuals (horizontal effect) and that the State cannot apply it against an individual (reverse vertical effect). The limitation of direct effect results from the general formulas used by the Court (“powers which may be used against the State”). This limitation is based on the fact that direct influence is a sanction for the shortcomings of the State [22 p.75].

This was expressly confirmed by the Marshall decision: “a directive cannot of itself impose obligations on an individual and cannot, therefore, be relied on as such against an individual”, the decision of 26 February 1986.

Chapter III, “Legal Basis for the Implementation of the European Union’s Good Neighbourhood Policy: Experience of the Republic of Moldova”, is dedicated to the analysis of the cooperation of the Republic of Moldova in the context of its institutional reforms and the implementation of the European integration policy in the period 1991-2023. The subject matter covered in this chapter reflects the level of cooperation between the Republic of Moldova and the European institutions in the application and implementation of the European legal order, highlighting the reasons that led to the justice reform.

The first sub-chapter, ***“The Republic of Moldova in the Context of European Integration”,*** describes the relations of the Republic of

Moldova with the European Union, which are seen in terms of reform processes and transformation of politics and economy. However, there is also an alternative vision - the "catch-up development" process, which aims to reduce the development gap with Western Europe and ultimately modernise Moldova.

The ability of the European Union to admit new members during the process of European integration is of critical importance for both sides– for candidate countries wishing to join the Union and for the Union itself.

1. For candidate countries:

- *Access to economic and trade benefits:* Accession to the European Union gives candidate countries access to a large internal market, which can contribute to economic growth and development. It also implies the adoption of regulatory and legislative standards, which can ultimately make the country's economy more competitive.
- *Improving the political and legal system:* The integration process requires the candidate country to harmonise its political and legal system with EU norms and standards, which would contribute to improving democratic institutions, human rights, and the rule of law.
- *Strengthening security and stability:* EU membership can provide the candidate country with additional guarantees of security and stability, in particular in the context of the common policies and security structures of the European Union.

2. For the European Union:

- *Increased influence and resources:* Increased membership allows the EU to extend its influence and geographical reach, which would lead to an increase in economic and human resources, which could be useful in achieving the Union's common objectives and interests.
- *Stimulating economic growth:* The accession of new members could lead to increased trade and economic cooperation within the EU, which would contribute to the growth of the EU economy as a whole.
- *Strengthening stability and security:* Increased membership can help strengthen stability and security in Europe, especially if new members bring additional resources and expertise to the common security efforts.

National state identity and European security in terms of the adoption of the European legal order are a pressing issue for the Republic of Moldova.

The national identity aspect of the Republic of Moldova is also important in the context of the adoption of European socio-political values for the harmonisation of legislation. According to the decision of the Copenhagen European Council (1993), the associated countries of Central and Eastern Europe wishing to join the European Union must demonstrate their ability to meet the "Copenhagen criteria". These criteria include ensuring the stability of democratic institutions, a functioning market economy, the adaptation of administrative structures to European Community law, and readiness to accept the obligations of EU membership.

The second sub-chapter, ***"Process of Harmonisation of the Legislation of the Republic of Moldova with the Legislation of the European Union",*** describes an important step towards reforms in the Republic of Moldova in connection with the adoption of the 1994 Constitution, when the independence of the judiciary was recognised, at least in writing. However, subsequently, in the context of the Association Agreement with the EU, the most criticised aspect of the judiciary was precisely the high degree of politicisation, "the interference of the executive in the work of judicial institutions, generated by the insufficient institutional independence of the judiciary and the absence of a culture of the rule of law".

The accession of the Republic of Moldova to the Council of Europe on 13 July 1995 is of particular importance for the country. Subsequent events clearly demonstrate that membership of the Council of Europe has played a significant role in the establishment and consolidation of democratic institutions in Moldova. This has manifested itself in domestic policy priorities, including the development of the regulatory framework for the rule of law and the functioning of the institutions of a modern democratic society, as well as the transition to a market economy and its restructuring.

The European Neighbourhood Policy (ENP) was created in the context of EU enlargement in 2004 to avoid creating a new dividing line between the enlarged EU and its neighbours. Since 2004, relations

with neighbouring countries have become the main priority of the EU's external relations. The ENP was first mentioned in the European Commission's Communication on Wider Europe in March 2003, followed by a more detailed ENP strategy in May 2004.

