

CARBON PRICING IS A TOOL TO DECARBONIZE THE ECONOMY

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Abstract

This article identifies the modality of putting a price on carbon for helping shift the burden of damage from GHG emissions back to those who are responsible for it and can avoid it. Implementation of carbon pricing instruments can be an effective tool for achieving 2030 more ambitious targets of reducing GHG emissions by 2030 set up in the updated NDC2 Nationally Determined Contribution from 2020 (NDC2). The high vulnerability to both climate and external shocks (dependence on imports for energy) is the biggest economic challenge of the Republic of Moldova.

This article aims at providing the approach to the problem of the legislative framework in Moldova is under a 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. There are no provisions on climate change mitigation and adaptation in primary legislation and no legal basis which creates concrete impediments in the law-making process and in the implementation of new administrative procedures harmonized with the EU standards, in strengthening clear institution obligations in data management and low data accessibility. The Republic of Moldova should set priorities for implementing legislative measures related to climate change, taking into consideration the on-going debate on the Energy Community Decarbonization Roadmap and based on the process of recent EU candidacy admission of the RM.

We underline the necessity of elaborating on the new Climate Change Law, which will consolidate of adopted legal framework to implement measures to reduce greenhouse gas emissions by sources and enhancement of removals by sinks at a level that would prevent dangerous anthropogenic interference with the climate system.

Keywords: carbon price; climate change; greenhouse gas emission; decarbonization; climate action law.

JEL Classification: K32, K 33, Q52, Q54.

1. INTRODUCTION

The high vulnerability to both climate and energy crisis shocks, is the biggest economic challenge of the Republic of Moldova. The shock of climate change on agriculture is of strategic concern – agriculture is a major source of income in the country, where more than half the population lives in rural areas and about one - third of the labor force is employed in agriculture.

In conformity with the third Biennial Update Report of the Republic of Moldova, over the last 132 years, the Republic of Moldova has experienced changes in average values of temperature and precipitation. The country had become warmer, with an average temperature increase of more than 1.2°C, while increase in precipitation was only 51.3 mm. (The third Biennial Update Report of RM)

The Government, in its national development policy set priorities for implementing measures related to climate change relevant to the Republic of Moldova, taking into consideration the on-going debate on the Energy Community Decarbonization Roadmap and based on the process of recent EU candidacy admission of the RM.

Moldova is a contracting party of the Energy Community Treaty - EnC Treaty (Council Decision 2006/500/EC of 29 May 2006 on the conclusion by the European Community of the Energy Community Treaty) since 2010 and in June 2022 the Republic of Moldova was granted EU candidate status.

The approximation of Moldovan legislation with European Union Green Deal - EU EGD (The European Green Deal (COM(2019) 640 final, 11.12.2019) acquis is justified by a set of international obligations ratified by the Republic of Moldova.

The *UN United Nations Framework Convention on Climate Change* (The Parliament Decision no.444/1995) was adopted on June 1992 and entered into force on December 1992 (status in force: Moldova 1995), is aimed to achieve stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.

The *Paris Agreement* (PA) (Law no. 78/2017) was adopted in 2015 with an objective to limit global warming below 2°C, ratified by the Republic of Moldova (status in force: Moldova 2017). In order to achieve this objective all its signatory Parties are to communicate national actions to reduce GHG emissions to the UNFCCC through their Nationally Determined Contributions (NDCs).

The Republic of Moldova, has committed in 2020 in updated NDC (NDC2) to achieve more ambitious reduction targets than those included in the NDC 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 NDC from 2015, 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.

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

The first important step towards the integration of planning, reporting, and monitoring obligations in the energy and climate field and toward the implementation of the PA, including the harmonious integration of MRV requirements under UNFCCC is the elaboration of the integrated national energy and climate plans (NECPs).

In the Republic of Moldova, there is no national energy and climate plan elaborated in conformity with Regulation 2018/1999 of 11 December 2018 on the Governance of the Energy Union and Climate Action. The indicator of the fulfillment of the "National Energy and Climate Plan (NECP)" is assessed at 20% in the Country Report of 01.11.2020 sent to the Energy Community.

