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SOME ASPECTS OF THE FRONTIER PROBLEMS THAT THE REPUBLIC OF MOLDOVA CURRENTLY FACES

Frontier is a complex system and its functioning reflects on the development of the entire country. In the Republic of Moldova, the frontier is a vital importance for the state, but that requires the frontier to be maintained and developed at a proper level. Internationally, the eastern and western frontiers of Moldova are vulnerable points threatening the territorial, economic and political security, and not in the least, the military one, which have meanwhile become some filters for smuggling, illegal trafficking of human beings, drugs and weapons. The purpose of this article is to present the *de jure* and *de facto* state of the aspects concerning the state frontiers of the Republic of Moldova as well as some solutions developed in accordance with EU recommendations.

INTRODUCTION

Frontier represents a line of the physical contacts between the states, drawing the outlines of the distinct legal spaces, respectively limiting the action of a state, but offering it the opportunity to act within its territory. The state frontier of the Republic of Moldova includes the frontier sector with Ukraine (which coincides with the former administrative frontier between the Moldavian SSR and Ukrainian SSR), and the frontier sector with Romania, which up to August 27, 1991 was a part of the state frontier between the USSR and Romania.

FRONTIERS OF THE REPUBLIC OF MOLDOVA

As a result of the USSR collapse, Ukraine and Moldova became the successor state of the former Soviet frontier imposed to Romania by Moscow based on the ill-fated Ribbentrop-Molotov Treaty of August 23, 1939 and the Ultimatum of June 28, 1940, when as a consequence of the territorial rapt a territory of 50 500 de km² with a population of 3,7 million residents was annexed [92, p.38-39,vol.I]. This was a composition of which the citizens of the Romanian nationality were a preponderant majority, so that the former Soviet state established later „the favourable strategic frontiers.” Though some authors consider that the political map of Europe coincides with that of the nations and state frontiers, we are currently in the situation when three neighbour states have a frontier imposed by the fourth state in violation of the principles of the international law, which stopped to exist as a subject of law in the international community [169, p.149]. Like in many other fields, Moldova inherited its frontiers from the former USSR, and therefore Moldova inherited also a lot of related problems, some of which started to be solved, but the others worsened on the contrary. For example, the frontier sector between Romania and Moldova respectively uses the old, but renovated frontier signs remained from the Soviet period. Although the treaty on the frontier regime with Romania is already prepared, it has not been signed yet. As for the frontier between Ukraine and Moldova on its turn, it faces the problems, such as the portion of 45 400 km, which is located on the Transnistrian segment and is not controlled by the Moldovan authorities. Thus, the common frontier with Ukraine presents some distinct political particularities, which deserves a special treatment and a particular approach. The question is of the existence of the separate regime, which on one hand sabotages the work and attempts of the frontier organization. Hence, they recalled the representatives of the delimitation commission; impede advancement of the work of resuming of the customs control at the frontier and organization of the common control with Ukraine. On the other hand, they also enjoy a relatively advanced level of the frontier regulation (including the ports of entry and the simplified regime).

Although there is a treaty¹ on the frontier already from 1999, the Southern segment is already in the process of marking-off, but the marking-off of the Northern segment has been already completed. Another treaty², being considered the basic treaty, foresees the other principles of cooperation of frontiers between the two countries as well as the principle of frontiers inviolability. Therefore, the administrative border existing at that moment is recognized, indirectly as a line of separation of the two states.

From the legal point of view, the frontiers of the Republic of Moldova may be separated in two distinct categories, according to their degree of organization and consequently, to the different legal regime:

- the external frontier³, which coincides with the state frontier between the ex-USSR and Romania.
- the administrative frontier – which coincides with the administrative border between the union republics: the Moldavian SSR and Ukrainian SSR.