In April 2022, the EU decided to provide Moldova with financial assistance worth EUR 150 million. This amount was subsequently increased by EUR 145 million, bringing total support to Moldova to EUR 295 million. The purpose of the EU macro-financial assistance is to stabilise the country's economy and support Moldova's reform programme. The EU assistance will complement resources provided under the International Monetary Fund (IMF) financing arrangement. Of the EUR 295 million, the EU will provide EUR 220 million in loans and EUR 75 million in grants. The assistance will cover part of Moldova's balance of payments needs identified in the IMF programme.

In the third sub-chapter, ***"Mechanisms for Unifying Legal Rules on the Application of European Union Standards",*** the importance of fulfilling certain accession criteria as well as the Copenhagen criteria is highlighted. A systematic approach is taken to some major conventions and protocols. The author also points out that the Council of Europe's support resulted in the reform of the Prosecutor's Office of the Republic of Moldova. This is part of a series of assistance projects from the Council of Europe.

The Copenhagen criteria clearly define the "reform" that a country must undertake to be accepted into the European Union. Some of these changes relate to the economic and political dimensions of the EU. Others focus on the ability to contribute to the formation of a common foreign and security policy. It is worth noting that the start of the accession process is only possible if the political criteria describing the candidate country's "compatibility" with EU values are met. This underlines that everything is based on what are considered "European values", including "democracy, the rule of law, human rights and respect for minority rights".

Concerning European integration, it is important to analyse the participation of the Republic of Moldova in international organisations, as well as the path of the Republic of Moldova towards European

integration. The Republic of Moldova is a member of the Council of Europe. Consequently, the fundamental "non-national" civil and political principles of the EU have already been accepted and even internalised as a result of the accession to the Council of Europe.

Concerning the accession of new states to the European Union, it is widely recognised that membership of the Council of Europe and ratification of the European Convention on Human Rights, as well as other treaties setting important standards and controls, are essential for meeting certain accession criteria. The Council of Europe treaties have brought many benefits, including the regulation of key human rights issues. These treaties are also notable for their effectiveness thanks to the compactness of Member States and an effective mechanism for monitoring their implementation.

The Universal Declaration of Human Rights, covenants, and treaties ratified by the Republic of Moldova under Article 4 of the Constitution have a direct effect on the legal order of the country. On 23 June 2022, Moldova obtained the status of candidate country for accession to the European Union. In October 2023, the Government of the Republic of Moldova approved the National Action Plan for the Accession of the Republic of Moldova to the EU for the years 2024-2027. The plan contains some 1.200 specific actions or laws to be implemented during the accession process. On 8 November 2023, the European Commission presented a report on the Republic of Moldova's preparation for negotiations on accession to the European Union. The report states that the Republic of Moldova has fulfilled 6 out of 9 requirements of the European Commission. The final decision on the negotiations with the Republic of Moldova was taken at the EU leaders' summit held on 14-15 December 2023 in Brussels, requiring unanimous support from all 27 EU members.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

The legal order of the European Union refers to the set of rules governing the EU's relations with its Member States, with other international organisations, and with natural persons and legal entities, both inside and outside the EU.

EU law is integrated into the law of the Member States, so they do not have a choice between dualism and monism, as the latter is compulsory.

EU law has a direct, conditional, and unconditional impact on national law. However, this impact is subject to certain conditions. The direct effect theory, based on the praetorian construct, is a complex part of the EU legal system. The conditions for direct effect depend on the type of legal source used and can be automatic, conditional, or limited.

In terms of the implementation of EU rules, it can be seen that this process develops along a vertical axis, expressing the division of competencies.

Regardless of the material division of competences, the functioning of the EU legal order is based on the joint action of the EU institutions and the Member States to ensure the administrative application of European legal rules per its own logic, which is the integration of the EU legal system and national legal systems.

The division of competencies in this area is characterised by a structural contradiction between the principle of decentralisation, which makes Member States "intermediaries" in the implementation of EU law, and the principle of uniformity, which requires controlled cooperation between national authorities in the effective application of common rules.

