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Implementation of the Concept of Economic Law and its Beneficial Influence on the Rules of Economic Relations

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Abstract: *In communication the author reupdates The history of economic law creation in the Republic of Moldova, emphasizes the process of implementation of the concept of economic law, as well as on those beneficial aspects of regulation Economic relations on which the future of each state is dependent, and clearly constitutes paramount concerns and the European area system. The author comes up with a comparative analysis of the national legislative framework in the field with the European one, highlighting the positive and negative aspects. In conclusion it comes with new suggestions and proposals for the improvement of national legislation.*
Keywords: *concept of economic law, regulation of economic relations, European space*

Introduction

It is known that the economic activity in us in the Republic of Moldova has changed its essence at the same time as declaring our state independence. Obviously, we are building a law-based state, which means that every relationship in society must be governed by rules of law. So also, the economic activity that according to art 126 of the Constitution of the Republic of Moldova is a market economy of social orientation in which the state must ensure the regulation of the economic activity [1].

In the Republic of Moldova, the legal aspect of the emergence and development of economic (entrepreneurship) activity can be divided into several stages. We will not stop at all, we will highlight only two: stage I from 1918 until the declaration of our state's independence, that is until 1991 and the stage after the declaration of our state's independence.

The first stage of regulating the emergence and development of the entrepreneurial economic activity has several periods that differ from each other in the state form that dominates and the forms or the regimes of development from our country.

After December 1, 1918 this activity is regulated by the Romanian Commercial Code of 1887 and other special normative acts that were extended on the territory of Bessarabia by decree no. 1731 from May 4, 1919 until 1944. [2, 66-77]

After the war, Bessarabia was included in the Soviet Union's socialist development path, and the economic activity was regulated by different codes: civil, economic, colossal, land and other law and normative acts of the Soviet Union. The economic activity was carried out under the principles of socialist development, which did not recognize private property, but only that of the state and individual work for the purpose of obtaining income was forbidden. Only the individual or personal property that was strictly regulated by law was recognized (a natural person was entitled only to an apartment or house with limited footage, to villages and one of their land in use, a car, they were not allowed to dispose of means of production, land, tractors, agricultural machines etc.)

The form of trade that is developing at the present time in the territory of our state was considered in the period of crime which was called 'speculation'. Only trade with products from the activity of personal households was allowed, and these people had to prove that they were making the production obtained from their own households or with their own work. It was not allowed the employment of

some people by other people; it was considered the exploitation of man by man and was against the principles of socialist development.

The second stage, which actually started as early as 1989, but de jure from August 27, 1991, when the Moldovan Soviet Socialist Republic was declared an independent state with the name of the Republic of Moldova. The legislation adopted during this period, essentially changed the way the state was developed, from the socialist state to the capitalist path of development, and the state's economy turned into a market economy. This change started from the moment the Law on Property no. 459-XII, of 22.01.1991 (repealed), [3] which together with the state property recognized and equaled it, the private property, canceling all the existing limits until then. Thus, for example, in art 13 of the law was written, that "any natural person has the right to own plots of land, means of production for carrying out the economic activity, dwelling houses ..." etc.

But of course, the decisive moment of the legal development of the economic activity began from 03.01, 1992 when the Law no. 845 regarding entrepreneurship and enterprises through which natural and legal persons were allowed to practice an economic activity called entrepreneurial activity independent of that of the state, at their own risk, on their own initiative, to bring them income or profit. Thus, p.1 of article 1 of the Law states that: “entrepreneurship is the activity of manufacturing the production, executing the works and providing the services, carried out by the citizens and their associations independently, on their own initiative, on their behalf at their own risk and under their patrimonial responsibility in order to ensure a permanent source of income” [4].

A new and important provision of this law is that for the first time, the creation of new categories of legal entities such as Limited Liability Companies, (SRL) Collective Companies, (SNC) Limited Partnerships (SC) , Joint stock companies (SA), Production cooperatives (CP), Individual enterprises (I.I.),, Associations, Unions of companies etc.

