

Report

on gap analysis of the current legislation in Republic of Moldova and development of a roadmap outlining EU4Climate support to Republic of Moldova in alignment with EU *acquis* included in Bilateral Agreements on Climate Action and/or Energy Community Treaty (Lot 2)

Part II: Detailed gap analysis of existing national legislative framework vis-a-vis R. of Moldova's commitments

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List of abbreviations

AA	Association Agreement
BUR	Biennial Update Report
CCA	Climate Change Adaptation
CCAS	Climate Change Adaptation Strategy
CDM	Clean development mechanism
CO ₂	Carbon dioxide
COP	Conference of the Parties
CPs	Contracting Parties
EaP	Eastern Partnership countries
EC	European Commission
EnC	Energy Community
EnCT	Energy Community Treaty
EN	European Standard
ETS	Emission Trading System
EU	European Union
GD	Government Decision
GD1027	GD no. 1027 of 01.10.2001 regarding some measures for the implementation of the Law on the oil products market
GD1116	GD no. 1116 of 22.08.2002 on the approval of the Regulation regarding the storage and wholesale trade, through automated system, of the identified petroleum products
GD1277	GD no 1277 of 26.12.2018 regarding the establishment and operation of the National System for monitoring and reporting greenhouse gas emissions and other information relevant to climate change
GD483	GD No. 483 of 18.10.2019 on the approval of the Regulation regarding the training and certification of specialists in the field of cold technology containing hydrochlorofluorocarbons and fluorinated greenhouse gases
GD589	GD no. 589 of 21.06.2018 on approval the Regulation regarding the establishment of the mechanism for distributing the annual quotas for the import of hydrochlorofluorocarbons halogenated
GD856	GD no.856 of 13.07.2016 regarding the approval of the Halogenated Hydrochlorofluorocarbons Suppression Program for 2016-2040 and the Action Plan for its implementation in 2016-2020
GHG	Green House Gases
HCFC	hydrochlorofluorocarbons
L1515	Law no. 1515 of 16.06.1993 regarding the protection of the environment
L160	Law no. 160 of 22.07.2011 regarding the regulation by authorization of the entrepreneur activity
L209	Law no. 209 of 29.07.2016 regarding waste
L218	Contravention Code of the R. Moldova no. 218 of. 24.10.2008
L461	Law no. 461 of 30.07.2001 regarding the oil products market
L852	Law no. 852 of 14.02.2002 on the approval the Regulation on the commercial regime and the regulation of the use of halogenated hydrocarbons that destroy the ozone layer
LEDS	Low Emissions Development Strategy

LEDS	Low Emission Development Strategy
LULUCF	Land Use, Land-Use Change and Forest
MARDE	Ministry of Agriculture, Regional Development and Environment
MC	Ministerial Council
MEI	Ministry of Economy and Infrastructure
MRV	Monitoring, Reporting and Verification
N/A	Not Applicable
NAP	National adaptation plan
NC	National Communication
NDC	Nationally determined contribution
NECP	National Energy and Climate Plan
O11	Order of MARDE no. 11 of 25.01.2018 regarding the approval of the List of installations falling within the scope of Directive 2003/87 / EC
ODS	Ozone Depleting Substances
P.	Paragraph or Provision
PA	Paris Agreement
RES	Renewable Energy Sources
RM	Republic of Moldova
S.A.	Joint-Stock Company (Romanian: Societate pe Actiuni)
SM	Moldova Standard
TIMES	The Integrated MARKAL-EFOM System. MARKAL (MARKet ALlocation) - EFOM (Energy Flow Optimization Model)
UNDP	United Nations Development Programme
UNFCCC	United Nations Framework Convention on Climate Change

1. Background and scope

Project description. The project is launched within the framework of the EU4Climate Programme, a regional climate change initiative for the Eastern Partnership countries (EaP) financed by the European Union and implemented under the indirect management of the United Nations Development Programme (UNDP). The objective of the EU4Climate Programme is to reinforce climate action and to support the development and implementation of climate-related policies in respective countries, which contribute to their low emission and climate resilient development and their commitments to the 2016 Paris Agreement (PA) on Climate Change.

Specific work. The present report is prepared as a part of a contract assignment with the Energy Community Secretariat under the project titled “Gap analysis of the current legislation in Republic of Moldova and development of a roadmap outlining EU4Climate support to Republic of Moldova in alignment with EU acquis included in Bilateral Agreements on Climate Action and/or Energy Community Treaty.”

The report establishes the second part of the project and is devoted to detailed gap analysis of national legislative framework on climate vis-à-vis Republic of Moldova, including a proper compliance check to verify if domestic legislation in the Republic Moldova exists and/or is in compliance/compatible with the EU acquis included in Bilateral Agreements on Climate and the Energy Community Treaty.

2. Compliance review and gap analysis of the national legislative framework of the Republic Moldova vis-à-vis climate *acquis* under the Association Agreement

According to Annex XII (Title IV) of EU-RM AA, the Republic of Moldova shall undertake to gradually approximate its legislation to the following EU legislation and international instruments within the stipulated timeframes:

1. Directive No 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community - by 2022;
2. Regulation (EC) No 842/2006 on certain fluorinated greenhouse gases – by 2018;
3. Regulation (EC) No 1005/2009 on substances that deplete the ozone layer – by 2019;
4. Directive No 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive No 93/12/EEC as amended by Directives No 2000/71/EC, No 2003/17/EC and No 2009/30/EC and Regulation (EC) No 1882/2003 – by 2019.

This section is based on compliance check of individual requirements of EU *acquis* that The Republic Moldova has undertaken to implement in its national legislation in the form of concordance tables with explanations as described below.

In the concordance table for compliance review and gap analysis with EU *acquis* under AA:

- **“Transposed”** shall mean full transposition of the respective EU climate *acquis* has taken place;
- **“Partially transposed”** shall mean partial transposition of the respective EU climate *acquis* supplemented by a comment and explanation thereto;
- **“Not transposed”** shall mean failure to transpose of the respective EU climate *acquis* supplemented by a comment and explanation thereto;
- **“No transposition required”** shall mean absence of need to transpose the respective EU climate *acquis* as supplemented by a comment and explanation thereto;
- Issues that require special attention are highlighted **in red**.

As preliminary analysis showed, only part of the provisions of specified EU documents are subject of concordance examination, other - are subject of EU actions. In order not to reflect the lasts in the Concordance tables, before proceed to establishing the concordance of RM with EU Directives and Regulations, the appropriate paragraphs per each article of EU documents specified in Annex XII of EU-RM AA were examined to identify their relevance for concordance analysis. The results are laid down in the appropriate tables.

2.1. The Concordance of Republic of Moldova with Directive 2003/87/EC (emission allowance trading)

The following provisions of this Directive shall apply:

- establishment of a system for identifying relevant installations and for identifying greenhouse gases (Annexes I and II)
- establishment of monitoring, reporting, verification and enforcement systems and public consultations procedures (Articles 9, 14 – 17, 19 and 21)

Timetable: these provisions of this Directive shall be implemented within 8 years of the entry into force of the Agreement, i.e. by 2022.

2.1.1. The Directive 2003/87/EC provisions subject of concordance examination

In the Table 2.1-1 the Directive provisions subject of concordance examination are presented. The status of their transposition into national legislation is reflected in the Table 2.1-2.

Table 2.1-1: 2003/87/EC Directive’s provisions subject of concordance examination and Commission actions

Article/Annex	Provisions subject of concordance examination	Provisions subject of Commission actions
I. CATEGORIES OF ACTIVITIES REFERRED TO IN ARTICLES 2(1), 3, 4, 14(1), 28 AND 30 (2 paragraphs)	Annex I(1,2)	
II. GREENHOUSE GASES REFERRED TO IN ARTICLES 3 AND 30	Annex II	
9. National allocation plan (3 paragraphs)	Art. 9(1-3)	
14. Guidelines for monitoring and reporting of emissions (3 paragraphs)	Art. 14(2,3)	Art. 14(1). The Commission shall adopt guidelines for monitoring and reporting of emissions resulting from the activities listed in Annex I of greenhouse gases specified in relation to those activities, in accordance with the procedure referred to in Article 23(2), by 30 September 2003. The guidelines shall be based on the principles for monitoring and reporting set out in Annex IV.
15. Verification	Art. 15	
16. Penalties (4 paragraphs)	Art. 16(1-4)	
17. Access to information	Art. 17	
19. Registries (3 paragraphs)	Art. 19(1,2)	Art. 19(3). In order to implement this Directive, the Commission shall adopt a Regulation in accordance with the procedure referred to in Article 23(2) for a standardised and secured system of registries in the form of standardised electronic databases containing common data elements to track the issue, holding, transfer and cancellation of allowances, to provide for public access and confidentiality as appropriate and to ensure that there are no transfers incompatible with obligations resulting from the Kyoto Protocol.
21. Reporting by Member States (3 paragraphs)	Art. 21(1)	Art. 21(2). On the basis of the reports referred to in paragraph 1, the Commission shall publish a report on the application of this Directive within three months of