In spirit to further efficiently implement the Energy Community Decarbonization Roadmap, the Ministerial Council invited its Energy and Climate Committee to establish a dedicated working group on the conceptualization of a carbon pricing system and to develop proposals for discussion at the 2023 Ministerial Council meeting.

Taking into account the European Union's carbon border adjustment mechanism (CBAM) initiated, in case of electricity market coupling, as foreseen in the CBAM Regulation EU 2023/956, a carbon pricing system may allow, to deduct of such a carbon price from the carbon border adjustment, as provisionally agreed by the EU Council and EU Parliament.

The present article aims to provide an overview of how the Energy Community Decarbonization Roadmap relevant acquis are expected to be implemented in the course of the transposition on climate, energy, and environment-related legislation, proposals taking into consideration the current capacity level of institutional and legislative.

Achieving more ambitious NDC2 targets will be possible through:

- i. Advanced alignment with EGD related acquis and in the context of Energy Community Treaty on climate, environmental and energy matters;
- ii. Approximation of Moldovan legislation with the EU standards based on the framework for achieving climate neutrality of the European Climate Law;

- iii. Establishment of concrete guidelines for the implementation of the Roadmap taking in consideration the ongoing debate on the EGD and the recent EU candidacy admission of the Republic of Moldova.

The methodology of the article is based on desk research, a gathering of official information by means of submission of information requests to respective state authorities, constant actualization of data, comparative legislative framework, legal assessment, comparative analysis and compliance review.

In preparing the article we followed main approaches:

- identifying of the gaps between the regulation and legislation framework on setting clear of EnC Decarbonization Roadmap targets and legislative framework of the Republic of Moldova;
- description of the most relevant provisions as well as an explanation how these relate to the existing rules of law in Moldova;
- write the conclusions and recommendations for efficient implementation the EnC Decarbonization Roadmap regulation and legislation framework taking in consideration the current capacity level of institutional and legislative.

2. LITERATURE REVIEW

The recommendations made in the Energy Community Study on Carbon Pricing Design for the Energy Community (Kantor, 2021) launched in 2020 by EnC Secretariat and which have been published in January 2021, were considered in the Decarbonization Roadmap for the Contracting Parties of the Energy Community.

The objectives of the Decarbonization Roadmap are: (i) to achieve to 2030 energy and climate targets and mid-century climate neutrality for the EnC; (ii) to establish a dialogue with the EU on the decarbonization priorities, the process, timeline and main elements of the roadmap; (iii) to make progress on agreeing to a carbon pricing system; and (iv) to establish shared political messages on subjects such as a coal phase-out and fossil-fuel subsidies (Policy Guidelines 01/2021/MC-EnC).

The EGD is the new growth strategy for an EU economy that aims to be sustainable, cleaner, safer and healthier by turning climate and environmental challenges into opportunities across all areas of policy in a way that is fair and inclusive.

The EU Green Deal proposed the EU strategy, aiming to transform the EU into a fair and prosperous society, improving the quality of life of current and future generations, based on a resource-efficient and competitive economy where there are no net GHG emissions in 2050 and under economic growth decoupled from resource use.

Then, the EGD analysis is focused on the detailed assessment of current policy areas and regulatory framework in the climate change field giving attention

to other sectoral documents of relevance (energy, environment) and their correlation with the EU climate acquis.

The Climate Action Initiatives under the EGD have been translated into action through:

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

- the *European Climate Pact* which encourages people, communities and organizations to connect and share knowledge, learn about climate change and develop solutions to fight climate change;

- *2030 Climate Target Plan* Commission has proposed to increase the EU's ambition to cut greenhouse gas emissions by at least 55% by 2030 to set Europe on a responsible path to becoming net-zero greenhouse gas emissions by 2050. The package contains legislative proposals under the "***Fit for 55***" to revise the entire EU 2030 climate and energy framework, including the legislation on effort sharing, land use and forestry, renewable energy, energy efficiency, emission standards for new cars and vans, and the Energy Taxation Directive;

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

- the *Sustainable Europe Investment Plan* creates a framework will target climate, environmental and social investments, the latter as far as they are related to the sustainable transition and will mobilize through the EU budget and the associated instruments at least EUR 1 trillion of private and public sustainable investments over the upcoming decade.