In order to develop this activity, in our state, the process of creating private property was started, which was founded, first of all, by restoring the valuable value to the citizens who came out of the state property in the form of patrimonial Bonds. Later, starting in 1993, a series of laws were adopted that regulated the process of privatization of state property, that is, its transformation into private property. Here we can highlight the Law on privatization, the Law on the privatization of state-owned enterprises, the Law on the privatization of the housing fund, the new land code that regulates the process of land privatization, the Water Code etc.

Later, many normative acts were adopted that regulate the organization and conduct of the entrepreneurial activity, such as the Law on the basic principles of regulating the entrepreneurial activity [5], the Regulation on the economic companies in the territory of the adopted RM. by Government Decision no. 500 of September 10, 1991, the Law on joint stock companies, 1992, as amended by that of 1997, no. 1137 the law on cooperation in 1992 and the law on production cooperatives in 2002, the Law on the entrepreneurial patent of 1998, no.93, M.O. no. 72-7, Law on the sale - purchase of goods, Law on the sale - purchase of land and its nominal price, Law on consumer protection etc.

We support the opinion of some local authors who consider that a very important role in regulating economic relations is played by Civil Code no. 1107 of 06.06.2002 implemented in 2003 and amended and completed by Law no. From 01.03.2019 [6], however, we consider that it would be more effective to create an Economic Code that would codify all the existing legislation regulating the economic relations, perfecting it, because the civil code only took some provisions of the Law on entrepreneurship and enterprises, regarding some categories of legal entities creating a commercial aspect. If we study the civil code, we establish that in the territory of the Republic of Moldova there can be only companies, commercial contracts, but how the relations of production are regulated, the process of producing industrial goods, activities regarding services, execution of works, etc. The legal entities that practice the activity of producer in different branches of the national economy is not sufficiently regulated. A state can become strong and well developed only when it has an economy

based on its own industrial, heavy and light, agricultural production, etc., this must be the purpose of developing a state, developing its own entrepreneurial economy and not marketing the products of other states. We have a country with a potential that allows the development of the national economy and within its own industry.

1. The Notion and Significance of Economic Law as a Branch of Law

A heated discussion was created around the concept of forming and naming the branch of economic law that is outlined in the doctrine. For this it is important to remember the definition of the branch of law brought into the theory of law according to which, the branch of law includes in itself a set of legal norms related organically to each other, which regulate patrimonial or non-patrimonial social relations (relations) [7, 117]. Based on the definitions of the branch of law in the general theory of law [7, 321], economic law presupposes a branch of law, which in itself includes a set of homogeneous legal norms, organically linked between them, which regulate relations (reports) patrimonial or non-patrimonial societies that have the same specific meaning, appear in the result of conducting the entrepreneurial activity in order to obtain permanent income and profits, in which the entrepreneurs (natural and or legal persons) participate and who use the same method or the same complex of methods.

The notion of economic law has been known since ancient times. At present, we will study it as a branch of law, which unofficially meets all the conditions[1] [8, 322] necessary to be created as a branch of law. These conditions were created under the Law of the Republic of Moldova "On Entrepreneurship and Enterprises" no. 845-XII of 03.01.1992. By adopting this law, the way of economic activity in the Republic of Moldova has changed. Thus, this law has re-regulated the relations regarding the entrepreneurial activity that appears from the own initiative of the natural or legal persons, on their behalf, at their own risk, in order to ensure a permanent source of income. Until then, natural or legal persons were not entitled to deal with an entrepreneur, a self-employed person, outside the state, to bring them income. Although, these relations have a regulatory beginning in the Civil Code, however, most of them require a more specific regulation, require specific methods of regulation, by developing and modifying the Law on entrepreneurship and enterprises, embodying the principles of economic activity and economy development, socialists in the market economy of social orientation of the Constitution of the country which was adopted later than the law, in 1994.

As a branch of law, according to its importance we consider that it occupies one of the central places among the branches of law in the Republic of Moldova. This is due, first of all, to the multitude of social relations (relationships) that are encompassed by the regulation of the legal norms that constitute the sources of this branch, which outnumber many sources of other branches of law, and to the fact that it is a right of all natural persons and legal entities engaged in entrepreneurship, both state and private, both in the country and abroad.

In the literature, there are several definitions regarding regulatory methods. Thus, by the method of legal regulation is understood, the ways the procedures of interaction of the norms of law that establish or determine the character of the social relations, prohibit or admit a certain behavior of the people. [8, 322]

Entrepreneurial law has two categories of methods: methods specific to common law, specific to entrepreneurial law and methods specific only to entrepreneurial law.