<p><i>paragraphs)</i></p>		<p>receiving the reports from the Member States.</p> <p>Art. 21(3). The Commission shall organise an exchange of information between the competent authorities of the Member States concerning developments relating to issues of allocation, the operation of registries, monitoring, reporting, verification and compliance.</p>
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Table 2.1-2: Table of Concordance of the Republic of Moldova with Directive 2003/87/EC (emission allowance trading)

Country name		Moldova, Republic of		
Last update:		January 2020		
National legislation:		<p>1. Order of the Ministry of Agriculture, Regional Development and Environment no. 11 of 25.01.2018 regarding the approval of the List of installations falling within the scope of Directive 2003/87 / EC (O11) (See Annex 1);</p> <p>2. GD no 1277 of 26.12.2018 regarding the establishment and operation of the National System for monitoring and reporting greenhouse gas emissions and other information relevant to climate change (GD1277).</p>		
Directive 2003/87/EC		National legislation		Level of concordance / comment
Art.	Provision	Art. / Law	Specific provision	
Annex I(1)	Installations or parts of installations used for research, development and testing of new products and processes are not covered by this Directive			No transposition required. Installations or parts of installations used for research, development and testing of new products and processes are not covered by this Directive
Annex I(2).	The threshold values given below generally refer to production capacities or outputs. Where one operator carries out several activities falling under the same subheading in the same installation or on the same site, the capacities of such activities are added together.			
	Energy activities	O11	Combustion installations with a rated thermal input exceeding 20 MW (except hazardous or municipal waste installations); Mineral oil refineries (N/A); Coke ovens (N/A).	Transposed. Five installations are identified according to O11 (See Annex 1)

	Production and processing of ferrous metals		Metal ore (including sulphide ore) roasting or sintering installations Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2,5 tonnes per hour	No transposition required. No such installations exist in the RM
	Mineral industry		Installations for the production of cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or lime in rotary kilns with a production capacity exceeding 50 tonnes per day or in other furnaces with a production capacity exceeding 50 tonnes per day Installations for the manufacture of glass including glass fibre with a melting capacity exceeding 20 tonnes per day Installations for the manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tonnes per day, and/or with a kiln capacity exceeding 4 m ³ and with a setting density per kiln exceeding 300 kg/m ³	Transposed. One installation is identified according to O11 (See Annex 1)
	Other activities		Industrial plants for the production of (a) pulp from timber or other fibrous materials (b) paper and board with a production capacity exceeding 20 tonnes per day	No transposition required. No such installations exist in the RM
Annex II. Greenhouse gases referred to in art. 3 and 30	For the purposes of this Directive, 'greenhouse gases' means the gases listed in Annex II: Carbon dioxide (CO ₂); Methane (CH ₄); Nitrous Oxide (N ₂ O); Hydrofluorocarbons (HFCs); Perfluorocarbons (PFCs); Sulphur Hexafluoride (SF ₆)	Annex no 3/ GD1277	The List of greenhouse gases and their global warming potential for the 100-year horizon, which will be taken into account by the National System for Monitoring and Reporting Greenhouse Gas Emissions and other information relevant to climate change.	Partially transposed. GD1277 transposes Regulation (EU) no. 525/2013 (MRV of GHG emissions) which covers all GHG stipulated in Annex II of Directive 2003/87/EC. However, Directive 2003/87/EC requires the application of other MRV system regulated by Regulation (EU) No 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament

				and of the Council
Art.9(1-3)	Member State shall develop a national plan stating the total quantity of allowances that it intends to allocate for activities specified in Annex I of Directive and how it proposes to allocate them; the plan shall be published.			Not transposed. No actions have been undertaken to transpose this provision.
Art. 14(2,3)	Member State shall ensure that each operator of an installation reports the emissions from that installation during each calendar year to the competent authority after the end of that year in accordance with the guidelines			Not transposed. No actions have been undertaken to transpose this provision.
Art. 15	Member States shall ensure that the reports submitted by operators pursuant to Article 14(3) are verified in accordance with the criteria set out in Annex V, and that the competent authority is informed thereof. An operator whose report has not been verified as satisfactory cannot make further transfers of allowances.			Not transposed. No actions have been undertaken to transpose this provision.
Art. 16(1-4)	Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that such rules are implemented. Other requirements.			Not transposed. No actions have been undertaken to transpose this provision.
Art. 17	Decisions relating to the allocation of allowances and the reports of emissions required			Not transposed. No actions have been undertaken to transpose

	under the greenhouse gas emissions permit and held by the competent authority shall be made available to the public...			this provision.
Art. 19(1,2)	Member States shall provide for the establishment and maintenance of a registry in order to ensure the accurate accounting of the issue, holding, transfer and cancellation of allowances... The registry shall be accessible to the public...			Not transposed. No actions have been undertaken to transpose this provision.
Art. 21(1)	Each year the Member States shall submit to the Commission a report on the application of this Directive...			Not transposed. No actions have been undertaken to transpose this provision.

2.1.2. Concluding remarks regarding Directive 2003/87/EC

Main Gaps identified:

Gap 1. From 16 provisions of 2003/87/EC Directive only two provisions (Annex I and Annex II) were transposed into national legislation. By MARDE Order no. 11 of 25.01.2018 the List of installations (total six, belonged to three enterprises: Termoelectrica S.A., S.A. Bucuria and S.A. Macon) falling within the scope of Directive 2003/87 / EC (O11) was laid down;

Gap 2. EU evaluation Report on EU-RM AA implementation progress made in 2016¹ stated: “The conducted study² has identified that the implementation of the EU emissions trading scheme in Moldova will only be possible when the date of Moldova's accession to the EU will be determined. Until then, Moldova has to establish and introduce requirements for authorizing, monitoring, reporting and verifying the greenhouse gas emissions.” No any further actions have been undertaken to amend respectively EU-RM AA. What is more, EC JOINT STAFF WORKING DOCUMENT “Association Implementation Report on Moldova” for 2017³, 2018⁴ and 2019⁵ do not provide any comments on 2003/87/EC Directive transposition into national legislation.

¹ <https://mfa.gov.md/sites/default/files/annex_6_to_progress_report.pdf>

² Task : Assess Moldova's capacity to implement the EU emissions trading system and develop a study in this regard. FEASIBILITY STUDY ON INTRODUCING THE EMISSION TRADING SYSTEM IN MOLDOVA. <https://www.undp.org/content/dam/moldova/docs/Publications/ETS_Feasibility_Study_UNDP.pdf>

³ <https://eeas.europa.eu/headquarters/headquarters-homepage/22510/association-implementation-report-republic-moldova_en>

⁴ <https://eeas.europa.eu/sites/eeas/files/association_implementation_report_on_moldova.pdf>

Recommendations:

1. Republic of Moldova should undertake steps to clarify the necessity of amending UE-RM AA on applicability to Republic of Moldova of Directive 2003/87/EC but not before to make a evaluation/study with the goal to determine the feasibility of Directive application, taking into consideration the following:
 - a) According to the study ⁵/ the total ETS operational cost will be more than € 250.000 per year. The expected cost of emission reduction as of Directive implementation could be much lower than ETS operational cost, i.e. the reductions of greenhouse gas emissions may be produced in a not cost-effective and economically efficient manner (breach of Art. 1 of Directive).
 - b) The obligation mentioned above “to establish and introduce requirements for authorising, monitoring, reporting and verifying the greenhouse gas emissions” without having an operating ETS introduces an inequity vis-à-vis to the EU operators, as doing so national operators will not have the possibility to trade GHG emission allowances on carbon market, which could lead to an unjustified negative impact on their economic activity.
2. If the study mentioned in p. 1 will confirm that the implementation of the EU emissions trading scheme in the R. Moldova will only be possible when the date of Moldova's accession to the EU will be determined, instead to establish and introduce for national operators the requirements for authorising, monitoring, reporting and verifying the GHG, governed by Regulation (EU) No 601/2012, in order to exclude discrimination to national operators, GD1277 should be proposed as GHG MRV system for the same operators.

2.2. The Concordance of Republic of Moldova with Regulation (EC) No 842/2006 (certain fluorinated greenhouse gases)

The following provisions of that Regulation shall apply:

- adoption of national legislation and designation of competent authority/authorities
- establishment/adaptation of national training and certification requirements for relevant personnel and companies (Article 5)
- establishment of reporting systems for acquiring emission data from the relevant sectors (Article 6)
- establishment of enforcement system (Article 13)

Those provisions of that Regulation shall be implemented within 4 years of the entry into force of the Agreement, i.e. by September 2018.

⁵ <<https://www.euneighbours.eu/en/east/stay-informed/publications/association-implementation-report-moldova>>

2.2.1. The Regulation (EC) No 842/2006 provisions subject of concordance examination

In the Table 2.2-1 the Regulation provisions subject of concordance examination are presented. The status of their transposition into national legislation is reflected in the Table 2.2-2.