For Moldova, a special problem is not only transparency of the eastern border, which facilitates smuggling, but the existence of the enormous void at the frontier, which formed the territory of Transnistria. It is a territory extending on more than 40 000 km, where the frontier security is just conventional. Through this space, enormous quantities of smuggled goods are transported, the political and financial interests of some persons make the mutual understanding and cooperation between the border guard and customs services of Moldova and Ukraine more difficult. The satisfactory level of cooperation cannot be achieved through the direct orders of the presidents of the states and the governments of the both states.

In accordance with the state frontier law, the frontier zone extending on 1 000 km in the territory of the Republic of Moldova from the state frontier has been already defined. Up to present, in the Republic of Moldova there is a national legislation conforming to the provisions of the concept of the state frontier security since 2003, which delays to be implemented for a considerably long time. Only in 2007, the Parliament adopted the Bill *on the Border Guards Service* at the first reading.

With the help of the experts of the European Union Border Assistance Mission for Moldova and Ukraine the first project of the *Concept of the State Frontier Security for 2007–2010* was developed, which subject is to be adopted once the Concept of National Security of Moldova is accepted.

According to the Legislative Plan of the Parliament, a new concept of the state frontier security was to be adopted actually in the last semester of 2006 and the national strategy of the integrated management of the state frontier is in the process of development. A lot of progress was recorded on this subject, especially after the activity of the EU Border Assistance Mission for Moldova and Ukraine (EUBAM) and BOMMOLUK⁴ program coordinated by it. But as a result of the activities undertaken in the territory of the Republic of Moldova, *Council of Cooperation EU-RM* evaluated highly the achievements of the EUBAM and welcomed the prolongation of its mandate for two years more, up to 2009.

As a result of the foregoing, we can see that the Republic of Moldova comes across many problems, which will be further listed. There are several basic factors influencing the problems faced at the frontiers of Moldova. The first factor is failure of solution of the Transnistrean conflict, the political and economic impasse and the EU's interest for security and stabilizing of the frontiers around the EU. First of all, there is a problem: *the regional factor*, which is divided into *internal* and *external issues*. The internal factors play a key role here. All problems related to the frontier are due to the imperfection of the legislation of Moldova, for example, the problem between Moldova and Romania. Currently, only a few problems on the interaction at the frontier between these two countries are clearly regulated by the bilateral agreements:

¹ Treaty between the Republic of Moldova and Ukraine on the state frontier signed on August 18, 1999 (effective on November 18, 2001)

²Art. 1 of the Treaty of Friendship, Neighbourliness and Cooperation between the Republic of Moldova and Ukraine signed in Chisinau on October 23, 1992 (hereinafter referred to as „the basic Treaty”)

³The term is also foreseen in Art. 1 of the Agreement of cooperation of the CIS member states to ensure the stable situations at their external frontiers concluded in Bishkek on October 9, 1992. Note: RM is not a party. The document is more of the doctrinal importance than of a normative one.

⁴ In September 2006, a project under the name of BOMMOLUK funded by the EU was developed. It has the purpose of improving the activities of the Moldovan- Ukrainian state frontier management. This project is implemented by the European Union Border Assistance Mission of Moldova and Ukraine, which together with the services of the both states determined the necessities of equipment.

- the regime of mutual travelling;
- readmission of the persons having the illegal residence;
- administrative assistance in customs.

Both parties are in the process of negotiation on the agreements regarding to the joined customs control, small traffic at the frontier, executive agreements on taking of the persons at the frontier. Attention is paid for the problems of cooperation at the frontier by the central Moldavian and Romanian authorities more than 10 years. The sector groups on the problems of cooperation in the frontier problems gathered once in 12 years. The current frontier problems are a result of the lack of well-developed legal acts, of the mechanisms and methods necessary for combating and prevention of the violations taking place at the frontier. Combating of the frontier offences as well as the other major problems need also the considerable financial resources, which are not available, but the scanty use of the funds in this fight may result in a complete degradation of the society or loss of the statehood.