The general theory of law, like the other branches of the legal sciences, uses certain concrete research methods used to investigate the legal phenomenon. These methods are as follows:

[1] The following conditions are required for the creation of a branch of law: the new categories of social relations have a specific character; be necessary and important; the newly emerged relations and the legal relationships that they generated cannot be regulated by the legal norms of other branches of law; the new social relations require specific methods of regulation

1. The historical method
Legal science presents the law in its historical evolution, studying at the same time the environment in which it formed a series of categories with which it works at the moment, such as: the type of law, the essence of the law, the form of the law, functions and so on.

2. The logical method is closely related to the historical method
It can be defined as a totality of specific methodological processes and operations through which the possibility of knowing the internal structure and dynamics, the forms and internal social relations, in a word, of the objective logic of social development is created.

The use of the means in studying the problems of law is particularly important with regard to the fact that the establishment of the state power, the constitution of the system of state organs, the correlation between them are oriented according to the rational way, and the activity of elaborating the law as well as the application of his, it must have a logical character. Logic is applied to a wide range of legal issues such as:

- legal definitions, methods of forming and classifying legal concepts, systematizing legal norms, solving conflicts of norms, rules of legal reasoning, interpreting legal norms.

3. The experimental method
The experiment originally belonged to the exact sciences. But being a provoked operation, it offers the possibility of repeating a large number of times of the investigated phenomenon and is that method of knowledge in which the knowledgeable subject forces the known object to manifest there and where he wants, under the conditions he imposes with the purpose of describing and noticing its essences and laws. Experimentation can be done in the laboratory or "on the field". In the field of legal sciences, both laboratory experiment (especially in the field of forensics, criminal investigations) and field experimentation (especially in the field of legal regulation) are used.

4. The comparative method
Logic defines comparison as an operation that seeks to find the same or different elements in two phenomena. Comparing the legal systems of the various states of the features of the branches, institutions and their norms has even determined in some legal education systems the recognition of the existence of a scientific branch - the science of comparative law.

5. The sociological method
The existence of the law is very much related to the social life. All legal phenomena are social phenomena. The sociological legal research gives a new perspective to the study of the legal reality, as a social reality, verifying the way in which the society influences the law and in turn supports its influence.

6. The quantitative method
The quantitative method aims to obtain a precision increase characteristic of the exact sciences. It consists in the application of mathematical data in the field of legal sciences. Most often the mathematical data are used in the field of legal statistics. Sometimes the criminal investigation bodies use the statistical data in the study of the criminal phenomenon, thus being able to highlight the quantitative characteristics of the forensics. And in civil law this method is often found especially in the civil economic relations with the legal persons, upon their creation a statistical record is taken. The quantitative method is used especially in the execution of the contracts of sale-purchase, enterprise, lease etc. [9, 10] as the law of entrepreneurship has been detached from the civil dept this method is specific to this institution as well.

If the object of civil law answers the question: what social relations are regulated by the civil legal norm, then the method of civil law answers the question, how and in what way is this regulation performed S. Base in the above-mentioned work brings the following definition of this method: by the method of regulation is understood as the totality of means by which the law influences the social relations, the behavior of the subjects in these relations. Thus, the norms of law can prohibit certain

actions to the participants in the legal reports, they can prescribe a concrete behavior of them or they can allow the parties to choose this behavior alone. For the civil law there are those norms that allow the single parties to choose the character of the relations between them. So, this is also specific to entrepreneurship law.

7. The dispositive method arises from the predominance in the law of the economic law of the entrepreneurship of the norms of dispositive law, which have the parties a conduct that they can choose for themselves. This results from the content p.1 of art. 10 of the Law on Entrepreneurship and Enterprises, which stipulates that the enterprise is entitled to practice any kind of activity, except those prohibited by law.

8. The method of equality of the subjects in the legal relations, according to this method the subjects participating in the civil legal reports cannot forcefully require the participation in the civil legal reports. This method results from the content of Article 1 of the CCRM which provides that the civil law is based on the recognition of the equality of the participants in the reports regulated by it. This is also apparent from the content of Article 1 of the Law on entrepreneurship and enterprises and is therefore specific to this branch.