Table 2.2-1: 842/2006 EC Regulation's provisions subject of concordance examination and Commission actions

Article	Provisions subject of concordance examination	Provisions subject of Commission actions	Comments
5. Training and certification (5 paragraphs)	Art. 5(2) - Art. 5(4)	Art. 5(1) and Art. 5(5)	Art. 5(1) is implemented by Commission Regulation (EC) No 303/2008 of 2 April 2008 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of companies and personnel as regards stationary refrigeration, air conditioning and heat pump equipment containing certain fluorinated greenhouse gases; Art. 5(5) is implemented by the same Commission Regulation (EC) No 308/2008 of 2 April 2008 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, the format for notification of the training and certification programmes of the Member States
6. Reporting (4 paragraphs)	Art. 6(1) and Art. 6(4)	Art. 6(2) and Art. 6(3)	Art. 6(2) is implemented by Commission Regulation (EC) No 1493/2007 of 17 December 2007 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, the format for the report to be submitted by producers, importers and exporters of certain fluorinated greenhouse gases Art. 6(3). The Commission shall take appropriate steps to protect the confidentiality of the information submitted to it.
13. Penalties (2 paragraphs)	Art. 13(1) and Art. 13(2)		

Table 2.2-2: The Concordance of Republic of Moldova with Regulation (EC) No 842/2006

Country name	Moldova, Republic of
Last update:	January 2020
National legislation:	1. GD No. 483 of 18.10.2019 on the approval of the Regulation regarding the training and certification of specialists in the field of cold technology containing hydrochlorofluorocarbons and fluorinated greenhouse gases (GD483).

Regulation (EC) No 842/2006		National legislation		Level of concordance / comment
Art.	Provision / Transposition deadline	Art. / Law	Specific provision	
5(2)	RM shall establish or adapt its own training and certification requirements, on the basis of the minimum requirements referred to in Art. 5(1), i.e. Regulation (EC) No 303/2008. RM shall notify the Commission of its training and certification programmes.	P. 9-20/GD 483	Chapter II. Training, evaluation and certification of professional skills	Partially transposed. 1. The Regulation addresses the training and certification of personnel, but not companies , involved in activities provided for by EC Regulation; 2. The first draft ⁶ of GD483 addressed the training and certification of both personnel and companies, involved in activities provided for by EC Regulation, but finally not approved; 3. The Regulation doesn't contain a provision on notification the Commission of country training and certification programmes. 4. GD483 transposes Regulation (EU) no. 517/2014 which replaces Regulation (EC) No 842/2006, not in force more in EU, while EU-RM AA doesn't contain this replacement.
5(3)	The operator of the relevant application shall ensure that the relevant personnel have obtained the necessary certification.			Not transposed. 1. CL do not provide any reference to the notion of "operator" and doesn't define its duties; 2. The first draft ⁶ of GD483 ensured fulfilment of Art 5(3) of Regulation (EC) No 842/2006. It was not approved because of legislative base absence.
5(4)	RM shall ensure that the companies involved in carrying out the activities provided for in Articles 3 (leakage) and 4 (recovery) shall only take delivery of fluorinated			Partially transposed. National legislation doesn't contain express

⁶ <<https://particip.gov.md/proiectview.php?l=ro&idd=5984>>

	greenhouse gases where their relevant personnel hold the certificates mentioned in Art. 5(2).			provision obliging the companies to maintain personnel which hold the certificates mentioned in Art. 5(2). However, GD483 contains clear requirements on how to get appropriate certificates.
6(1)	Every year thereafter, each producer, importer and exporter of fluorinated greenhouse gases shall communicate to the Commission by way of a report, sending the same information to the competent authority of the Member State concerned, the following data in respect of the preceding calendar year: quantity of each fluorinated greenhouse gas and other information (see Art. 6(1)).			Not transposed. Before proceed to transpose Art. 6(1) an evaluation/study should be done to identify if national producers, importers and exporters operate more than one tonne of fluorinated greenhouse gases per annum. Art. 6(1) refers to companies which operate more than one tonne of fluorinated greenhouse gases per annum.
6(4)	Member States shall establish reporting systems for the relevant sectors referred to in this Regulation, with the objective of acquiring, to the extent possible, emission data.			Not transposed Depending on the output of Evaluation/Study specified above, the appropriate format of reporting system should be established, with the objective of acquiring emission data.
13(1)	Member States shall lay down rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that such rules are implemented. The penalties provided for shall be effective, proportionate and dissuasive			Not transposed Art. 148/L218 regulates “Violation of the regime and the use of halogenated hydrocarbons that destroy the ozone layer ”, not of fluorinated greenhouse gases regulated by Regulation (EC) No 842/2006.
13(2)	Member States shall notify the rules on penalties to the Commission by 4 July 2008 and shall also notify it without delay of any subsequent amendment affecting those rules.			Not transposed RM could not notify the Commission as the rules on penalties applicable to infringements of the provisions of this Regulation are not legally established yet.

2.2.2. Concluding remarks regarding Regulation (EC) No 842/2006

Main Gaps identified:

Gap 1. The Regulation (EC) no. 842/2006 is not more in force. It is replaced by Regulation (EU) no. 517/2014. But because UE-RM AA doesn't contain this replacement, the Concordance of Republic of Moldova legislation was done with Regulation (EC) no. 842/2006.

Gap 2. From 6 provisions of Regulation (EC) No 842/2006 no one is transposed into national legislation, except of Art. 5(2) and Art. 5(4), which partially transpose Regulation (EU) no. 517/2014, not Regulation (EC) no. 842/2006.

Recommendations:

1. Republic of Moldova should undertake steps to clarify the necessity of amending UE-RM AA on applicability to Republic of Moldova of Regulation (EU) no. 517/2014 instead of Regulation (EC) no. 842/2006 which is not more in force.
2. GD No. 483 of 18.10.2019 should address the training and certification of companies as well, not only personnel involved in activities provided for by EC Regulation no. 842/2006.
3. Before proceed to transpose Art. 6(1) and Art. 6(4) an evaluation/study should be done to identify if national producers, importers and exporters operate or could operate more than one tonne of fluorinated greenhouse gases per annum. Art. 6(1) refers to companies which operate more than one tonne of fluorinated greenhouse gases per annum.
4. Contravention Code of the RM no. 218 of. 24.10.2008 should be amended respectively to reflect penalties applicable to infringements of the provisions of the Regulation no. 842/2006.

2.3. The Concordance of Republic of Moldova with Regulation (EC) No 1005/2009 (substances that deplete the ozone layer)

The following provisions of this Regulation shall apply:

- adoption of national legislation and designation of competent authority/ies⁷
- establishment of a ban on the production of controlled substances, except for specific uses and, until 2019, of hydrochlorofluorocarbons (HCFC) (Article 4)
- establishment of a ban on the placing on the market and use of controlled substances, except for reclaimed HCFC which might be used as refrigerant until 2015 (Articles 5 and 11)
- definition of the conditions for the production, placing on the market and use of controlled substances for exempted uses (as feedstock, process agents, for essential laboratory and analytical uses, critical uses of halons) and individual derogations, including emergency uses of methyl bromide (Chapter III)
- establishment of a licensing system for the import and export of controlled substances for exempted uses (Chapter IV) and reporting obligations for Member States and undertakings (Articles 26 and 27)
- establishment of obligations to recover, recycle, reclaim and destruct used controlled substances (Article 22)
- establishment of procedures for monitoring and inspecting leakages of controlled substances (Article 23)

Timetable: these provisions of this Regulation shall be implemented within 5 years of the entry into force of the Agreement, i.e. by 2019.

⁷ Ozone Office of MARDE is designated as competent authority to monitor controlled substances in the RM. <<http://www.madrm.gov.md/ro/content/1953>>

2.3.1. The Regulation (EC) No 1005/2009 provisions subject of concordance examination

In the Table 2.3-1 the Regulation provisions subject of concordance examination are presented. The status of their transposition into national legislation is reflected in the Table 2.3-2.