The EU accession process does not exclude the effective use of opportunities for regional inter-state cooperation within the following structures and organisations: the Stability Pact for South-Eastern Europe, the Black Sea Economic Cooperation, the Working Community of the Danube States, the UN, the Economic Commission for Europe. Thus, European regional cooperation is one of the most appropriate components of the European integration process for Moldova. Our country is particularly interested in participating in projects in the fields

of transport, communications, energy, trade, anti-corruption, environmental protection, etc.

One of the objectives of the research was to analyse how the criteria imposed by the European Union influenced democratic governance in the Republic of Moldova, whether they succeeded in solving the endemic problems of Moldovan society and bringing the transition process to the point where it can be called a consolidated democracy. Relations between the Republic of Moldova and the European Union are most often viewed in terms of reform processes and economic transformation. However, there is an alternative vision - the "catch-up growth" process, which aims to reduce the development gap with Western Europe and ultimately modernise the Republic of Moldova.

The Republic of Moldova has now, more than ever, all the prerequisites to be addressed by the modern European society, receiving in this respect the full support of the Council of Europe. The Council has proved to be a reliable partner for the Republic of Moldova, with the final decision resting with the authorities of the Republic of Moldova and the political will to bring domestic legislation and practices into line with European standards.

Institutionalised political cooperation of the Republic of Moldova is a priority in the adoption and implementation of the European Union as a functional model for the rule of law and future socio-economic development. This includes the activities of the Republic of Moldova in the framework of the Common Foreign and Security Policy. The main objectives of the European Union's Common Foreign and Security Policy include protecting the EU's common values, preserving peace, strengthening democracy and respect for human rights, fundamental freedoms, and the rule of law, and strengthening the internal and external security of the European Union.

By integrating into the "geo-economic" area of the EU, the only one where decisions already have a distinct federal or supranational nature, the Republic of Moldova will benefit from the increased productivity that free trade, structural funds, and stability bring.

By obtaining the right of "joint decision-making" in the field of "geopolitics" - specific to the intergovernmental pillars of the EU - in

the areas of foreign policy, security, justice, and home affairs, the Republic of Moldova will be able to promote its own modernisation project.

After the creation of a united Europe with a representative political superstructure, the Republic of Moldova will retain significant freedom of decision within a system of global subsidiarity that will ensure a balance between old national identities and new European identities.

The Europe of the future can only be the result of the process of uniting the West with the East, both in space and in terms of values. In terms of recent events, progress towards the West cannot be disputed. It is the result of historical experience that did not exist in Central and Eastern Europe.

To be viable, a united Europe will have to enshrine the “right to diversity” and the “right to solidarity”. This means combining competition with fairness, efficiency with generosity, and respect for diversity with equal opportunities.

As countries seek unity to overcome their powerlessness and related sense of failure of security, they must recognise that their identity includes both negative or obsolete aspects that must be abandoned and positive aspects that must be saved.

Recommendations:

1. There is a need to further promote economic development and communications through the DCFTA Priority Trade Action Plan and the Economic and Investment Action Plan. Such work is needed to support and develop the small and medium-sized enterprise sector, trade, energy efficiency, human capital, and communication capacities.
2. Monitoring and funding are needed under the EU-Ukraine Solidarity Lanes initiative at border crossings. Priority should be given to addressing the challenges faced by cross-border communities by strengthening Interreg programmes.
3. It is very important and promising to support reforms in the Republic of Moldova by strengthening administrative capacity, providing advisory services on issues arising during enlargement (special training and support programmes), as well as the more active

participation of Moldova in EU programmes such as Horizon Europe, Fiscalis, Customs, LIFE, and EU4Health.

4. It is worth focusing on the issues of ensuring Moldova's energy security by increasing domestic electricity production, participating in the EU's joint gas purchasing mechanism, expanding the use of renewable energy sources, and improving energy efficiency.

5. Major efforts at the moment are prioritised to strengthen the security of the Republic of Moldova through specific actions in the framework of the High-Level Political and Security Dialogue; extending cooperation in the framework of the EU Partnership Mission to Moldova, the EU-Moldova Internal Security, and Border Management Support Centre, the EU Border Assistance Mission, as well as with European agencies, in particular, Frontex, Europol, Eurojust, and CEPOL; strengthening the defence sector of the Republic of Moldova through the European Peace Fund, as well as internal security and border management through specific investments and provision of equipment.