9. The method of protecting the rights of subjects is a method used in all branches of law. In entrepreneurial law, however, it has specific characteristics that cost in that these norms of law not only create, extinguish or modify civil rights and obligations but also provide for punishment measures when these rights are not respected or the obligations are not executed by willingly. The specific features of this punishment are, first and foremost, that it is material. Secondly, it can be applied if an injury has been caused by the violation of the rights, by the non-performance of the obligations, their improper execution or delay, and if the injured party goes to court to request the recovery of the damage.

2. The Principles of Economic Law and their Classification

Every activity has its beginning on the basis of guiding ideas in relation to which this activity continues and is carried on. Guiding ideas are also called in society - principles. Each state has those principles that stem from its essence. The principles are the foundation of the law-based state.

The principles, depending on different criteria, are divided into several categories. Thus, depending on the volume of relationships that are included in their regulation, we can distinguish fundamental principles, branch principles, specialized principles, etc. of the state based on law. Fundamental are those principles that embody the basic ideas of the respective state.

Obviously, all categories of principles have started in the main legislative source of our republic - the Constitution of the Republic of Moldova. For example, in accordance with the provisions of the Constitution in this category, the principles of democracy and political pluralism (art. 5), legality (art. 7), separation and collaboration of powers (art. 6), equality (art. 16) are hung regarding the property (art.9) etc.

Apart from fundamental principles we also distinguish branch principles, which are just as important as the fundamental ones, but they are the basis of the regulation of different fields. In this category we could list the principles of public administration, the principles of local public administration, the principles of labor law, the principles of criminal law, the principles of financial law, the principles of civil law, notarial activity, the principles of entrepreneurial law, etc. Thus, we could list several categories of principles depending on the branches of law.

Next, we will refer to the category of principles that underlie entrepreneurial law. Highlighting the principles of this right it is important to emphasize that because this branch is detached from civil law it has common principles specific to civil law and of course only specific principles to it.

It is a very important principle, the principle of property inviolability, which is specific to the institution of property law, especially since 1991, when Law no. 459 "With respect to property", by which public and private property were recognized and considered equal, which means that both are protected by the state to the same extent. The regulation of property in the two main forms was taken over by the Constitution of 1994, art.9. This principle is also regulated by art. 1 of the Civil Code of the Republic of Moldova, figures by art. P. 313 regulates the content of the property right: the right of possession, use and disposition.

It is known that the right of property, as a real right, has been considered mainly at all times, both for natural persons and for legal persons.

Also, in the content of the Constitution, first of all, the fundamental principles of the economic activity are formulated. Thus, art.126 stipulates that the national economy is a market economy, of social orientation, based on private and public property, engaged in free competition.

As the main feature of this branch is the economic activity of the entrepreneur in order to obtain income, we can delimit the following fundamental principles of this activity, which have their foundation in the Constitution, and carried out by the Law on entrepreneurship and enterprises, the civil code and other special laws.

1. The principle of the legality of the economic activity, which is stipulated by p. A) of article 126 of the Constitution, which means that the regulation of the economic activity is made by the state and the economic agents must act in accordance with the legal provisions. For example, art.10 of the Law no. 485 provides that: “The illicit revenues obtained by the economic agents by exaggerating the cost of production, profitability, commercial addition, the volume of works performed in constructions and the tariffs for the services provided, thus not complying with the normative acts that regulates the formation and application of prices, as well as the fines applied in the amount equivalent to these incomes are charged to the state budget by a decision adopted by the Court of Accounts or by the Financial Control and Review Department of the Ministry of Finance".

2. Freedom of entrepreneurial activity. This principle is provided in p. B) of art.126 of the Constitution of the Republic of Moldova, which means that our state assumes the obligation to ensure this freedom and in cases of violation of this principle, to apply measures of constraint to punish the guilty.

3. The principle of free competition which is regulated by p. 1 of article 126 of the Constitution, which stipulates that all the subjects practicing the economic activity, can freely compete with each other depending on their own interests. No one has the right to create competition that is not loyal, artificial, imposed or unhealthy.

