

**THE FUTURE MOLDOVA-EU LEGAL FRAMEWORK:
MOLDOVA – AN ASSOCIATED COUNTRY OF THE EUROPEAN UNION**

Oleg Cristal

Introduction

A new Government, formed out of representatives of four political parties (Liberal Democratic Party of Moldova, Liberal Party, Democratic Party of Moldova and “Moldova Noastra” Alliance), members of the Alliance for European Integration, was instituted in Chisinau in September 2009. The program of the new Government, entitled “European Integration: Freedom, Democracy, Welfare”, sets the European integration of the Republic of Moldova as basic priority for the central Executive. Approximately one week after the inauguration of Government, the prime-minister Vlad Filat together with the vice-prime-minister Iurie Leanca, minister of Foreign Affairs and European Integration, paid a two days visit to Brussels. In the diplomatic language, this first visit abroad in the capacity of prime-minister supposes fixing strategic objectives of foreign policy. The newly Chisinau government has bold goals concerning the European Union, and the European authorities give encouragement signs concerning the aspirations of Moldovan authorities.

The 2009 year is a turning point in the EU-Moldova relations and not because of the political changes which occurred in our country, they have just catalyzed certain processes. After almost two years when Chisinau was in expectancy and almost a half of year when the European Commission (EC) was waiting, the last received the green light for starting negotiations over the new legal framework with the Republic of Moldova at the beginning of this summer. The Eastern Partnership launched on May 7, 2009 by the EU, which comprises Moldova, as well, stipulates the signing of certain association agreements by the non-EU countries, members of this regional engagement. After the visit of Moldovan prime-minister to Brussels, it became clear that the negotiations between the Moldovan Government and the European Commission over the future agreement with EU will start before the end of this year. This thing was also pointed out by Benita Ferrero-Waldner, European Commissioner for Foreign Affairs and European Neighborhood Policy, at the meeting with Vlad Filat. The negotiations began in October, 2009, but the negotiations themselves will start on January 12, 2010. Besides, in the closest future the Government of the Republic of Moldova plans to start out other talks with EU, including the ones concerning the signing of the Deep and Comprehensive Free Trade Agreement and the Visa Liberalization Agreement until its’ annulment. It is to be reminded that the political-legal document regulating the Moldova-EU relations in present is the Partnership and Cooperation Agreement, expired in 2008, but mutually prolonged till the entry in force of a new document. Another technical-political document is in the same situation – the EU-Moldova Action Plan, expired in 2008, but extended for an unlimited period.

The current legal framework of the EU-Moldova relations

Currently, the Partnership and Cooperation Agreement (PCA) represents the juridical basis for the EU-Moldova relations. The agreement was signed on November 28, 1994 and entered into force on July 1, 1998 for an initial period of 10 years. In April 2004, the additional Protocol to the Partnership and Cooperation Agreement was signed by the European Community with its' member states and the Republic of Moldova. By signing this Protocol, the Partnership and Cooperation Agreement Moldova – EU was extended upon countries who became EU members on May 1, 2004: Czech Republic, Cyprus, Estonia, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia and Hungary. In 2007, another additional Protocol was signed, after Romania and Bulgaria joined the EU on January 1, 2007. It is worth noting that the PCA framework was established by the European Community ever since the negotiations with USSR. Later on, EU has negotiated and signed such documents with the ex-Soviet states.

The PCA ensures the basis for the EU-Moldovan cooperation in political, economical, commercial, cultural, scientific domains and is aimed to support Moldova in:

- Strengthening democracy, the rule of law and respect for human and minority rights by ensuring an appropriate framework for political dialogue;
- Sustainable economic development and completing the process of transition to a market economy by promoting the commercial exchanges, investments and harmonious economical relations[1].

The PCA stipulates that the parties resort to common values they share and agree to promote peace and security in the whole world. Besides, the parts accept to solve the occurring misunderstandings peacefully, so that the democratic principles and the human rights, together with the principles of market economy would sustain their internal and foreign policies and constitute an essential element of the Partnership Agreement. The parts accord to one another most-favored-nation treatment in all areas and limit the possibilities of imposing restrictions on imports and exports. The PCA also stipulates that, according to the further progress of Moldova in transition to a market economy, the possibility of initiating negotiations for establishing the Free Trade Area (FTA) will be considered. The conclusions of the common study by the European Commission and Moldovan Government upon FTA effects from 1999 suggest introducing the FTA whenever normative, administrative and economical conditions of Moldova will allow the country to fully benefit from the establishment of this area [2].

According to PCA, Moldova's relations with the European Union are institutionalized through three structures, responsible for promoting the political dialogue and monitoring the implementation of this document: Moldova-EU Cooperation Council, Moldova-EU Cooperation Committee, Moldova-EU Cooperation Subcommittees and the Moldova-EU Committee for Parliamentary Cooperation.