Table 2.3-1: 1005/2009 EC Regulation's provisions subject of concordance examination and Commission actions

Article	Provisions subject of transposition into national legislation	Provisions subject of Commission actions
4. Production of controlled substances	Art. 4	
5. Placing on the market and use of controlled substances (3 paragraphs)	Art. 5(1) – Art. 5(3)	
11. Production, placing on the market and use of hydrochlorofluorocarbons and placing on the market of products and equipment containing or relying on hydrochlorofluorocarbons (8 paragraphs)	Art. 11(1) – Art. 11(8)	
Chapter III. Exemptions and Derogations	The transposition into national legislation refers only to: a) <i>definition</i> of the conditions for the production, placing on the market and use of controlled substances for exempted uses (Art. 7 and Art. 8); b) <i>individual derogations</i> , including emergency uses of methyl bromide (Ch. III).	
22. Recovery and destruction of used controlled substances (5 paragraphs)	Art. 22(1,2) and Art. 22(4,5)	Art. 22(3). The Commission may amend Annex VII in order to take new technological developments into account.
23. Leakages and emissions of controlled substances (7 paragraphs)	Art. 23(1) – Art. 23(6)	Art. 23(7). The Commission may establish a list of technologies or practices to be used by undertakings to prevent and minimize any leakage and emissions of controlled substances. Those measures, designed to amend non-essential elements of this Regulation, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).
26. Reporting by the Member States (3 paragraphs)	Art. 26(1)	Art. 26(2). The Commission shall, in accordance with the management procedure referred to in Article 25(2), determine the format for the submission of the information

		<p>referred to in paragraph 1.</p> <p>Art. 26(3). The Commission may amend paragraph 1.</p> <p>Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).</p>
27. Reporting by undertakings (10 paragraphs)	Art. 27(1) – Art. 27(7)	<p>Art. 27(8). The Commission shall take appropriate steps to protect the confidentiality of the information submitted to it.</p> <p>Art. 27(9). The format of the reports referred to in paragraphs 1 to 7 shall be established in accordance with the management procedure referred to in Article 25(2).</p> <p>Art. 27(10). The Commission may amend the reporting requirements laid down in paragraphs 1 to 7.</p> <p>Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).</p>

Table 2.3-2: The Concordance of Republic of Moldova with Regulation (EC) No 1005/2009

Country name	Moldova, Republic of
Last update:	January 2020
National legislation:	<ol style="list-style-type: none"> 1. Law no. 852 of 14.02.2002 on the approval the Regulation on the commercial regime and the regulation of the use of halogenated hydrocarbons that destroy the ozone layer (amended in 2018) (L852); 2. GD no.856 of 13.07.2016 regarding the approval of the Halogenated Hydrochlorofluorocarbons Suppression Program for 2016-2040 and the Action Plan for its implementation in 2016-2020 (amended in 2019) (GD856); 3. GD no. 589 of 21.06.2018 on approval the Regulation regarding the establishment of the mechanism for distributing the annual quotas for the import of hydrochlorofluorocarbons halogenated (GD589); 4. Law no. 209 of 29.07.2016 regarding waste (updated in 2019) (L209);

	<p>5. Law no. 160 of 22.07.2011 regarding the regulation by authorization of the entrepreneur activity (L160);</p> <p>6. Law no. 1515 of 16.06.1993 regarding the protection of the environment (updated in 2019) (L1515);</p> <p>7. GD No. 483 of 18.10.2019 on the approval of the Regulation regarding the training and certification of specialists in the field of cold technology containing hydrochlorofluorocarbons and fluorinated greenhouse gases (GD483).</p>			
Remarks:	Issues that require special attention are highlighted in red .			
Regulation (EC) No 1005/2009		National legislation		Level of concordance / comments
Art.	Provision / Transposition deadline	Art. / Law	Specific provision	
Art. 4	The production of controlled substances shall be prohibited	P.2, P.4(1)/L852	P.2, P.4(1): The provisions of this Regulation shall apply to the production , import, export, re-export, transit, placing on the market, marketing, use, recovery, recycling and regeneration of substances that destroy the ozone layer...	Partially transposed. P.4, which is devoted to prohibition, doesn't contain provisions which shall prohibit production, recovery, recycling and regeneration of substances that destroy the ozone layer.
Art. 5(1)	The placing on the market and the use of controlled substances shall be prohibited	P.4/L852	It is prohibited: 1) importing, exporting, re-exporting, transit and marketing: a) of the chemical substances indicated in annex no.1 to the present regulation in the countries, from the countries, through the countries or countries that are not party to the Montreal Protocol on Substances that Destroy the ozone layer; 2) installation of any new cooling equipment and installations for domestic, commercial and industrial use that use controlled substances; 3,4,5) use of controlled substances.	Partially transposed. Annex no.1 shall be completed with controlled substances stipulated in Annex 1 of EC Regulation. Some of them are not listed in the national annex no.1.
Art. 5(2)	Controlled substances shall not be placed on the market in non-refillable containers, except for laboratory and analytical uses as referred to in Article 10 and	P. 9 /L852	Transport of the chemicals listed in Annex 1 of L852 are made in reusable containers, according to the provisions of the normative acts regulating the road transport of dangerous goods on the territory of the Republic of Moldova and with the requirements of the European Agreement on international road transport of	Partially transposed. The L852 cover the transport activity only. The placing on the market of controlled substances is not

	Article 11(2).		Dangerous Goods.	regulated.
Art. 5(3)	This Article 5 shall not apply to controlled substances in products and equipment	L852		Not transposed. Art. 3 of L852 which shall contain EU provision don't specify the appropriate derogation. This derogation is not met in other RM legislation. MARDE initiated in 2019 the elaboration of the draft Government Decision on the classification, labelling and packaging of substances and mixtures ⁸ , which could encompass the respective derogation as well.
Art. 11(1)	By way of derogation from Article 4, hydrochlorofluorocarbons may be produced provided that each producer ensures the following: ...			No transposition required. In the RM no production of controlled substances is recorded (see p. 10, Annex 1 of GD856)
Art. 11(2)	By way of derogation from Article 4 and Article 5(1), hydrochlorofluorocarbons may be produced, placed on the market and used for laboratory and analytical uses	P. 3(1) /L852	3. Do not fall under the provisions of this Regulation (L852): 1) the production, commercialization and use of the substances stipulated in annex no.1 to the mentioned regulation if they represent samples destined to the activities of research, development or use for analytical purposes, in the laboratories of quality control of the products, or for the development of other types of activity, if the mass of the corresponding substance does not exceeds 10 kg;	Transposed. However, L852 shall contain provisions regulating labelling of controlled substances used for laboratory and analytical uses, i.e. when these controlled substances are imported they shall be labelled according to EC Regulation.

⁸ Initiation the elaboration of the draft Government decision on the classification, labeling and packaging of substances and mixtures. <<http://madrm.gov.md/ro/content/anun%C5%A3-privind-ini%C5%A3ierea-elabor%C4%83rii-proiectului-de-hot%C4%83r%C3%A9e-guvernului-cu-privire-la-1>>

Art. 11(3)	By way of derogation from Article 5, reclaimed hydrochlorofluorocarbons may be placed on the market and used for the maintenance or servicing of existing refrigeration, air-conditioning and heat pump equipment, provided that the container is labelled with an indication that the substance has been reclaimed and with information on the batch number and name and address of the reclamation facility.	P. 5 ² /L852	Substances ... are labelled and packaged in accordance with the Regulation on classification, labelling and packaging of substances and mixtures, approved by the Government.	Partially transposed. The respective national Regulation is under elaboration today ⁸
Art. 11(4)	Recycled hydrochlorofluorocarbons may be used for the maintenance or servicing of existing refrigeration, air-conditioning and heat pump equipment provided that they have been recovered from such equipment and may only be used by the undertaking which carried out the recovery as part of maintenance or servicing or for which the recovery as part of maintenance or servicing was carried out.	P. 8/L852	Recovery, recycling, regeneration, neutralization and destruction of the predicted chemicals from Annex 1 (L852) are carried out with special equipment and in the premises authorized by the competent authorities, specified in Art.24 of L209, respecting Art. 25 (Procedure for issuing the environmental permit for waste management) of this Law.	Transposed.
Art. 11(5)	By way of derogation from Article 5, hydrochlorofluorocarbons may be placed on the market for repackaging and subsequent export. Any undertaking carrying out the repackaging and subsequent export of hydrochlorofluorocarbons shall register with the Commission, indicating the controlled substances concerned, their	P. 9 ² /L852	Cross-border transport of the waste referred to in point 9 ¹ of this regulation is carried out in accordance with the provisions of articles 44 and 64 of L209 and the Basel Convention on the control of transport across borders of hazardous waste and their elimination. P.9 ¹ : The transport and storage of the chemical substances mentioned in point 9 of this regulation, which have become waste, is carried out on the basis of the environmental authorization for waste management, provided in art. 25 of L209,	Partially transposed. National legislation do not specify “repackaging”, i.e. this activity should be included in the Law.