4. Protection of fair competition. So, this principle has its beginning in the Constitution and it is like a continuation of the previous one. It is important to remember that our state is based on the market economy and therefore this economy develops both on the basis of private and public property that are trained to compete freely and loyally is honest and only such competition can protect you from the state, that is, if someone violates the limits of fair competition, the state applies coercive measures.

6. The own initiative of the subjects of the economic law, which means that any natural or legal person sounds alone and from his own initiative, that is to say, imposed by us no one decides to practice an economic activity in any field and form. And any activity involves the risk of possible losses.

7. The independence of the subjects consists in the fact that no one has the right to interfere in the entrepreneurial activity, because to carry out an activity the subjects invest certain investments. This principle has its foundation in the Constitution of the Republic of Moldova. Thus, p. 2, h) of art.126 stipulates that the state must ensure the inviolability of the investments of the natural and legal persons practicing the entrepreneurial activity.

8. Activity on its own behalf. This principle is based on both art. 29 CCRM which regulates the use of the name of the natural person, p. 2 which states that the natural person acquires and exercises the rights and executes the obligations on his behalf, therefore also in the case of the entrepreneurial activity. And p. (3) provides for punishment measures for those who do not comply with the article. Thus, the one who uses the name of another is responsible for all the resulting confusion or prejudice. Both the holder of the name, as well as his spouse or close relatives may oppose this use and request compensation for the damage. For legal persons, the essence of the principle is set out in Article 66 of the JRC which regulates the name of the legal person and according to p. (1), the legal person participates in the legal reports only under his own name, established by the acts of incorporation and registered accordingly.

P (6) in art 66 CCRM provide for the consequences that occur in case of non-compliance. Thus, the legal person whose name is registered has the right to use it. The person using the name of another legal person is obliged, at his request, to cease the use of the name and to repair his damage.

9. Own responsibility. This principle arises from the content of art. 1 of the Law on entrepreneurship and enterprises. This responsibility is specific to all the subjects that practice the economic activity and can be in any form of legal responsibility. Thus, in the legislative sources the subjects materialize. For example, art. 18, p. 2 of Law no. 485 stipulates that the production and entrepreneurial cooperatives are legal persons and are responsible for the obligations assumed with their patrimony.

10. Orientation of the activity towards obtaining profit. This principle highlights the right of entrepreneurship from other branches of law, because it is directly specified that the activity must be the source of income, and other special laws stipulate that if after certain terms the activity of legal entities is not profitable, the state has the right to demand their forced liquidation p.1, art.1 of the Law on entrepreneurship and enterprises).

11. Carrying out the activity at your own risk. And this principle highlights the economic law of civil law and other branches of law. The meaning of the principle is that each activity also implies some risks of possible losses and therefore the state by this provision accentuates this moment. This principle arises from the provisions p.1 of art.1 of the Law on entrepreneurship and enterprises. We can mention that this principle is not specific to all states. Thus, some states, for example, Poland, Germany, France, Canada etc., for some areas of economic activity, for example, in agriculture, the state takes risks.

3. The System of Economic Law as a Branch of Law

It is known that the law itself contains several branches of law which, depending on different criteria, create a system of law. Each branch of law has both commonalities to all branches of law as well as specific personalities. Each branch of law is complex and encompasses several branches, which in their entirety create a system. Thus, it is separated into parts, institutions or sub-branches.

This is also specific for the branch of economic law. Thus, in our opinion, the economic law system can be made up of several main institutions: The institution of the general provisions that includes all the legal norms that regulate the social relations that appear in the field of economic activity, whose provisions are obligatory for all departments and institutions of law and the Institution that includes all the norms of law regulating homogeneous economic social relations whose provisions are obligatory only for such reports as the corporate law regarding the regulations regarding the constitution and functioning of the different organizational-legal forms, as well as their activities. The institution of the sectoral law includes all the norms of law and the social relations of the different sectors of the national economy. Thus, in the first part of the economic law are included: notions, principles, methods, subjects, the institute of the entrepreneurial activity, the right of their property and others real rights, the institute of the subjects of the law and their categories, the obligations of the entrepreneurial law and the contracts, the institution of civil legal responsibility in the entrepreneurial law etc., and in the special part of the economic law are placed: The particularities of the contractual relations of the subjects of the economic activity in different fields of the national economy; specific of the regulation

of the activity of the natural and legal persons practicing the economic activity in the heavy and light industry, different categories of obligations, the institution of the intellectual and industrial property, the copyright, the institution of taxation of the subjects that practice the economic activity etc.