PCA does not mention anything about the perspective of political association or about joining the EU. The core of such document, as PCA, is similar for more ex-soviet countries, including Russia, which never had the goal of European integration. From this reason, a bureau for Eastern Europe, responsible for Moldova, Ukraine, Belarus, Southern Caucasus and Central Asia was created within the European Commission Directorate General for External Relations.

In order to encourage good relationship between the EU and neighboring countries, the European Commission launched the European Neighborhood Policy (ENP) in 2004. Conforming to

the European Security Strategy, this policy was designed to ensure prosperity, stability and security of all parts involved. The ENP is addressed to 15 countries and the Palestinian Authority; including 6 countries from Eastern Europe that are now members of the Eastern Partnership. The Republic of Moldova signed the EU-Moldova Action Plan (EUMAP) on February 22, 2005 within ENP [3]. The EU-Moldova Action Plan, initially provided for three years, is a document which includes strategic objectives and concrete actions for fulfilling these objectives. The implementation of Action Plan was aimed to significantly advance the harmonization of Moldovan legislation, of its norms and standards with those of the EU. The fulfillment of objectives and actions introduced in the Action Plan was supposed to create conditions for advancing the relations with the EU.

The EU-Moldova Action Plan expired in 2008, but the last Progress Report by the European Commission, from April 2009, concerning the implementation of EUMAP says that there are still arrears in certain problematical fields. These arrears had an impact on extending the validity of Action Plan till now, despite the fact that, during the period 2008 – 2009, the Republic of Moldova made efforts for launching discussions on advancement of this juridical frame in order to obtain a different status, other than of a neighboring country. In the first half of 2008, certain European officials promised that the European Commission will finalize the negotiation mandate with the Republic of Moldova until the end of that year, but that finally happened only in 2009.

Along with these two frame-documents, the Republic of Moldova and EU has another set of normative documents that regulate bilateral relationships, following from PCA and the Action Plan. In this sense, the system of Autonomous Trade Preferences (ATP), granted unilaterally for our country by the European Commission, can be mentioned [4]. According to ATP, entered into force at the beginning of 2008, the Republic of Moldova can export on a tax-free basis almost 12 thousand categories of goods on European market. The system's asymmetry concerns the fact that products from the EU member-countries imported to Moldova are taxed, while the Moldovan goods exported to the European market are free from customs duties. Thus, the Republic of Moldova became the first CIS country to have such benefits as regards the EU.

Besides, the Readmission and Visa Facilitation Agreements, signed in 2007 and entered into force starting January 1, 2008, can also be considered. Another European initiative Moldova is part of is the Mobility Partnership, which has the goal of reducing the illegal migration flow to the EU territory and represents an outcome of the new directives launched by the European Commission, concerning:

- The Global Approach to Migration of the Eastern and South-Eastern Regions Neighboring the European;
- Comprehensive European Migration Policy [5].

Together with the Republic of Cape Verde, Moldova has been chosen as pilot country for the implementation of the Mobility Partnership. The Joint Declaration on the Mobility Partnership between Moldova and EU was signed on June 5 2008, in Luxembourg within Council of EU Justice and Internal Affairs Ministers. The projects based on the Moldova-EU Mobility Partnership, which greet Moldova's demands, are related to the following fields:

- Consolidating the relationships with the diaspora;
- Promoting the come back and re-integration of Moldova migrants;

- Consolidating the institutional capacity to manage migration;
- Investing the remittances;
- Border management and documents' security;
- Assuring social protection;
- Cooperation in fight against illegal migration and trafficking in human beings.

The future contractual relationship Moldova-EU – a new quality step

On May 7th, 2009, the Eastern Partnership - a new instrument of regional cooperation in the “27+6” format (the EU member-states + six ex-soviet states from the Eastern Europe, including Moldova) was launched at a Prague summit. The Eastern Partnership is aimed to deepen and intensify the bilateral relations between EU and the six ex-soviet countries, based on differentiation and conditionality principles [6]. The EU would sign Association Agreements with the partner countries, different than those signed with the Balkan states, which has a clear perspective of joining the EU.

