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Synthèse / Summary / Kurzfassung / резюме

RÉPUBLIQUE DE MOLDOVA / REPUBLIC OF MOLDOVA /
REPUBLIK MOLDAU / РЕСПУБЛИКА МОЛДОВА

The Constitutional Court of the Republic of Moldova
Curtea Constituțională a Republicii Moldova

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CONSTITUTIONAL COURT OF THE REPUBLIC OF MOLDOVA
**THE XVIth CONGRESS OF THE CONFERENCE OF EUROPEAN CONSTITUTIONAL
COURTS**

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**COOPERATION OF CONSTITUTIONAL COURTS IN EUROPE –
CURRENT SITUATION AND PERSPECTIVES**

Abstract

The process of establishment and strengthening of the Republic of Moldova as an independent and democratic state (which started in 1991), subject of international law, lead to the internationalization of national law, particularly in the field of protection of human rights and fundamental freedoms.

The impact of international law upon domestic law became more prominent following the adoption on 29 July 1994 of the Constitution of the Republic of Moldova. An analysis of constitutional provisions in terms of the relationship between national law and international law highlights the particular importance of international legal instruments, including those on the European level, for national legal relations.

According to Article 4 par. (1) of the Constitution of the Republic of Moldova, Constitutional provisions on human rights and freedoms shall be interpreted and enforced in accordance with the Universal Declaration of Human Rights, other conventions and treaties to which the Republic of Moldova is a party. This provision entails legal consequences and provides that law enforcement authorities, including the Constitutional Court and the courts of common jurisdiction, within the limit of their competence, are entitled to apply the provisions of international law, in situations provided by the law, in the process of examination of concrete cases.

Article 4 par. (2) of the Constitution refers to the correlation between international legal provisions and constitutional norms on fundamental human rights, granting priority to international provisions in case of any discrepancy.

Thus the constitutional rule cited prioritize international regulations to which the Republic of Moldova is a party whenever there is a conflict between the conventions and treaties on human rights and the domestic laws. The above mentioned constitutional solutions emphasize the commitment of the State to adopt international regulations and subsequently proves responsiveness to their possible and predictable dynamics.

In light of the above, it is noted that the provisions of the European Convention on the Protection of Human Rights and Fundamental Freedoms as well as the jurisprudence of the European Court of Human Rights are not only relevant in determining a particular solution adopted by the Constitutional Court, in some circumstances they have a leading role and guide the examination of a constitutional litigation when the dispute refers to the core issue of guaranteeing and respecting a constitutional right safeguarded by the Constitution and the European Convention on Human Rights.

In substantiating its judgments the Constitutional Court also is primarily invoking the principles of other international instruments concluded within the United Nations, the Council of Europe, as well as within other international organizations, to which the Republic of Moldova is a part.

Thus, by way of constitutional regulations, the provisions of international conventions on human rights have acquired a special status, holding in the hierarchy of normative acts a place equivalent to the Fundamental Law and having, in case of discrepancy, superior value over national provisions.

A fortiori it should be noted that, although the Republic of Moldova is not a member of the European Union, European integration has been assumed as a national priority which fact entails assimilation of the core principles and values of the *EU Acquis*.

Thereby, according to national legal provisions, protection of the rights, freedoms and vested interests of citizens, equality and social justice, as well as the compatibility with EU legislation represents a mandatory condition for any legislative act.

Inter alia, when delivering its acts the Constitutional Court analyzes with much interest the provisions of the relevant legislation and constitutional jurisprudence of other states on the issues similar to those under examination, while cooperation and the exchange of experience with the constitutional courts of other states is one of the priorities in developing bilateral and multilateral relationships.

The conclusion is that the Constitutional Court possesses the mechanisms necessary to enrich the entirety of guarantees and ways to protect the safeguarded rights and fundamental freedoms, namely through constitutional litigations settled and judgments delivered; in this manner national constitutional jurisprudence is an "effective and stimulating agent" of the process of assimilation and implementation of international law.