In delivering the EGD, the focus will be on:

- Increasing the ambition of EU emissions trading
- Aviation and the EU ETS
- Social Climate Fund
- Increasing the ambition of the EU's Effort Sharing Regulation
- Land Use, Forestry and Agriculture
- CO₂ emission performance standards for cars and vans.

3. RELEVANT EU ACQUIS ON CARBON PRICING

i. Taxation of GHG emissions and Emissions Trading System. Cap and trade and a carbon tax are placing a price on carbon, correcting the market failure and taking advantage of market efficiencies, both approaches encourage the shift

to a lower-carbon economy. The taxation of energy products and electricity plays an important role in the area of climate and energy policy.

The proposal for recasting framework for the taxation of energy products and electricity is part of the EGD and of the “*Fit for 55*” legislative package focuses on environmental and climate issues to achieve the EU’s domestic greenhouse gas emissions reductions objectives and air pollution reduction. Reducing man-made GHG emissions can help to limit global warming. The EU Emissions Trading System is a basic pillar of the EU's policy to combat climate change and its key tool for reducing greenhouse gas emissions cost-effectively. It is the world's first major carbon market and remains the biggest one. Companies that are regulated by the EU ETS include stationary installations (such as power plants, industrial plants and other large energy users) and airlines. The EU ETS is regulated by Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC and Directive (EU) 2018/410 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814.

ii. Carbon Border Adjustment (CBAM) is intended to complement the Emissions Trading System and level the playing field between EU and non-EU businesses, ensuring that production of carbon-intensive goods does not shift from within the EU to third countries in order to take advantage of less stringent climate policies. It is due to take effect in a transitional form from 1 January 2023 and be fully operational from 1 January 2026. The CBAM seeks to replace the existing mechanisms (free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from GHG emission costs (Directive 2003/87/EC)) by addressing the risk of carbon leakage in a different way, namely by ensuring equivalent carbon pricing for imports and domestic products. The CBAM is a tool to put a fair price on the carbon emitted during the production of carbon intensive goods that are entering the EU, and to encourage cleaner industrial production in non-EU countries. The gradual introduction of the CBAM is aligned with the phase-out of the allocation of free allowances under the EU ETS to support the decarbonization of EU industry.

The CBAM will in force in its transitional phase as of 1 October 2023. It will initially apply to imports of certain goods and selected precursors whose production is carbon intensive and at most significant risk of carbon leakage: cement, iron and steel, aluminium, fertilizers, electricity and hydrogen.

The CBAM will assess the GHGs emissions released in producing goods and equalize the price of carbon between domestic products and imports of a selected number of products. Hence it will ensure that the EU's climate objectives are not undermined by production relocating to countries with less ambitious policies.

The CBAM is therefore a climate measure to prevent the risk of carbon leakage and support the EU's increased ambition on climate mitigation, while

ensuring WTO compatibility. Over a period of eight years, CBAM will also gradually replace the free allowances given under the EU ETS.

4. THE REPUBLIC OF MOLDOVA LEGISLATION FRAMEWORK RELEVANT FOR TRANSPOSITION OF THE EGD ACQUIS

Climate actions are fundamental to the achievement of all 17 Sustainable Development Goals. The draft of the *National Development Strategy “European Moldova 2030”* sets out clear priorities for combating climate change by creating an efficient energy policy, along with a forward-looking climate change policy leading to a fair transition to a climate-neutral and competitive economy by 2030, that will create opportunities for new jobs and sustainable growth at the same time.

The Government of the Republic of Moldova in 2016 approved the main political strategy in the area, *the Low Emission Development Strategy of the Republic of Moldova until 2030 (LEDS) and the Action Plan for its implementation* (Government Decision no. 1470 from 30.12.16).