	estimated annual demand and the suppliers of those substances, and shall update this information when changes occur.		and in compliance with the provisions of art. 4, 16 and 44 of the said law.	
Art. 11(6)	When reclaimed or recycled hydrochlorofluorocarbons are used for maintenance or servicing, the refrigeration, air-conditioning and heat pump equipment concerned shall be labelled with an indication of the type of substance, its quantity contained in the equipment and the label elements set out in Annex I to Regulation (EC) No 1272/2008 for substances or mixtures classified as Hazardous to the Ozone Layer.			Not transposed. Both, L852 and L209 do not transpose Art. 11(6)
Art. 11(7)	Undertakings operating the equipment referred to in paragraph 4 containing a fluid charge of 3 kg or more shall keep a record of the quantity and type of substance recovered and added, and of the company or technician which performed the maintenance or servicing. Undertakings using reclaimed or recycled hydrochlorofluorocarbons for maintenance or servicing shall keep a record of the undertakings that have supplied reclaimed hydrochlorofluorocarbons and of the source of recycled hydrochlorofluorocarbons.	P. 23 and 24/L852	The natural and legal persons keep a register regarding the production, import, export, commercialization or use of substances provided in annex no.1 to this regulation, of equipment and products indicated in annex no.2. The register corresponds to annexes no. 3 and no. 4 to this regulation. The specialized technical personnel keep a register of used substances (pure, recovered and recycled) provided in annex no.1 to this Regulation. The register corresponds to annexes no. 5 to this regulation.	Transposed. L852 do not limit the volume of fluid charge
Art. 11(8)	By way of derogation from Articles 5 and 6, the Commission may, following a request by a			No transposition required. RM has not applied to

	competent authority of a Member State and in accordance with the management procedure referred to in Article 25(2), authorise a time-limited exemption to allow the use and placing on the market of hydrochlorofluorocarbons and of products and equipment containing or relying on hydrochlorofluorocarbons where it is demonstrated that, for a particular use, technically and economically feasible alternative substances or technologies are not available or cannot be used.			Commission with a request for derogation
Chapter III, Art. 7 and 8	definition of the conditions for the production, placing on the market and use of controlled substances for exempted uses			Not transposed. According to P.3 of L852, “feedstock, process agents, for essential laboratory and analytical uses, critical uses of halons” do not fall under the provisions of L852 Regulation, nor under other legislation either
Chapter III	individual derogations, including emergency uses of methyl bromide	P. 4(4)/L852	As an exception, the authorized authorities allow the use of methyl bromide, in accordance with the approved technologies, in cases where quarantine operations or treatments are performed in order to dispatch the plant products, when these treatments are requested, in writing, by the competent authority of the country importers, as well as in critical cases for agriculture, established in accordance with the provisions of the Montreal Protocol.	Partially transposed. The derogation cover agriculture sector only and only emergency uses of methyl bromide
Chapter IV	establishment of a licensing system for the import and export of controlled substances for exempted uses	P. 13/L852	The import, export and re-export of each batch of chemicals specified in annex no. 1 to this Regulation (except for the chemicals specified in Annex A groups I and II, in Annex B group I and in Annex C groups II and III) and of the equipment and products specified in Annex no. 2 (which do not contain the chemicals listed in Annex A groups I and II, in Annex B group I and in Annex C groups II and III) shall be made on the basis of the authorization for the import, export or re-export of ozone-depleting substances, products and equipment containing such	Partially transposed. Instead of a licensing system, authorization system is applied in RM. The provision do not expressly specify if controlled substances are

			substances.	for exempted uses, which means they may be used for exempted uses as well. Before proceed to amending, a survey should be carried out to determine the needs of establishment of a licensing system for the import and export of controlled substances for exempted uses.
Art. 26(1)	Each year by 30 June Member States shall report the following information in an electronic format to the Commission, for the previous calendar year: a) the quantities of methyl bromide authorised... and the progress in evaluating and using alternatives; b) the quantities of halons installed, used and stored for critical uses, the measures taken to reduce their emissions and an estimate of such emissions, and progress in evaluating and using adequate alternatives; c) cases of illegal trade...			Not transposed. Existing legislation do not have any provisions on reporting controlled substances to Commission. However, p. 22, 23 and 24 of L852 establish a system of reporting of controlled substances at national level, based on statistical form “1-Ozon”, which do not contain all the information specified in Art. 26(1,a,b) of EC Regulation. Reporting of controlled substances illegal trading is not regulated.
Art. 27(1-7)	Each year by 31 March, each undertaking shall communicate to the Commission, sending a copy to the competent authority of the Member State concerned, the data listed in paragraphs 2 to 7 and Art. 10(6) for each controlled substance, each new substance listed in Annex II for the previous			Not transposed. Existing legislation do not have any provisions on reporting controlled substances to Commission by undertakings. However, p. 22, 23 and 24 of L852 establish a system of reporting of controlled

	calendar year.			<p>substances at national level, which is based on statistical form “1-Ozon”. This form doesn’t contain all the data specified in Art. 27(2-7) and Art. 10(6) of EC Regulation.</p> <p>National legislation doesn’t contain the list of new substances (Annex II of EC Regulation) subject of reporting as well.</p>
Art. 22(1)	Controlled substances contained in refrigeration, air-conditioning and heat pump equipment, equipment containing solvents or fire protection systems and fire extinguishers shall, during the maintenance or servicing of equipment or before the dismantling or disposal of equipment, be recovered for destruction, recycling or reclamation.	P. 4(5), 21/L852	<p>It is prohibited the disposal in the atmosphere of the chemical substances mentioned in Annex 1 ...which are contained in equipment or are in transport containers or are issued at the transfer, the maintenance operations of the equipment or their failure.</p> <p>The recovery of the chemical substances mentioned in point 4(5) is mandatory:</p> <ul style="list-style-type: none"> - at the equipment maintenance operations; - the equipment failure; - when using chemicals as a cleaning agent or solvent. 	<p>Partially transposed.</p> <p>1. Annex 1 (L852) doesn’t contain all types of controlled substances listed in Annex 1 of EC Regulation.</p> <p>2. Heat pumps are not mentioned in L852 and HG856.</p>
Art. 22(2)	Controlled substances and products containing such substances shall only be destroyed by approved technologies listed in Annex VII or, in the case of controlled substances not referred to in that Annex, by the most environmentally acceptable destruction technology not entailing excessive costs, provided that the use of those technologies complies with Community and national legislation on waste and that additional requirements under	P. 8/L852	The recovery, recycling, regeneration, neutralization and destruction of the chemicals listed in Annex I ... are carried out with special equipment for this type of operations in the units authorized by the competent authorities, specified in art.24 of Law no.209 / 2016 on waste, in compliance with the provisions of art.25 of the mentioned law. Mixing of chemicals is not permitted during recovery activity or later during recycling and regeneration operations.	<p>Partially transposed.</p> <p>National legislation doesn’t list “special equipment” mentioned in P. 8, L852.</p>

	such legislation are met.			
Art. 22(4)	Controlled substances contained in products and equipment other than those mentioned in paragraph 1 shall, if technically and economically feasible, be recovered for destruction, recycling or reclamation, or shall be destroyed without prior recovery, applying the technologies referred to in paragraph 2.			Not transposed. In order to determine the feasibility of transposing this provision into the national legislation a prior evaluation/study should be undertaken.
Art. 22(5)	Member States shall take steps to promote the recovery, recycling, reclamation and destruction of controlled substances and shall define the minimum qualification requirements for the personnel involved.	Art. 1/HG856; P.24(2) of Annex1/HG856	It is approved: a) The program of phased suppression of halogenated hydrochlorofluorocarbons for the years 2016-2040, according to the annex no. 1; b) The action plan for the implementation in 2016-2020 of the Program for the phased suppression of halogenated hydrochlorofluorocarbons for the years 2016-2040, according to the annex no. 2. In order to achieve the long-term objectives, the System of obligatory training and qualification of the specialized technical personnel that operates equipment and installations that contain controlled substances shall be created.	Transposed.
Art. 23(1)	Undertakings shall take all precautionary measures practicable to prevent and minimise any leakages and emissions of controlled substances.	P. 3(4), P. 14(2,b)/GD483	The provisions of the Regulation are applied to natural persons who carry out checks to detect leakages in the equipment containing hydrochlorofluorocarbons and fluorinated greenhouse gases in quantities of 5 tonnes of CO ₂ equivalent or more and not contained in foams, unless such equipment are hermetically sealed, are labelled as such and contain hydrochlorofluorocarbons and fluorinated greenhouse gases in quantities of less than 10 tonnes of CO ₂ equivalent. In the process of passing the exam, the following knowledge and skills are evaluated: competences regarding detecting leakages.	Partially transposed. National legislation doesn't have expressed provision as Art. 23(1) of EC Regulation stipulates, i.e. GD483 is applied to natural persons, not to undertakings.
Art.	Undertakings operating refrigeration, air conditioning or			Not transposed.

23(2)	heat pump equipment, or fire protection systems, including their circuits, which contain controlled substances shall ensure that the stationary equipment or systems substances ... <i>are checked for leakage...in the terms depending on fluid charge</i>			National legislation doesn't regulate the terms of equipment's controlled substances leakages verification. However, GD483 contains chapters devoted to personal training on checking for leakage of controlled substances.
Art. 23(3)	Undertakings referred to in paragraph 2 shall maintain records on: the quantity and type of controlled substances added and the quantity recovered during maintenance, servicing and final disposal of the equipment or system referred to in that paragraph; other information...			Not transposed. National legislation doesn't regulate recording: controlled substances added and the quantity recovered during maintenance, servicing and final disposal of the equipment or system referred to leakages; other information...referred to leakages. However, there is an exception: Official statistical form "1-Ozon" has a column for completion: "For what purpose was ODS used?" The response may help to identify some records of controlled substances added.
Art. 23(4)	Member States shall define the minimum qualification requirements for the personnel carrying out activities referred to in paragraph 2.	P. 3(4), P. 14(2,b)/GD483	The provisions of the Regulation are applied to natural persons who carry out checks to detect leakages in the equipment containing hydrochlorofluorocarbons and fluorinated greenhouse gases in quantities of 5 tonnes of CO ₂ equivalent or more and not contained in foams, unless such equipment are hermetically sealed, are labelled as such and contain hydrochlorofluorocarbons and fluorinated greenhouse gases in quantities of less than 10 tonnes of CO ₂ equivalent.	Transposed. Annex 1 of GD483 establish in p. 4. "Verification in order to detect leakages" minimum qualification requirements for the personnel carrying

			In the process of passing the exam, the following knowledge and skills are evaluated: competences regarding detecting leakages. Annex 1. “Minimum requirements regarding the skills and knowledge to be verified by the training and evaluation centers”	out activities referred to in Art. 23(2) of Regulation.
Art. 23(5,6)	Undertakings shall take all precautionary measures practicable to prevent and minimise any leakages and emissions of controlled substances: used as feedstock and as process agents; or inadvertently produced in the course of the manufacture of other chemicals.			Not transposed. National legislation doesn't regulate controlled substances: used as feedstock and as process agents; or inadvertently produced in the course of the manufacture of other chemicals. Before transposing, an evaluation/study should be done to determine if in the R. Moldova controlled substances: are used as feedstock and as process agents; or inadvertently produced in the course of the manufacture of other chemicals.

