



Strasbourg, 23 November 2009

**Avis no. 549 / 2009**

**CDL(2009)169**  
Engl. only

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**DRAFT LAW**  
**ON THE STATUS OF EUROREGIONS**  
**OF THE REPUBLIC OF MOLDOVA**

## **Chapter I General Provisions**

Based on the need to establish a legal framework regarding Euroregions (transborder cooperation), and in compliance with the international principles and treaties to which Moldova is a part, the provisions of the Constitution of the Republic of Moldova, the Regulation of the European Parliament and of Council No. 1082/2006 on a European Grouping for Territorial Cooperation, and of the laws referring to Euroregions, shall be interpreted and applied in line with the European Framework Convention on Transborder Cooperation among territorial communities and authorities from Madrid, ratified through the Parliament Decisions No. 596-XIV, dated 24.09.1999 *{Official Gazette of the Republic of Moldova, 1999, No. 112-114, art 529}*.

The Parliament passes the present organic law.

### **Article 1. Object of regulation**

(1) The regulation object of the present law refers to Euroregions as associations among local public administration authorities from the Republic of Moldova and from abroad, the means of transborder cooperation at the level of territorial administrative units, establishment and registration of Euroregions, and the legal status of the Euroregions.

(2) The goal of the present law is to facilitate the promotion of transborder cooperation among local public administration authorities in economic, social, cultural, and environmental fields, and the tangible improvements of the infrastructure in the context of secure borders, based on a spirit of cooperation and partnership, which encourages joint activities among the neighboring countries.

### **Article 2. Applicable law**

(1) Euroregions are established and shall operate observing the Constitution of the Republic of Moldova, the Law on Local Public Administration, the provisions of the present law, and of other normative, legislative acts, and international treaties to which the Republic of Moldova is a part.

(2) When the international treaties to which the Republic of Moldova is a part provide for other norms than those stipulated in the present law, the norms of the international treaties shall be applied.

(3) In case the international agreement to which the Republic of Moldova is a part provides for other norms regarding the Euroregions than those stipulated by the legislation of the Republic of Moldova and/or the present law, the provisions of the international agreement shall be applied.

(4) The international treaties ratified by the Republic of Moldova may provide additional rights and duties in the respective fields of activity for Euroregions.

(5) Civil law relations with an extraneous element are applied to the Euroregions registered in other states, from which local public administration authorities of the Republic of Moldova are part.

To be active within a Euroregion registered abroad, the members from the Republic of Moldova need the permission of the Ministry of Local Public Administration and the corresponding endorsements from the relevant central public authorities which have competence in the Euroregion's field of activity, which stipulates the approval or refusal, on a

case-by-case basis, regarding the association of an applicant from the Republic of Moldova to the Euroregion.

### **Article 3. Main terms**

For the purpose of the present law, the following terms are defined:

*Euroregion/s* - are set up from the territorial administrative units of the Republic of Moldova and represent an organizational cooperation from among two or more administrative-territorial units or bordering regions from different European countries, established through an association, with open transborder cooperation, distinct patrimony, own name, and patrimonial and non-patrimonial rights.

*transborder cooperation* - joint actions of local public administration authorities, focused on promoting cooperation in economic, social, cultural, and environmental fields, tangible improvements of the infrastructure in the context of secure borders, based on a spirit of cooperation and partnership which encourages activities among the neighboring countries.

*associated members*- members with full rights of the Euroregions may be the territorial associations, their representative bodies, local public administration bodies, and local public administration bodies of another state;

*founding members* - members with full rights in the Euroregions may be the deliberative authorities of local public administration from two or more territorial administrative units, and local public administration bodies of another state;

*joint project (programs)* - a set of measures of the subjects and participants to the transborder cooperation, focused on settling the tasks and meeting the joint interests of the associations of local public authorities;

*subjects of transborder cooperation* -these may be the local communities, regional communities, member states, public law entities, as well as the associations of all or some of the above-mentioned subjects.