In 2020, after expressing more ambitious targets for reducing GHG emissions in the updated NDC2, the Republic of Moldova has initiated to develop, but not approved *the Low Emission Development Program of the Republic of Moldova until 2030 (LEDP) and the Action Plan for its implementation*, which is to replace the former LEDS 2030 and to serve as guidance and officially approved document for achieving the targets included in the updated NDC.

The LEDP of Moldova will allow the country to achieve sustainable green development, based on the country’s socio-economic and environmental development priorities, set out in the draft of the National Development Strategy “European Moldova 2030”.

The main political strategy outlining the policies *Environmental Strategy for 2014-2023 and Action Plan for its implementation* (GD no.301/2014) of cross-sector commitment towards sustainable green growth. The strategy's objective of GHG emissions reduction by at least 25% greenhouse gases from the energy sector; by 20% - those from the residential sector, industrial and agricultural sectors; use of 15% biofuels in the transport sector.

Law no. 852 of 14.02.2002 on approval of Regulation on commercial regime and regulation of using halogenated hydrocarbons which destroy the ozone layer sets out the rules of production, import, export, re-export, transit, placing on the market, marketing, use, recovery, recycling and regeneration of halogenated hydrocarbons which destroy the ozone layer.

Law no. 43/2023 on fluorinated greenhouse gases establishes a legal framework, which aims to protect the environment by reducing emissions of fluorinated greenhouse gases. The objectives of the Law are: (i) establishes rules on containment, use, recovery and destruction of F gases, and on related ancillary measures; (ii) imposes conditions on the placing on the market of specific products and equipment that contain, or whose functioning relies upon, fluorinated

greenhouse gases; (iii) imposes conditions on specific uses of fluorinated greenhouse gases; and (IV) establishes quantitative limits for the placing on the market of hydrofluorocarbons.

Taxation of GHG emissions and carbon market Moldova hasn't established carbon market legislative framework.

5. SECONDARY LEGISLATION

The Government Decision no. 444/2020 on establishment of the mechanism for coordinating activities in the field of climate change, establishes organization and operation of: the National Commission on Climate Change through the intersectoral coordination mechanism for coordinating nationally appropriate mitigation activities.

GD no. 483/2019 on approval of the Regulation regarding the training and certification of specialists in the field of cold technology, which contains hydrochlorofluorocarbons and fluorinated greenhouse gases establishes the national training and certification requirements for natural persons (company staff).

GD no. 1242/2016 approving the Regulation on measures to reduce emissions from automotive air conditioning systems, prohibiting charging of motor vehicles with fluorinated gases with a GWP100 greater than 150, except for recharging of air-conditioning systems containing such gases, but which were installed on vehicles before 1 January 2021.

The scope of the GD no. 414/2016 approving the Regulation on reduction in the sulphur content of certain liquid fuels is to reduce the emissions of sulphur dioxide resulting from the combustion of certain types of liquid fuels and thereby to reduce the harmful effects of such emissions on man and the environment.

The *GD no. 1277/2018 on establishment and operation of the National Monitoring and Reporting System for Greenhouse Gas Emissions and Other Information Relevant to Climate Change* regulates monitoring the methane emissions. *GD no. 1277/2018* was amended by the *GD no. 358/2021* on modification of the *GD no. 1277/2018* and partially transposes Regulation (EU) 2018/1999 which repealed Regulation (EU) no 525/2013. Amendments concern MRV obligations in conformity with transparency framework requirements of the Paris Agreement (Law no. 78/2017), including on the following articles: art. 7 (1), (aa) and (da), art. 13 (1), (viii) and (ix), art. 14, (1), (ba) and (f) și art. 21. (1).

6. CONCLUSIONS

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

A gap analysis was performed in the Republic of Moldova in 2020 by EU4Climate Project against the EU acquis on Climate Actions and a Roadmap for

legislative alignment has been developed with support of EnC Secretariat, elaborated by the Comendant (2020).