6. In the area of combating foreign manipulation and information interference, including disinformation and strengthening strategic communication, there is a need to promote the provision of technical support to the Government of the Republic of Moldova and to strengthen the capacity of independent media, civil society, and youth to combat disinformation and actively disseminate information about the benefits of EU integration.

7. There is a need to increase the capacity to reform and deliver quality public services, including strengthening the implementation of public administration reform; completing public finance management reform, including improving public procurement at all levels of government; and increasing civil society participation in decision-making processes at all levels.

8. In the protection of human rights, protection must be strengthened, especially for vulnerable groups, and promises to ensure gender equality and combat violence against women must be fulfilled.

9. Meeting the EU's climate commitments will also require Moldova to act in all areas - from industry, energy, and transport to food production, agriculture, and construction. In particular, there is a need

to increase the use of clean energy, reduce pollution, and make buildings more energy efficient, as well as introduce cleaner transport and less harmful fuels for their operation.

10. In March 2021, the European Commission set out a vision for Europe's digital transformation by 2030, together with a set of specific targets and a plan to ensure that they are met. These tasks aim to achieve four main objectives: a technologically savvy continent - with a digitally literate population and highly skilled digital professionals; a reliable and secure first-class digital infrastructure; a high share of digital businesses in Europe; and modernised public services that meet society's needs. Moldova must continue to develop in important areas such as artificial intelligence, supercomputers, cyber security, and advanced skills. As part of the EU recovery plan, EU and candidate countries should invest at least 20% of NextGenerationEU funds in digital initiatives.

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1. MAXIM TONCOGLAZ. Acquis-ul comunitar în ordinea juridică a Uniunii Europene. În: Revista moldovenească de drept internaţional şi relaţii internaţionale, 2020, nr. 2, p. 96-103. ISSN 1857-1999/ISSNe 2345-1963.

2. MAXIM TONCOGLAZ. Rolul actual al CJEU ale UE în sistemul instituțional juridic al Uniunii Europene. În: Vector european, 2021, nr. 1, p. 52-57. ISSN 2345-1106/ISSNe 2587-358X.

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7. MAXIM TONCOGLAZ, CEBAN CRISTINA. Particularitățile izvoarelor dreptului Uniunii Europene. În: Materialele Conferinței Internaționale „Conceptul de dezvoltare a statului de drept în Moldova şi Ucraina în contextul proceselor de eurointegrare”, Chișinău, Republica Moldova, 2018, p. 293-298. ISBN 978-9975-3222-0-1.
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ADNOTARE

TONCOGLAZ, Maxim, „Particularitățile ordinii juridice a Uniunii Europene din perspectiva adoptării și aplicării dreptului european”, teză de doctorat, Chișinău, 2023.

Structura tezei: adnotare (în trei limbi), introducere, trei capitole, concluzii generale și recomandări, bibliografie din 179 de titluri, 147 de pagini de text principal, declarația privind asumarea răspunderii, CV-ul autorului.

Cuvinte-cheie: Uniunea Europeană, drept european, sistem juridic, integrare europeană, armonizare, control judiciar, sistem judiciar.

Domeniul de studiu: drept.

Relevanța temei de cercetare. Relevanța temei de cercetare este determinată de procesele de extindere a Uniunii Europene, de formare a dreptului european, precum și de integrarea europeană a Republicii Moldova în această uniune supranațională.

Obiectul studiului vizează analiza dreptului Uniunii Europene în aspectul său istoric, precum și în cadrul extinderii UE.

Noutatea și originalitatea științifică a rezultatelor obținute. Studiul a fost axat pe: cercetarea aspectelor teoretice și metodologice ale implementării dreptului european; evidențierea principalelor direcții de construire a dreptului european din punctul de vedere al adoptării și aplicării de către Uniunea Europeană; evaluarea sprijinului european acordat Republicii Moldova; analiza sprijinului Consiliului Europei pentru reformele justiției în Republica Moldova; formularea de concluzii și propuneri privind aprofundarea cooperării dintre Republica Moldova și Uniunea Europeană în etapa actuală pentru adoptarea și aplicarea particularităților ordinii juridice europene.