Due to the foregoing, we may mention that the objective of the state frontiers consolidation of the Republic of Moldova includes the following: consolidation of the western and eastern frontier is a condition of the economic security of the country, equipping of the customs stations, which is a direct need, but requires considerable expenses, which Moldova cannot allow. The use of modern control methods of loads and documents would reduce the time of the transport stationing and make the customs stations and the transit itineraries of Moldova more attractive for the international transporters. The western transporters, which run on the international routes, come across the difficulties in crossing the borders due to the unconformities of the transportation regulations (including the problems of interaction of the railway companies) and the physical wear of all infrastructure elements. The indirect difficulties depend on the procedures of the customs services and other administrations at the frontier. A flagrant violation of the frontier regime is the illegal migration as well, which appeared when the USSR collapsed. After opening of the frontiers, an influx of travellers from the South and South-East Asia, who wanted to reach the European countries in search of work, grew sharply. Due to its geographical placing, Moldova became involved in the process of illegal migration. According to the data of the press centre of the Security and Intelligence Service (SIS) from 1992, the officers of this service in cooperation with the border guards detected and expelled from the country more than 15 thousand illegal migrants, who arrived in Moldova through the various ways for the purpose of crossing the Moldovan– Romanian frontier illegally. In 2000 the SIS officers suppressed the attempts of tens of the citizens from Iraq, India and Pakistan to enter our country, which transited Moldova to reach the countries of Western-Europe.

Development of the country may be based on some sources of income: industrial and agricultural production, trade of the minerals and raw materials, providing of the special services, as tourism, banking or financial services, etc. In the last years, to survive the entire Moldova uses two sources of income: customs payments, which are specific taxes for the international trade; or the income of the population, which works abroad and transfers the saved money to the relatives, who remained at home. This aspect is a frontier problem: the illegal emigration of the citizens of the Republic of Moldova: going to the EU countries with the faked passports and visas, or with tourism visas and illegal stay in the EU; or going to Russia and stay in its territory with no registration. These two sources are tightly connected. Moldova exists for years with a negative balance only due to the influx of currency introduced in the country by its citizens working in the countries. The structure of the income of the state budget is incorrect, because the share of the income tax of the companies is much less than the share of the customs duties collected from the import of the consumable products.

To overcome this situation, Moldova has to undertake many actions of the political, legislative, organizational and technical character, among which the following may be mentioned:

1. POLITICAL ASPECT: inasmuch as the country will be divided and will have a frontier sector with no control, Moldova will use the time necessary to restore the economy inefficiently, which is inadmissible. But, not in the case of the international assistance;

2. ECONOMIC DEVELOPMENT: a country that does not provide for its citizens a sufficient level of living, so that they are forced to emigrate illegally to the other countries. From 1998 to 2001 in Moldova, the gross domestic product per capita constituted USD (according to the data of the World Bank). This level is in 3– 4 times less in comparison with our near neighbours;

3. LEGISLATIVE ASPECT: the legislation on the frontier defence and the customs problems needs to be updated.

4. TECHNICAL ASPECT: all organizations and services responsible of the frontier security and the protection of the economic interests of Moldova, its citizens and companies must be provided with the modern equipment and methods, which will ensure the implementation of the quick and safe control of the documents by means of the communications, software and databases.

CONCLUSIONS

Frontier is a complex system influencing powerfully the economy as a whole, the state security and the citizens. Therefore, it needs understanding and assistance of the state and even of the citizens. However, in the case of Republic of Moldova the European experience and technical assistance for development of the regulations on the frontier organization and demarking, consolidation and reorganization of the security and control services at the frontier would be useful. In this perspective, participation in the Pact of Stability in South-East Europe could be an additional source of financing of the frontier reforms and management to facilitate their implementation.

Keywords: frontier, state frontier, frontier sector, territorial smuggling, inviolability of frontiers, favourable strategic frontiers, agreement, convention, treaty, transfrontier cooperation, legal frontier regime, border transparency, negative balance, national strategy, joined customs control, frontier zone, small traffic at frontier, consolidation of borders, state budget, income tax.

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ACTS OF THE COUNCIL OF EUROPE, EUROPEAN UNION AND EUROPEAN PARLIAMENT

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