On June 15 in Luxemburg, the General Affairs and External Relations Council adopted the Conclusions on the Republic of Moldova that confirms the commitment of the European Union to further deepening the relationship with the Republic of Moldova, inclusively by adopting the directives for the negotiation of a new EU-Moldova agreement instead of the expired Partnership and Cooperation Agreement (PCA), and stresses the importance of a respect for democratic values and principles by Moldova for a further strengthening of the EU-Moldova dialogue. The GAERC Conclusions [7] could be summarized as follows:

- EU recall its strong commitment to further deepening the relationship with Moldova, on the basis of shared values and principles, inclusively within the framework of the Eastern Partnership, and **adopts the directives for the negotiation of a new EU-Moldova agreement**. The negotiations will start as soon as circumstances allow and **after the Republic of Moldova will ensure an equal treatment to all EU citizens** and will respect the principle of good-neighborly relations;
- EU will offer the Republic of Moldova an enhanced support for further political and economic reforms, aimed at strengthening democracy and good governance, the rule law, freedom of the media and respect for human rights and fundamental freedoms. In this regard, a comprehensive package for democracy support will be launched;
- Council expresses concern over the human rights abuses that took place after the 5 April parliamentary elections in the Republic of Moldova and the deterioration of freedom of expression and media. The Council calls for a transparent, impartial and effective investigation of the human rights violations, as well as the events around 7 April, through a process that includes the opposition and international experts, and urges the Republic of Moldova to ensure equal access of political parties to the public media, to ensure transparent allocation of media licenses and to refrain from the use of administrative pressure against independent media, civil society organizations and political parties;
- Council underlines the need for constructive political dialogue in the existent political situation in the Republic of Moldova and urges the Moldovan authorities to ensure the free and fair conduct of the early parliamentary elections, including through cooperation with OSCE/ODIHR and the Venice Commission of the Council of Europe;

- Council stresses the importance of fully observing the principles of independence, sovereignty and territorial integrity of the Republic of Moldova, and calls for the resumption of negotiations in the 5+2 framework as soon as possible.

In the text above, it is underlined that the negotiations will start after Chisinau lifts the visa regime imposed in April 2009 to Romanian citizens, who are as well European citizens. In September this year, the visa regime was abolished by the new Moldovan government; this decision being one of the first took by the AIE (Alliance for European Integration) government.



In the press declarations, AIE representatives hope that the Association Agreement with the EU will be signed in 2010, which is kind of optimistic, considering the experience of the Western Balkan countries, which have negotiated such documents, but also Ukraine's experience. The Chairman of the Parliament, Mihai Ghimpu, admitted that this document might be signed even until the end of this year or at the beginning of 2010, which is not realistic. The terms for negotiating the Stabilization and Association Agreements with Western Balkan countries were approximately 2.5 – 3 years. Ukraine has been negotiating the Enhanced Agreement for already approx. 3 years, and hopes to sign it at the end of this year. Therefore, the goal of negotiating the Moldova-EU Association Agreement in only one year is ambitious, but it can also be dangerous considering the content of document. The negotiations on the Association Agreement will start on January 12 2010.

On the one hand, there are real prerequisites for negotiations to last less, but on the other hand, the saying “more haste, less speed” could turn out to be relevant in our case. One of the reasons for the negotiations to eventually unfold much faster comparing to Ukraine is the fact that our

neighbor country spent two years on insisting for the new juridical document to have the shape of an Association Agreement, but in Moldova's case this is clear from the beginning, due to the Eastern Partnership. We should mention that, unlike the Stabilization and Association Agreements signed by the Western Balkan countries, the Association Agreements approved within the Eastern Partnership will not offer a perspective of joining the EU. This is why we should be more prudent when we set down final terms for signing the Association Agreement.

More time for negotiations may imply more arguments for fixing the European perspective within the document. Taking into account the fact that the deepness of reforms is always an important ace for getting closer to EU, the Government chaired by Vlad Filat has all the chances to prove to the European partners within the next months that the Republic of Moldova passes through a fast democratization process. Analyzing the governing program of Filat Government, titled "European Integration: Freedom, Democratization, Welfare" [8], it is to be noticed that the priority activities of this Executive are to overcome the arrears in domains mentioned in the progress reports by the European Commission. The Government is planning to improve the system of human rights protection; to reform the justice; to consolidate the national integrity system and fight against corruption; to contribute to liberalization of media space and to guarantee the freedom of expression; to decentralize the government and to strengthen the local autonomy. Especially on these chapters, Moldova is lagging behind in the implementation of the EU-Moldova Action Plan.

If Chisinau government manages to establish good relations with EU partners, including the prime-ministers of certain European states, our country could benefit from a strong lobby from certain friend-countries in order to get the perspective of joining the EU included in the Association Agreement. The circumstances within EU could become more favorable for a stronger opening towards EU after the Irish "YES" in the Lisbon Treaty referendum and the ratification of the Lisbon Treaty by the Czech Republic. The implementation of the Lisbon Treaty will contribute to getting over the institutional crisis UE has facing during the last years. It is expected that the European states will overcome the economical crisis in 2010, therefore the recession from 2008-2009 will pass into economical ascension. This makes both governors and citizens much more optimistic. A new economical growth on European level could reduce the effects of the so-called "extension tiredness" and as a result the discussions on the EU "open door policy" could be resumed.