2.3.2. Concluding remarks regarding Regulation (EC) No 1005/2009

Main Gaps identified:

From 26 provisions of Regulation (EC) No 1005/2009 (substances that deplete the ozone layer) considered in the Table 2.3-2 “Transposed” into national legislation are 5 (19%) of them, “Partially transposed” – 10 (38%), “Not transposed” – 9 (35%), “No transposition required” – 2 (8%).

Gap 1. Annex 1 of L852 do not encompass all the controlled substances stipulated in Annex 1 of EC Regulation.

Gap 2. When reclaimed or recycled hydrochlorofluorocarbons are used for maintenance or servicing, the refrigeration, air-conditioning and heat pump equipment concerned are not required to be labelled respectively in the national legislation.

Gap 3. Existing national legislation do not have any provisions on reporting controlled substances to Commission.

Gap 4. In the range of equipment subject of monitoring the controlled substances used heat pumps are not considered, as Regulation requires.

Gap 5. National legislation neither regulate the terms of equipment's controlled substances leakages verification nor recording of controlled substances added and the quantity recovered.

Gap 6. National legislation doesn't regulate controlled substances: used as feedstock and as process agents; or inadvertently produced in the course of the manufacture of other chemicals.

Recommendations:

1. Before proceed to transpose the Chapter IV of Regulation (EC) no 1005/2009 a survey should be carried out to determine the needs of amendments.
2. In order to determine the feasibility of transposing Art. 22(4) into national legislation a prior evaluation/study should be done.

2.4. The Concordance of Republic of Moldova with Directive 98/70/EC (the quality of petrol and diesel fuels)

The following provisions of Directive 98/70/EC shall be applied:

- adoption of national legislation and designation of competent authority/ies⁹
- carrying out an assessment of national fuel consumption¹⁰
- establishment of a system for monitoring fuel quality (Article 8)
- prohibition of marketing of leaded petrol (Article 3(1))
- permitting the marketing of unleaded petrol, diesel fuel and gas oils intended for non-road mobile machinery and agricultural and forestry tractors only if these meet relevant requirements (Articles 3 and 4)
- establishment of a regulatory system to cover exceptional circumstances and of a system to collect national fuel quality data (Articles 7 and 8)

Timetable: these provisions of this Directive shall be implemented **within 5 years** of the entry into force of the Agreement, i.e. by 2019.

⁹ The appropriate national legislation is developed and approved (see Table 4 of Part 1 report of this project). According to Art. 3 of GD1116, "the permanent control over the compliance with the provisions of the Regulation regarding the storage and wholesale, through automated system, of the petroleum products is exercised by the Ministry of Economy and Infrastructure, the Ministry of Finance (State Tax Service), the Ministry of Internal Affairs and the National Energy Regulation Agency."

¹⁰ The study was carried out and presented at the event "Promoting clean and efficient mobility in RM" organized on July 10-11, 2018, in Chisinau

2.4.1. The Directive 98/70/EC provisions subject of concordance examination

In the Table 2.4-1 the Directive provisions subject of concordance examination are presented. The status of their transposition into national legislation is reflected in the Table 2.4-2.

Table 2.4-1: 98/70/EC Directive's provisions subject of concordance examination and Commission actions

Article	Provisions subject of concordance examination	Provisions subject of Commission actions
3. Petrol (7 paragraphs)	Art. 3(1) - Art. 3(5), Art. 3(7)	Art. 3(6). The Commission may authorise the derogations referred to in paragraphs 3, 4 and 5 in accordance with the Treaty. The Commission shall notify the Member States and inform the European Parliament and the Council of its decision.
4. Diesel fuel (4 paragraphs)	Art. 4(only the provisions referred to "permitting the marketing of unleaded petrol, diesel fuel and gas oils intended for non-road mobile machinery and agricultural and forestry tractors only if these meet relevant requirements"	
7. Change in supply of crude oils	Art. 7	
8. Monitoring compliance and reporting	Art. 8(1) and Art. 8(4)	Art. 8(2). The Commission will promote the development of a uniform system for fuel quality monitoring. The Commission may for the purpose of developing such a system request the assistance of the European Committee for Standardisation. Art. 8(3). The Commission shall establish a common format for the submission of a summary of national fuel quality data no later than 30 June 2000.

Table 2.4-2: The Concordance of Republic of Moldova with Directive 98/70/EC (the quality of petrol and diesel fuels)

Country name	Moldova Republic of
Last update:	January 2020
National legislation:	1. Law no. 461 of 30.07.2001 regarding the oil products market (L461)

		2. GD no. 1116 of 22.08.2002 on the approval of the Regulation regarding the storage and wholesale trade, through automated system, of the identified petroleum products (GD1116)		
		3. GD no. 1027 of 01.10.2001 regarding some measures for the implementation of the Law on the oil products market (GD1027)		
Directive 98/70/EC		National legislation		Level of concordance / comment
Art.	Provision / Transposition deadline	Art. / Law	Specific provision	
	carrying out an assessment of national fuel consumption		In 2018 the Study "Analysis of fuel consumption and its quality in the R. Moldova" was performed ¹¹ .	Carried out. The recommendations of the Study have been implemented in GD1116
Art. 8(1)	Member States shall monitor compliance with the requirements of Articles 3 and 4 on the basis of the analytical methods set out in Annex I and II.	P. 22,23/ GD1116	22. Petrol and diesel used in motor vehicles equipped with spark ignition engines and, respectively, those equipped with compression ignition engines, at import , must comply with the technical specifications, based on health and environmental considerations, carried out according to the analytical methods provided in SM EN228 standards "Fuel for cars. Unleaded. Test requirements and methods "and SM EN590 "Fuel for cars. Diesel. Test requirements and methods." 23. The placing on the market of gasoline and diesel fuel which corresponds to the technical specifications provided in annex no. 3 to this Regulation is allowed.	Transposed. RM doesn't have vehicle production industry. All of vehicles and agriculture machinery are coming from import. <i>For petrol:</i> Lead content is allowed at up to 0.005 g/l (as in Directive), and Sulphur content is allowed at up to 10 mg/kg while in Directive is much higher, 150 mg/kg; <i>For diesel:</i> Sulphur content is allowed at up to 10 mg/kg while in Directive is much higher, 350 mg/kg. R. of Moldova imports more than 99.5% of petrol and diesel fuels.
Art.	Each year by 30 June Member	P. 25 ¹³ /	The Ministry of Economy and Infrastructure publishes on its official page	Transposed.

¹¹ <https://www.undp.org/content/dam/unct/moldova/docs/2018-07-11_CFU_Studiu_Analiza_calitatii_si_consumului_de_carburanti.pdf>