4. Delimiting the Economic Law from other Branches of Law

Economic law is the branch of law that is part of the general law system and, therefore, has all the specific features of law and all other branches of law. Thus, in order for a branch of law to exist as a self-reliant, it must have: object, subjects, principles, social relationships, methods of regulation, rights, obligations, sanctions, etc. At the same time, these elements listed above have specific characteristics for each branch of law. Thus, for example, if the object of the civil law constitutes the totality of the patrimonial and non-patrimonial social relations, then, the object of the economic law constitutes only the totality of the patrimonial and non-patrimonial social relations that appeared as a result of the economic activity, so the object of the economic law is narrower than that of civil law. The same could be said about the topics of these two branches of law. If the subjects of the civil law can be both natural and legal persons, the subjects of the economic law can be only the natural persons who have certain qualities, that is to say, they practice the economic activity.

In life the social relations are simultaneously regulated by the norms of law of the different branches and in order to verify the correctness of the regulation it is necessary to establish to which branches of law the norm belongs, in order to be able to apply the rules of this branch. Since many adopted sources of legislation contain norms of law with references to different branches of law but in law, for example, it is not indicated that this norm of law is specific for civil law, and the other administrative law, etc. We select the specialists depending on the specific characteristics of each branch. It is therefore necessary to know the delimitation characters of different branches of law. Thus, by studying economic law as a branch of the law, we established its specific characteristics. These specific characteristics are: the equality position of the subjects within the legal relationships that appear in the entrepreneurial activity, the predominance of the dispositive norms of law in the content of the legislation, the inviolability of the property, the freedom of competition, the freedom of the entrepreneurial and contractual activity, the own risk, activity that creates income, the patrimonial character of the sanction, specific principles and methods etc.

The delimitation of the economic law from other branches of law is very important especially when examining litigation in the court, when drawing up legal acts that also differ depending on the branch of law. So, some conditions of validity are established for civil legal documents and quite different requirements are set for administrative legal documents etc.

5. The Sources of Economic Law

The expression of the right source has several meanings. Thus, "source of law" is used in two senses or meanings. In a first sense, by the source of the law we mean the material conditions of existence that generate the norms of this branch; we are in the presence of the notion of "source of law" in the material sense in the second, legal sense, the expression "source of law" means the specific forms of expressing the norms of economic law; this time, we are facing the notion of "source of economic law" in the formal sense. We draw attention to the fact that this formal meaning of the notion "sources of economic law" should not be confused with a notion close, as formulations, but different, as content, namely "the sources, the concrete economic relationship". If the first notion concerns normative acts, the second refers to the (individual) legal acts and facts. [10, 120]

The sources of economic law, as in other branches of law, are classified according to several criteria. Thus, the sources of economic law differ depending on the state body that issues them, depending on their legal force, vocations, action in space time and after persons etc.

In economic law its norms take the generic form of normative acts, that is, acts emanating from the state bodies invested with the prerogative of the legislation.

The main source of law, for all branches and for civil law is the Constitution, the fundamental law; the Constitution establishes the prerogatives of the legislation.

So, at present, the main legal forms in which the sources of economic law are expressed are the Constitution of the Republic of Moldova, the laws - normative acts adopted by the Parliament of the Republic of Moldova and the decisions of the Government. Obviously, sources can be counted of economic law only those normative acts that contain legal norms (and not the individual decrees) and only if they have as object of regulation social relations that fall into the "object of economic law".

Conclusions

We consider it necessary to set up a branch of law called economic law, comprising two parts: the general part and the special part divided into three institutions: the Institution, regarding the fundamental provisions of economic law; Institution of organizational-legal forms and entrepreneurial activity; the institution of different sectors of economic law. All normative acts should be systematized and codified in an Economic Code. [11, 188] The legal framework, created by the state, regarding the regulation of economic relations favors the emergence of a great diversity of companies and companies aimed at practicing the economic activity of an entrepreneur, at the same time this legal framework requires systematization and codification that will positively influence the economic development.

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