### **Article 4. Basic principles for Euroregion establishment and operation**

The following principles shall serve as the basis for Euroregion establishment and operation:

- a) *equality* - guaranteeing equal conditions and opportunities for Euroregions and members of Euroregions (parts);
- b) *accountability* - fulfilling some minimum quality standards established by law in the respective fields of activity;
- c) *free consent* - manifestation of the free will of the Euroregion's members to conclude legal acts;
- d) *self-sustainability* - autonomous self-sustainability of a Euroregion's assets and funds;
- e) *freedom* - refers to the freedom of Euroregions to establish their own structure, goals, forms, and methods of activity;
- f) *institutional dialogue* - mutual informing between Euroregions and relevant central public administration authorities, while planning and making decisions regarding any matter of joint interest or issued related to their field of activity.

**Article 5. Fields of activity**

(1) Euroregions, within the limits of the law, have full freedom of action in regulating and managing in the fields of activity which are not excluded from the competence of local public administration authorities and are not attributed to any other authorities in the territory of the Republic of Moldova.

(2) The following fields of activity are established for Euroregions:

- a. development of joint economic development projects;
- b. urban, rural, and regional development;
- c. environment protection;
- d. prevention and liquidation of natural calamities consequences;
- e. labor force employment;
- f. consolidation of cooperation in social areas, health protection, and tourism;
- g. consolidation of cooperation in education and culture

**Chapter II Establishment of Euroregions****Article 6. Establishment of Euroregions**

(1) Euroregions are established upon the initiative of a group of founders, which may be the deliberative authorities of local public administration, represented by delegation of competences of exclusive authority.

(2) Euroregions are established based on a membership consignment for joint implementation of activities aimed at fulfilling the statutory goals of the associated parties, and defending their joint interests.

(3) Euroregions are established and operated based on principles of free consent, local autonomy, self-sustainability, and equality in rights for all members.

(4) Euroregions are established in the territory of the Republic of Moldova in line with the legislation in force and the international treaties to which the Republic of Moldova is a part, upon the initiative of the founding members from the Republic of Moldova and similar structures from neighboring states.

(5) The decision for establishing Euroregions are taken during the General Assembly of the founding members, concomitantly with approval of the bylaws and/or internal regulations, the election of management, control, and revision bodies, and appointment of the person(s) with the mandate to represent the Euroregion during the registration process.

(6) Euroregions are free to define their statutory goals, internal structure, forms, and methods of activity.

(7) Central public administration authorities cannot be founders of Euroregions.

**Article 7. Name and emblem of the Euroregion**

(1) The Euroregion takes part in different legal relations only under its own name, indicated in the establishment document, and registered in the proper way.

(2) The name of the Euroregion shall be written in the State language and one of the languages of international circulation (as agreed between parties).

(3) The name of the Euroregion cannot use words or abbreviations which would be misleading with respect to its form of legal organization.

(4) The name, flags, emblems, pennants, and other symbolic of the Euroregions, if such exist, shall be different from the name and emblem of any other legal entity which is already registered in the Republic of Moldova.

(5) The symbolism used for the Euroregion shall not coincide with the State emblem of the Republic of Moldova or any other foreign country, or with that of any recognized international entities. The use of the State emblem on Euroregion stamps and letterheads is not permitted.

(6) The emblem of the Euroregion is approved by its leadership bodies in line with the bylaws of the Euroregion and it is registered with the Ministry of Local Public Administration.

### **Article 8. Headquarters of the Euroregion**

(1) The Euroregion has a registered office, the address of which is indicated in the bylaws and represents the legal address of the Euroregion.

(2) The establishment and change of the Euroregion's registered office are revocable for the parties from the day of the Euroregion's state registration.

(3) The mailing address of the Euroregion is the address of its registered office. The Euroregion may also have some other addresses for correspondence purposes.