The gap analysis against the EU acquis on climate actions and the roadmap for EU4Climate support outlining priority actions for the Moldova, revealed that, there were three EU climate change acquis in the frame of EU-RM Association Agreement (AA) and one EnC recommendation in the frame of Energy Community Treaty, which have not yet transposed into national legislation:

- EU Regulation 517/2014 (F-gases) – deadline for transposition: 2018;
- Regulation (EC) No 1005/2009 (Ozone Depleting Substances) – deadline for transposition: 2019;
- Recommendation 2018/01/MC-EnC (NECP) – deadline for implementation: 2020;
- Directive 2003/87/EC (Emission Allowance Trading) – deadline for transposition: 2022.

Considering the transposition deadline, all legal acts required to undertake not delayed actions to transpose them into national legislation, so all respective acquis have been treated as priority actions under the capacity building programme supported by the EU4Climate Project. However, due to limited resources available, within the 2020-2022 periods, the capacity building activities have been focused on preparing the draft Law on F-gases (process finalized), respectively on transposing the Directive 2003/87/EC (it has been drafted a GD on approving the Regulation on MRV of GHG emissions from stationary installations, which partially transpose the Directive 2003/87/EC).

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

- all legislative drafts should be based on primary legislative justification, but we underline that there are no provisions on climate change mitigation and adaptation in primary legislation, which creates some impediments in promoting new administrative procedures, like a carbon tax etc.;
- the administrative procedure incorporated in the secondary legislation, without clear imperative norms in primary legislation, creates an inefficient and low application, for, ex. low data accessibility in implementation of the GD no.1277/2018 on establishment and operation of the National Monitoring and Reporting System for Greenhouse Gas Emissions and Other Information Relevant to Climate Change;
- the implementation mechanism of transposed in legislation the EU standards are no efficient due to lack of new secondary legislation elaborated in time;
- the implementation mechanism of transposed in national legislation the EU standards are no efficient due to lack of new sanctions incorporated in time in the Contravention Code No. 218/2008 and Criminal Code 985-XV/2002.

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

In the above - mentioned proposals we recommend the following:

1. Elaboration of a draft Law on Climate Change, the law is expected to include references on achievement of climate neutrality objective by 2050 and the intermediate target of reducing net and the GHG emissions by sectors by 2030; the law should also introduce measures for a binding target for carbon sink up to 2030 as a significant contribution to the climate neutrality pathway; furthermore, it is expected contributing to climate impact quantification and adaptation planning to boost resilience of Moldova's community and economy;

2. Elaboration of the Regulation on carbon pricing, to be approved by a Governmental Decision;

3. Amending the Governmental Decision No. 373/2018 on National Register of emissions and pollutant transfer, to enhance the application of monitoring, reporting and verification of emissions from stationary installations and aviation activities; if amendment is approved, it will transpose Article 19 'Registries' of the Directive 2003/87/EC;

4. Elaboration of the Regulation on monitoring, reporting and verification of emissions from stationary installations and aviation activities, to be approved by a Governmental Decision, partially transposing the MRR Regulation – Commission Implementing Regulation (EU) 2018/2066 on the monitoring and reporting of greenhouse gas emissions, amended by Commission Implementing Regulation (EU) 2020/2085; if approved, the Regulation will transpose Article 14 'Monitoring and reporting of emissions', Article 17 'Access to information', as well as Annex I 'Categories of activities to which this directive applies' and Annex II 'Greenhouse gases to which this directive applies' of the Directive 2003/87/EC;

5. Elaboration of the Regulation on the verification of data and on the accreditation of verifiers, to be approved by a Governmental Decision, transposing the AVR Regulation – Regulation (EU) 2018/2067 on the verification of data and on the accreditation of verifiers, amended by Commission Implementing Regulation (EU) 2020/2084; if approved, the Regulation will transpose Article 15 'Verification and accreditation' of the Directive 2003/87/EC;

6. Amending the Contravention Code for a series of illegal actions or inaction, transposing Article 16 'Penalties' of the ETS Directive 2003/87/EC;

7. Amending the Law No. 235 of 01.12.2011 on accreditation and conformity assessment, to delegate to the National Accreditation Center of the

Republic of Moldova the accreditation of verifiers to perform the verification in line with the AVR Regulation.

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