It also takes time to prepare a team of experts that should negotiate different chapters of the Association Agreement. The last Government stated that 110 national experts were already trained to negotiate the future juridical frame with EU. It is important for the new Executive to take into account the professionals that have already been trained for the negotiations, if they are thoroughly prepared. Moldova should also benefit from the entire support and expertise which can be offered by the recently joined EU member states, by those who currently pass through the adherence process or the ones who have already signed Association Agreements. Attracting the civil society, at least for consultations, is also important.

The new government will need time for elaborating and applying an external communication strategy that would convince the EU public opinion but especially the political elite from the European states, about the opportunity of a wider opening towards Moldova, and even to accept Moldova as potential EU candidate. Besides, the (internal) communication strategy on Euro-

pean integration and its' fulfillment must also be improved, in order to ensure a better preparation of the Moldovan society for challenges and costs presumed by the proximity to the EU.

It is to be noticed that the government program "European Integration: Freedom, Democracy, Welfare" establishes as objective to receive the EU candidate status. Certain AIE representatives believe that signing an agreement that would stipulate Moldova's status as EU candidate can be accomplished by the end of 4 years mandate of current Government, which is more that optimistic, but not imaginary. Fulfilling this goal depends on the Association Agreement's content, on the quality and speed of internal reforms in Moldova etc.

Among the main actions for European integration proposed by Filat Government are:

- Acquire and promote European values and standards in all the areas – political, economic, social and legal – by implementing the Copenhagen criteria and commitments made at the Council of Europe;
- Bring the national legislation in line with the EU acquis;
- Promote real economic integration with the EU, particularly by signing the **Deep and Comprehensive Free Trade Agreement**;
- Launch the dialogue with the EU, for the purpose of signing a new Roadmap on visa liberalization, so as to obtain the liberalization of visa regime for the citizens of the Republic of Moldova;
- Implement actions consistent with the Mobility Partnership between the EU and the Republic of Moldova;
- Ensure the energy security of the country by means of the EU tools and join the European energy market;
- Implement strategies for communication (internal and external) on the European integration process with the society and external factors from the EU, as well as with other international actors. Open information centers across the country to provide correct and comprehensive information about the European integration process to the population.

The signing of a Deep and Comprehensive Free Trade Agreement with EU is also stipulated by the development strategy of the Eastern Partnership. In the first half of 2009, the European Commission should have initiated a study in order to find out to which extent is Moldova ready for a Free Trade Area with EU. The conclusions of this study are not known yet. Ukraine planned to sign this document this year, but it seems this would happen at the beginning of 2010, on the peak of election campaign in Ukraine.

The liberalization of visa regime is another objective of the Eastern Partnership development. The European Commission noticed that the countries from the Eastern Partnership, including Moldova, can benefit from a liberalized visa regime, till its total exclusion in a distant future. The current Chisinau Government sets as objective to sign the agreement for visa abolishment for Moldovan citizens until 2012. This goal is similar to the Ukrainian one, because our neighbor country initiated negotiations in the summer of 2009. We can negotiate easier on this issue, since we are part of the Mobility Partnership (upper mentioned). The Moldovan prime-minister Vlad Filat discussed the "implementation of the needed conditions" for launching the dialogue concerning the visa regime with the vice-president of the European Commission, Commissioner for Justice, Freedom and Security, Jacques Barrot, during the Brussels visit (September 29 – 30). In order to easier find the way towards an agreement of visa abolishment,

- In order to avoid a deficient implementation of the Convention on small border traffic, the Ministry of Foreign Affairs and European Integration should launch a public information campaign. The possible breaches of this document by the Moldovan citizens could affect the content of the Agreement on visa liberalization with the EU, till its annulment. Thus, Moldova citizens eligible for the cross border traffic should be well informed about their rights and duties.
- The civil society should be actively involved in the negotiations of future agreements with the EU;

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Association for Participatory Democracy ADEPT

Address: V. Alecsandri str. 97
Chisinau, MD-2012,
Republic of Moldova

Tel.: (+373 22) 21 34 94
Fax: (+373 22) 21 29 92
E-mail: adept@e-democracy.md
Web: www.e-democracy.md



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ADEPT's mission is to promote the democratic values and support citizen active participation in public affairs.

Strategic Objectives

- Contribute to the efficient implementation of the governmental strategies aimed at the socio-economic development and democratization of Moldova;
- Promote and consolidate the democratic institutions and procedures;
- Encourage and facilitate citizen participation in the decision-making and governance processes.