(4) All documents arriving at the Euroregion's registered office are deemed as being received by the Euroregion.

### **Article 9. Bylaws of the Euroregion**

(1) The bylaws of the Euroregion shall include the following:

- a. legal organizational form of the Euroregion;
- b. name of the Euroregion;
- c. registered office and the territory within which the Euroregion operates;
- d. goals and tasks, methods for their implementation, and the Euroregion's duration of activity;
- e. conditions and procedures for admitting new members into the Euroregion, as well as those for withdrawal from Euroregion membership;
- f. rights and obligations of the members of the Euroregion;
- g. structure of the Euroregion, establishment procedure, exact name, and structure;
- h. structure, method of establishment, mandate duration of the leadership, executive, control, and revision bodies, and their duties;
- i. procedure for amending, completing, and passing the bylaws;
- j. sources, constitution, and use of property and other assets of the Euroregion;
- k. amount of membership fees;
- l. the body empowered to take decisions regarding the procurement,
- m. distribution and sale of property;
- n. procedure and terms for convening the leadership bodies;
- n) main parameters for financial statements and the publication method for such statements;
- o. procedure for reorganization and termination of the Euroregion's activity.

(2) The bylaws of the Euroregion may also contain some other provisions, regarding the activity of the Euroregion, which do not contravene the legislation of the Republic of Moldova and the international treaties to which the Republic of Moldova is a part.

(3) The subsequent amending and completing of the Euroregion's bylaws shall be undertaken based on the method established for its registration. No taxes shall be paid for the registration of amendments and completions conditioned by modification of the legislation.

#### **Article 10. Organization and operation of the Euroregion**

The organizational and operational mode of the Euroregion is established in the constitutional documents.

#### **Article 11. Liability of the Euroregion and its members**

(1) Euroregions are liable with their entire patrimony, accumulated as a result of their activity with the aim of fulfilling the assumed obligations.

(2) The members (parties) bear solidarity liability for the Euroregion's obligations in compliance with their contributions made to the capital of the Euroregion. The Euroregion is not liable for the obligations of its members in front of third parties.

(3) The relevant central public administration authorities may request in any moment from the Euroregion or the involved local public administration authorities any data, information or documents regarding the activity they implement by the Euroregion.

(4) The public property of the territorial administrative unit cannot serve as guarantee for the fulfillment of the financial and/or patrimonial commitments assumed by the Euroregion during the implementation of its statutory goals.

#### **Article 12. State registration of the Euroregion**

(1) The state registration of the Euroregion and of its bylaws is undertaken by the Ministry of Local Public Administration.

(2) The legal capacity of the Euroregion as a legal entity comes into force on the day the bylaws of the Euroregion are registered with the Ministry of Local Public Administration. A Euroregion that does not register its bylaws has no legal capacity of the legal entity in the territory of the Republic of Moldova.

(3) In order to register with the State, the Euroregion shall submit the following documents to the Ministry of local Public Administration, within one month from the day the bylaws were approved:

- a) application signed by the Chair of the Euroregion;
- b) regulation and bylaws, in two copies, signed by all members of the Euroregion;
- c) establishment agreement, signed by all members;
- d) decision of the deliberative authority of the local public administration, when the applicant(s) from the Republic of Moldova is/are territorial administrative units;
- e) a list of the Euroregion's members, legalized through signatures of their representatives;
- f) document which certify the establishment of the registered office of the Euroregion and its members;

- g) bank documents which certify the payment of the fees for registration;
- h) corresponding endorsements of the relevant central public authorities with jurisdiction in the Euroregion's field of activity.

(4) The documents stipulated in paragraph (3) are submitted in the State language.

(5) The Ministry of Local Public Administration, within the term of one month, shall pass one of the following decisions:

- a) to register the Euroregion and to issue the State registration certificate;
- b) to postpone the registration of the Euroregion;
- c) to refuse the State registration of the Euroregion.

(6) The contributions of the founders are to be indicated.