8(4)	States shall submit their summary for the preceding calendar year to the Commission.	GD1116	the report with the national data regarding the monitoring of the quality of petrol and diesel. The national data on petrol and diesel quality monitoring shall be transmitted to the European Commission in the format requested by it.	
Art. 3(1)	Member States shall prohibit the marketing of leaded petrol within their territory.	P. 21/ GD1116	On the Republic of Moldova's territory import, storage and marketing of petrol with tetraethyl lead is prohibited.	Transposed.
Art. 3(2)	(a) Member States shall ensure that, no later than 1 January 2000, unleaded petrol can be marketed within their territory only if it complies with the environmental specifications set out in Annex I. (b) Without prejudice to the provisions of subparagraph (a), Member States shall, from 1 January 2000, permit the marketing within their territory of unleaded petrol complying with the specifications of Annex III. (c) Member States shall also ensure that, no later than 1 January 2005, unleaded petrol can be marketed within their territory only if it complies with the environmental specifications set out in Annex III.	P. 22,23/ GD1116	22. Petrol and diesel used in motor vehicles equipped with spark ignition engines and, respectively, those equipped with compression ignition engines, at import, must comply with the technical specifications, based on health and environmental considerations, carried out according to the analytical methods provided in SM EN228 standards "Fuel for cars. Unleaded. Test requirements and methods "and SM EN590 "Fuel for cars. Diesel. Test requirements and methods." 23. The placing on the market of gasoline and diesel fuel which corresponds to the technical specifications provided in annex no.3 to this Regulation is allowed.	No transposition required. In the RM lead content is allowed at up to 0.005 g/l (as in Directive), and Sulphur content is allowed at up to 10 mg/kg while in Directive is much higher, 150 mg/kg.
Art. 3(3)	By way of derogation from paragraph 1, a Member State may be allowed, on a request to be submitted to the Commission no later than 31 August 1999, to continue to permit the marketing of leaded petrol...			No transposition required. In the RM only unleaded petrol is used.
Art. 3(4)	Notwithstanding the provisions of paragraph 2, a Member State may be authorised, on a request to be submitted to the Commission no			No transposition required. In the RM lead content is allowed at up to 0.005 g/l (as in Directive), and Sulphur

	later than 31 August 1999, to continue to permit the marketing within its territory, until at the latest 1 January 2003, of unleaded petrol with a sulphur content which does not comply with the specification for sulphur content in Annex I but which does not exceed the current content			content is allowed at up to 10 mg/kg while in Directive is much higher, 150 mg/kg.
Art. 3(5)	Notwithstanding the provisions of paragraph 2, a Member State may be authorised, on a request to be submitted to the Commission no later than 31 August 2003, to continue to permit the marketing within its territory, until at the latest 1 January 2007, of unleaded petrol with a sulphur content which does not comply with Annex III but which does comply with Annex I			No transposition required. In the RM lead content is allowed at up to 0.005 g/l (as in Directive), and Sulphur content is allowed at up to 10 mg/kg while in Directive is much higher, 150 mg/kg.
Art. 3(7)	Member States may continue to permit the marketing of small quantities of leaded petrol with the specifications mentioned in the second subparagraph of paragraph 3 to a maximum of 0,5 % of total sales to be used by old vehicles of a characteristic nature and to be distributed through special interest groups.			No transposition required. In the RM lead content is allowed at up to 0.005 g/l (as in Directive), and Sulphur content is allowed at up to 10 mg/kg while in Directive is much higher, 150 mg/kg.
Art. 3,4	permitting the marketing of unleaded petrol, diesel fuel and gas oils intended for non-road mobile machinery and agricultural and forestry tractors only if these meet relevant requirements	Art. 1, GD1116	This Regulation transposes art. 2 points 1 and 2, art. 3, 4, 7 and 8, Annex I – II of Directive 98/70 / EC of the European Parliament and of the Council of 13 October 1998 on the quality of petrol and diesel and amending Council Directive 93/12 / EC.	Transposed. All the imported petrol and diesel fuels in the R. of Moldova shall respect Art. 8(1) of Directive, i.e. non-road mobile machinery and agricultural and forestry tractors use the fuels

				corresponding to annex 3 of GD 1116.
Art. 7	If, as a result of exceptional events, a sudden change in the supply of crude oils or petroleum products renders it difficult for the refineries in a Member State to respect the fuel specification requirements of Articles 3 and 4, that Member State shall inform the Commission thereof. The Commission, after informing the other Member States, may authorise higher limit values in that Member State for one or more fuel components for a period not exceeding six months.			No transposition required. On own refineries R. of Moldova produces less than 0.5% of petrol and diesel internal fuel demand and, crude oils used is extracted on country territory.
Art. 7,8	establishment of a regulatory system to cover exceptional circumstances:	P. 25 ¹⁹ / HG 1116	In the exceptional events, such as the sudden changes in the supply of crude oil or in the supply of petroleum products, which make it difficult to comply with the technical specifications set out in annex no.3, the Ministry of Economy and Infrastructure informs the Energy Community Secretariat, in order Ministerial Council of the Energy Community to authorize higher limit values for one or more parameters of gasoline and diesel fuel, for a time duration not exceeding 6 months.	Transposed.
Art. 7,8	establishment of a system to collect national fuel quality data	Ch. IV/ GD1116	Chapter IV. Quality assurance, by p. 25, 25 ¹ -25 ¹⁸ a robust system of collecting national fuel quality data is established.	Transposed.

2.4.2. Concluding remarks regarding Directive 98/70/EC

No gaps identified. The Directive 98/70/EC is fully transposed into national legislation

3. Compliance review and gap analysis of the national legislative framework of Republic of Moldova vis-à-vis climate *acquis* under the Energy Community Treaty

The following two pieces of EC legislation shall apply to the R. of Moldova:

1. Recommendation 2016/02/MC-EnC on preparing for the implementation of Regulation (EU) 525/2013 on a mechanism for monitoring and reporting greenhouse gas emissions.
2. Recommendation 2018/01/MC-EnC on preparing for the development of integrated national energy and climate plans by the Contracting Parties of the Energy Community, including Policy Guidelines (PG 03/2018) on the development of NECPs;

3.1. The EnC Recommendations’ provisions subject of concordance examination

In the Table 3.1-1 the EnC Recommendations’ articles/provisions subject of concordance examination are presented. The status of their transposition into national legislation is reflected in the Table 3.1-2.

Table 3.1-1: The EC Recommendation’s articles/provisions subject of concordance examination and EnC actions

Article	Articles/Provisions subject of concordance examination	Articles/Provisions subject of EnC actions
Recommendation 2016/02/MC-EnC		
Art. 1.	Art.1	
Art. 2.		Art. 2: 1. In the framework of the Environmental Task Force, the Contracting Parties, the Secretariat and the European Commission should identify the provisions of Regulation (EU) No 525/2013 suitable for incorporation in the Energy Community, the necessary adaptations as well as appropriate deadlines. 2. The European Commission should regularly inform the Contracting Parties and the Secretariat on possible amendments to Regulation (EU) No 525/2013.
Art. 3 – Art.5		Art. 3 – Art.5: 3. Subject to a proposal by the European Commission, the Ministerial Council will decide on the adoption of a decision incorporating suitable provisions of Regulation (EU) No 525/2013. 4. This Recommendation shall enter into force upon its adoption by the Ministerial Council. 5. This Recommendation is addressed to the Contracting Parties and institutions of the Treaty.
Recommendation 2018/01/MC-EnC		

Art. 1. Integrated National Energy and Climate Plans (7 paragraphs)	Art. 1(1,2,3,4,5,6)	Art. 1(5,7): 5. National plans should facilitate greater cooperation and coherence among Contracting Parties' and with respect to EU Member States' approaches on climate and energy policies. 7 . The Secretariat should assist the Contracting Parties' efforts related to the preparation of their National Plans. It should report to the Ministerial Council on the progress annually.
Art. 2. Energy and Climate Committee (3 paragraphs)	Art. 2(2)	Art. 2(1,2,3): 1. The Climate Action Group should discuss and elaborate integrated energy and climate policies and the national plans pursuant to Article 1. To this purpose, the Group should be renamed the Energy and Climate Committee. 2. In the framework of the Energy and Climate Committee, the Contracting Parties, the Secretariat and the European Commission should identify the main elements and appropriate procedures for the development of national plans and progress reports. In doing so, the Energy and Climate Committee is invited to take into consideration this Recommendation and the relevant elements of the Guidance to EU Member States on such plans, communicated by the European Commission on 18 November 2015 as Annex2 of the 2015 State of the Energy Union, for which adaptations might be necessary. 3. The European Commission should regularly inform the Contracting Parties and the Secretariat on the developments at EU level on future legislation related to integrated national energy and climate plans.
Art. 3. Regional Cooperation (3 paragraphs)	Art. 3(1) and Art. 3(2)	Art. 3(3). The Secretariat should actively engage in the process and support cooperation activities described above, including through the Energy and Climate Committee. In particular, the Secretariat should facilitate timely consultation between Contracting Parties on the draft national plans.
Art. 4. Progress Reports (2 paragraphs)	Art. 4(1)	Art. 4(2). The Secretariat should report to the Ministerial Council every two years on the implementation of national plans by Contracting Parties.
Art. 5. Process and Timeline (2 paragraphs)	Art. 5(1)	Art. 5(2). In view of the submission of the final national plans by Contracting Parties, the Secretariat should issue recommendations on draft national plans.
Art. 6. Entry into Effect		Art. 6. This Recommendation shall enter into effect upon its adoption by the Ministerial Council
Art. 7. Scope	Art. 7	

Table 3.1-2: Compliance and gap analysis of the R. Moldova with EC recommendations