Semnificația teoretică și valoarea aplicată a lucrării. Prezentul demers științific este un studiu care completează fundamentele teoretice ale cooperării dintre Republica Moldova și organizațiile internaționale, fiind abordată și situația actuală a procesului de armonizare a legislației moldovenești cu legislația europeană. În partea finală a lucrării sunt formulate recomandări, care pot fi folosite în procesul de monitorizare a aplicării și implementării ordinii juridice europene în Republica Moldova.

АННОТАЦИЯ

ТОНКОГЛАЗ, Максим «Особенности правового порядка Европейского Союза с точки зрения принятия и применения европейского права», докторская диссертация, Кишинев, 2023 г.

Структура диссертации состоит из: аннотации (на трех языках), введения, 3 глав, общих выводов и рекомендаций, библиографии из 179 названий, 147 страниц основного текста, декларации об ответственности, автобиографии автора.

Ключевые слова: Европейский Союз, европейское право, правовая система, европейская интеграция, гармонизация, судебный контроль, судебная система.

Область исследования: право.

Актуальность темы исследования. Актуальность темы исследования предопределена процессами расширения Европейского Союза, становлением европейского права, а также европейской интеграцией Республики Молдова в этот надгосударственный союз.

Объект исследования – анализ права Европейского союза в его историческом аспекте, а также в рамках расширения ЕС.

Новизна и научная оригинальность полученных результатов. Исследование было направлено на: определение теоретико-методологических аспектов реализации европейского права; выделение основных направлений построения европейского права с точки зрения принятия и применения Европейским Союзом; оценку европейской поддержки, предоставленной Республике Молдова; анализе поддержки Советом Европы реформ правосудия в Республике Молдова; формулирование выводов и предложений по углублению сотрудничества Республики Молдова с Европейским Союзом на современном этапе для принятия и применения особенностей европейского правопорядка.

Теоретическая значимость и прикладная ценность работы. Научно-практическая значимость докторской диссертации представлена результатами исследования, дополняющего теоретические основы сотрудничества Республики Молдова с международными организациями и в том что была

проанализирована современная ситуация относитально гармонизации молдавского законодательства с европейским. Молдова получает рекомендации, сформулированные. В заключительной части работы, были сформулированы рекомендации, которые могут быть использованы при мониторинге применения и реализации европейского правового порядка в Республике Молдова.

ANNOTATION

TONCOGLAZ, Maxim "Peculiarities of the legal order of the European Union in terms of the adoption and application of European law", Doctoral dissertation, Chisinau, 2023.

The structure of the dissertation consists of: abstract (in three languages), introduction, 3 chapters, general conclusions and recommendations, bibliography of 179 titles, 147 pages of main text, information on responsibility, author's autobiography.

Keywords: European Union, European law, legal system, European integration, harmonisation, judicial control, judicial system.

Field of study: law

Relevance of the research topic. The relevance of the research topic is related to the processes of the European Union enlargement, the formation of European law, as well as the European integration of the Republic of Moldova into this supranational union.

The object of the research is the analysis of the European Union law in its historical aspect, as well as in the framework of the EU enlargement.

The novelty and scientific originality of the results obtained. The research included theoretical and methodological aspects of the implementation of the European law; highlighting the main directions of the construction of the European law in terms of adoption and application by the European Union; assessing the European support provided to the Republic of Moldova; analyzing the support of the Council of Europe for the justice reforms in the Republic of Moldova;

formulating conclusions and proposals for deepening the cooperation between the Republic of Moldova and the European Union at the present stage to adopt and apply the specificities of the European legal order.

Theoretical significance and applied value of the paper. The scientific and practical significance of the doctoral dissertation consists in the result of the study, which complements the theoretical bases of the cooperation of the Republic of Moldova with international organizations, including the current situation regarding the harmonisation of the legislation of the Republic of Moldova with the European one. Moldova receives recommendations formulated in the final part of the work, which can be used as an additional monitoring of the application and realization of the European legal order in the Republic of Moldova.

MAXIM TONCOGLAZ

PECULIARITIES OF THE LEGAL ORDER OF THE EUROPEAN UNION IN TERMS OF THE ADOPTION AND APPLICATION OF EUROPEAN LAW

SPECIALTY: 552.08 INTERNATIONAL AND EUROPEAN PUBLIC LAW

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