### **Article 13. State registration certificate**

(1) The document confirming State registration of the Euroregion is the certificate issued by the Ministry of Local Public Administration.

(2) The form of the registration certificate is approved by the Ministry of Local Public Administration.

(3) The registration certificate is issued by the Ministry of Local Public Administration within a term of three days from the date of issuing the administrative act of the Euroregion's registration.

### **Article 14. The postponement of the State registration of the Euroregion**

The State registration of the Euroregion may be postponed for a period of up to three months if the procedure for the Euroregion's establishment was violated. The decision for registration postponement shall stipulate the causes for postponement of State registration. The founders of the Euroregion shall be informed in writing, within three days, about such a decision.

### **Article 15. Refusal of the State registration of the Euroregion**

(1) The State registration of a Euroregion may be refused on the following bases:

- a) the statutory goals contravene the provisions of the Constitution of the Republic of Moldova, the legislation in force, or the international treaties to which the Republic of Moldova is part;
- b) the drawbacks identified and expressed in the decision for postponing State registration of the Euroregion are not corrected within a term of three months;
- c) another legal entity was previously registered with the same name;
- d) the registration body discovered that the documents submitted for the registration contain false information.

(2) A refusal to register the Euroregion because of the inappropriateness of its establishment is not admitted.

(3) In case the State registration of a Euroregion is refused, the founders of the Euroregion are notified in writing, within the term set forth by the legislation, indicating the reasons for refusal.

(4) A refusal to register the Euroregion due to reasons considered by the founders as groundless may bring the case before the administrative court in line with the provisions of the Law on Administrative Court No. 793-XIV, dated February 10, 2000.

#### **Article 16. The State registration of Euroregions**

(1) The Ministry of Local Public Administration keeps the State Registry of Euroregions.

(2) The data from the State Registry of Euroregions for the previous calendar year are published on a mandatory basis on the web site of the Ministry of Local Public Administration at least once per quarter.

#### **Article 17 Restrictions regarding the establishment and operation of Euroregions**

(1) The establishment and operation of Euroregions that use violence in an attempt to change the constitutional regime, to undermine the territorial integrity of the Republic of Moldova, to make propaganda for war, violence, and cruelty, to abet hatred or strife on a national, racial, and/or religious basis, and other deeds liable to punishment in line with the legislation in force are prohibited;

(2) It is prohibited to establish Euroregions for political or military purposes;

(3) It is prohibited to establish and carry out activities and tasks that are not proper to the field of activity of the Euroregion's members, and/or contradictory to the goals directly stipulated in the Euroregion's charter;

(4) The establishment and functioning of Euroregions whose activity contravenes the provisions of the Constitution of the Republic of Moldova and other legislative acts in force of the Republic of Moldova is prohibited.

#### **Article 18. The rights of the State authority who undertakes the State registration of Euroregions**

The Ministry of Local Public Administration, as the State authority that undertakes the registration of Euroregions is entitled to the following rights:

- a. to issue an endorsement expressing the approval, or, depending on the case,
- b. the refusal, regarding the association to a Euroregion of an applicant from the Republic of Moldova;
- c. to issue a decision prohibiting or suspending the operation of a Euroregion with the office registered in the Republic of Moldova, or the withdrawal of the member from the Republic of Moldova from a Euroregion, in case its activity contravenes the public order, health, or morality, or is contrary to the public interest;
- d. to request from the court the dissolution of a Euroregion, if it is discovered that it no longer complies with the statutory requirements or the requirements provided by the present law;
- e. to inform the competent authorities from the member states in line with the legislation by which the members of the Euroregion were established, upon their written request, about the activities carried out by the Euroregion on the territory of the Republic of Moldova;
- f. to inform the competent authorities from the member states in line with the legislation by which the members of the Euroregion were established about the registration of the



dissolution of a Euroregion with headquarters in the Republic of Moldova, as well as the subsequent direct or indirect modifications of the bylaws, and the dissolution of a Euroregion with headquarters in the Republic of Moldova;