Country name		Moldova Republic of		
Last update:		January 2020		
National legislation:		GD no 1277 of 26.12.2018 regarding the establishment and operation of the National System for monitoring and reporting greenhouse gas emissions and other information relevant to climate change (GD1277)		
Recommendation 2016/02/MC-EnC Recommendation 2018/01/MC-EnC		National legislation		Level of concordance / comments
Art.	Provision / Transposition deadline	Art. / Law	Specific provision	
Recommendation 2016/02/MC-EnC				
Art. 1	The Contracting Parties should prepare the legal and institutional preconditions for the implementation of the core elements of Regulation (EU) No 525/2013 in their jurisdictions	Preamble of Annex 1/ GD1277	This Regulation partially transposes Regulation (EU) no. 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions, as well as reporting, at national and Union level, other information relevant to climate change	Transposed. “ Partially transposed ” means that national Regulation do not apply the use of revenue from auctioning allowances pursuant to Article 3d(1) and (2) and Article 10(1) of Directive 2003/87/EC.
Recommendation 2018/01/MC-EnC				
Art. 1(1,2,3,4,5,6); Art. 2(2); Art. 3(1,2); Art. 4(1); Art. 5(1); Art. 7	RM should prepare the analytical, institutional and regulatory preconditions for the development and adoption of integrated national energy and climate plans (NECP) for the period from 2021 to 2030. National plans should address the five dimensions of the Energy Union, according to Regulation (EU) 2018/1999. National plans			Partially transposed. 1. The draft of Working Group list of experts on the preparation of country NECP is prepared; 2. Three energy sector development scenarios up to 2050 have been formulated and now, using TIMES model and technical assistance of EU

	<p>should aim at streamlining existing sectorial planning and reporting tools applicable to Contracting Parties. The relevant elements of the Guidance to EU Member States on such plans, communicated by the European Commission on 18 November 2015 as Annex 2 of the 2015 State of the Energy Union should be taken into consideration. Progress Reports on the implementation of national plans should be submitted by Contracting Parties to the Secretariat every two years and where appropriate on an annual basis.</p> <p>Indicative timetable prescribed by General Policy Guidelines on the 2030 Targets for the Contracting Parties of the EC should be taken into consideration as well.</p>			<p>in the frame of the project "Support to the Modernization of the Energy Sector in the Republic of Moldova (STARS)", are in the process of calculation. The following scenarios are formulated: 1. BAU; 2. Sustainable development scenario; 3. Decarbonization scenario.</p>
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3.2. Concluding remarks regarding Recommendation 2016/02/MC-EnC and Recommendation 2018/01/MC-EnC

1. R. Moldova transposed into national legislation the Recommendation 2016/02/MC-EnC by approving GD1277.
2. Recommendation 2018/01/MC-EnC is under implementation in the R. of Moldova. However, EnC assistance is welcome in drafting NECP after TIMES study is carried out.

4. Wrap-up and Recommendations

The analyses carried in this report of both concordance of Republic Moldova with EU Directives/Regulations and compliance of the R. Moldova with EnC recommendations serve as a base to start the development of a Roadmap for EU4Climate support outlining priority actions and specific recommendations for the R. of Moldova.

The analysis identified that:

1. Only one of four EU acquis is transposed into national legislation. The Directive 98/70/EC is fully integrated into GD no. 1116 of 22.08.2002 on the approval of the Regulation regarding the storage and wholesale trade, through automated system, of the identified petroleum products;
2. Important doubts appeared on transposition the Directive No 2003/87/EC (emission allowance trading). A feasibility study carried out by UNDP on Moldova's capacity to implement the EU emissions trading system showed that ETS may be not cost-effective and economically efficient, i.e. not in compliance with Art. 1 of Directive. In order to decide on this an additional evaluation/study is needed which would identify, as well, the applicability of Regulation (EU) No 601/2012 (monitoring and reporting of GHG) to RM.
3. The Regulation (EC) no. 842/2006 is no longer in force. It is replaced by Regulation (EU) no. 517/2014. But because UE-RM AA doesn't contain this replacement, the Concordance of Republic of Moldova legislation was done with Regulation (EC) no. 842/2006. Republic of Moldova should undertake steps to clarify the necessity of amending UE-RM AA on applicability to Republic of Moldova of Regulation (EU) no. 517/2014 instead of Regulation (EC) no. 842/2006 which is not more in force.
4. The biggest number of provisions subject of transposition refer to Regulation (EC) No 1005/2009 (substances that deplete the ozone layer). From 26 provisions considered "Transposed" into national legislation are 5 (19%), "Partially transposed" – 10 (38%), "Not transposed" – 9 (35%), "No transposition required" – 2 (8%). It is recommended, before proceed to transposing the Regulation the following evaluation/study should be carried out to determine: a) the needs of transposing some provisions (controlled substances for exempted uses) of Chapter IV and b) the feasibility of transposing Art. 22(4) (other Controlled substances).
5. Republic of Moldova transposed into national legislation the Recommendation 2016/02/MC-EnC by approving GD1277 (MRV System). As to Recommendation 2018/01/MC-EnC, it is under implementation. However, EnC assistance is welcome in drafting NECP after TIMES study is carried out.
6. The only EU acquis for which the term for transposition into national legislation has not yet expired refer to Directive No 2003/87/EC – by 2022.

Annex 1: MARDE Order no. 11 of 25.01.2018 on approval the List of installations falling within the scope of Directive 2003/87 / EC

MINISTERUL
AGRICULTURII,
DEZVOLTĂRII REGIONALE
ȘI MEDIULUI
AL REPUBLICII MOLDOVA



МИНИСТЕРСТВО
СЕЛЬСКОГО ХОЗЯЙСТВА,
РЕГИОНАЛЬНОГО РАЗВИТИЯ И
ОКРУЖАЮЩЕЙ СРЕДЫ
РЕСПУБЛИКИ МОЛDOVA

ORDIN
mun. Chișinău

"25" ianuarie 2018

Nr. 11

7 Cu privire la aprobarea Listei instalațiilor
care cad sub incidența Directivei 2003/87/CE

În conformitate cu prevederile art. 93, lit. b), art. 97 din Acordul de Asociere dintre Republica Moldova și Uniunea Europeană, în scopul transpunerii Anexei nr.1 la Directiva 2003/87/CE a Parlamentului European și a Consiliului din 13 octombrie 2003 de stabilire a unui sistem de comercializare a cotelor de emisie de gaze cu efect de seră în cadrul Comunității și în rezultatul chestionării operatorilor instalațiilor care activează pe teritoriul Republicii Moldova,

ORDON:

1. Se aprobă Lista instalațiilor care cad sub incidența Directivei 2003/87/CE a Parlamentului European și a Consiliului din 13 octombrie 2003 de stabilire a unui sistem de comercializare a cotelor de emisie de gaze cu efect de seră în cadrul Comunității, conform Anexei.
2. Lista instalațiilor va fi utilizată la crearea Sistemului de monitorizare, raportare și verificare a emisiilor gazelor cu efect de seră, conform Directivei 2003/87/CE.
3. Secția politici de aer și schimbări climatice va actualiza, la necesitate, Lista instalațiilor, în funcție de schimbările intervenite în activitatea operatorilor.
4. Controlul executării prezentului Ordin se pune în sarcina dnei Valentina Țapiș, Secretar de stat al MADRM (în domeniul protecției mediului și resurselor naturale).

Ministru



Liviu VOLCONOVICI

Lista instalațiilor

care cad sub incidența Directivei 2003/87/CE a Parlamentului European și a Consiliului din 13 octombrie 2003 de stabilire a unui sistem de comercializare a cotelor de emisie de gaze cu efect de seră în cadrul Comunității

Instalații de ardere cu o putere termică nominală mai mare de 20 MW

Nr. d/o	Operatorul	Denumirea instalației de ardere	Capacitatea fiecărei instalații (MW)	Capacitatea nominală totală a instalației (MW)
1	S.A. "Bucuria"	ДКВР – 10/13	6,38	31,33
		ДЕ – 16/13	11,29	
		ДКВР – 20/13	13,66	
2	"TERMOELECTRICA" S.A. CT Sud	ТВГМ-30	34,9	209,35
		ПТВМ-50	58,15	
		КВГМ-100	116,3	
3	"TERMOELECTRICA" S.A. CT Vest	ПТВМ-100	116,3	348,9
		ПТВМ-100	116,3	
		ПТВМ-100	116,3	
4	"TERMOELECTRICA" S.A. CET sursa 2	ГМ-50	38,4	407,2
		ГМ-50	38,4	
		ГМ-50	38,4	
		ГМ-50	38,4	
		ГМ-50	38,4	
		ГМ-50	38,4	
		БКЗ-120	88,4	
		БКЗ-120	88,4	
5	"TERMOELECTRICA" S.A. CET sursa 1	ПТВМ-100	116	1726
		ПТВМ-100	116	
		ПТВМ-100	116	
		КВГМ-180	209	
		КВГМ-180	209	
		ТГМ-96 Б	320	
		ТГМ-96 Б	320	

Instalații din industria mineralelor

Nr. d/o	Operatorul	Activitatea	Capacitatea de producție
	S.A. "MACON"	Instalații pentru fabricarea produselor ceramice prin ardere, în special a țiglelor, cărămizilor, cărămizilor refractare, dalelor, plăcilor de gresie sau faianță, cu o capacitate de producție mai mare de 75 tone pe zi, și/sau cu o capacitate a cuptoarelor mai mare de 4 m ³ și cu o densitate de încărcare pentru fiecare cuptor mai mare de 300 kg/m ³	520 tone/zi