g. to inform the competent authorities from the other state members regarding the eventual difficulties identified during the control and audit carried out for the activity of the Euroregion with headquarters in the Republic of Moldova;

h. to request and to receive from the members of the Euroregion, and from the institutions involved in the functioning of the Euroregion data, information and necessary documents related to the activity of the Euroregion;

i. to issue a certificate regarding the cancellation of the Euroregion, as a result of its dissolution;

j. other rights related to the establishment and operation of Euroregions, within the limits of the legislation in force.

### **Chapter III**

#### **Relations between the State and the Euroregions Support granted by the State to the Euroregions**

##### **Article 19. Guarantees granted by the State**

(1) The right to association of the local public administration authorities in Euroregions is guaranteed by the State. The exercising of the right to association may be restricted, under legal conditions, only when this restriction has a legal goal.

(2) The State guarantees the defense of a Euroregion's lawful rights and interests.

(3) The baseless interference of the State bodies and organizations, and of State high officials in the activity of the Euroregions, is not permitted, except in cases directly provided for by legislation.

##### **Article 20. The State and its relations with the Euroregions**

(1) The State has legal cooperation and subvention relations with all Euroregions, and may conclude, depending upon the case, cooperation agreements and conventions with any Euroregion or with its members.

(2) The State may grant support to Euroregions by providing special funds for their programs, upon their request.

(3) The State supports the Euroregions in their activity, promoting a preferential tax policy for them. Euroregions may be partially or completely exempted from some taxes in line with the tax legislation and the present law.

(4) The economic-financial activity of the Euroregions is under State control. The fiscal legislation of the Republic of Moldova is ruling the activity of the Euroregions, as well as that of the institutions and enterprises established by them.

(5) In its relations with the Euroregions, the State shall grant preferences to none of them.

#### **Chapter IV. Euroregion patrimony Article 21. Property rights**

(1) Each Euroregion holds, uses, and freely disposes of a distinct patrimony according to the law conditions.

(2) The Euroregion's property right is exercised in line with the national legislation and with the international treaties to which the Republic of Moldova is a part.

(3) A Euroregion's property may include real estate and movable assets, land assets, and other material goods which are necessary for the ensuring of their operation obtained as a result of the Euroregion's activity.

(4) The Euroregions may own any object of intellectual property in line with the national legislation and international treaties to which the Republic of Moldova is a part.

(5) The property of the territorial administrative unit cannot be the patrimony of a Euroregion. The property of the territorial administrative units is subject to the legislation of the Republic of Moldova regarding the legal regime of the public property assets.

#### **Article 22. Defense of property rights. Assets and interests abroad**

(1) The Republic of Moldova defends the property rights of all Euroregions with headquarters in the Republic of Moldova or of a member of the Euroregion from the Republic of Moldova with headquarters abroad - the property rights for assets from the country and outside the country.

(2) A Euroregions' property rights are defended in the courts according to the legislation.

(3) The assets of the Euroregions which are abroad, as well as the interests of the members from the Republic of Moldova abroad, are objects to some international conventions.

#### **Article 23. Dissolution of a Euroregion**

(1) A Euroregion shall be dissolved:

- a. lawfully;
- b. expiration of the period for which it was constituted;
- c. fulfillment, or depending upon the case, impossibility of fulfillment of the goal for which it was established;
- d. through a court decision;
- e. based on the decision of its members.

### **Chapter V. Final and transitory provisions**

#### **Article 24.**

(1) The Euroregions existing prior to the entering into force of the present law are subject to the registration procedure in the territory of the Republic of Moldova.

The Euroregions with headquarters in the Republic of Moldova existing prior to the entering in force of the present law are subject to the registration procedure.

(2) The Euroregions with headquarters in the Republic of Moldova existing prior to the entering in force of the present law are subject to the registration procedure.