

THE DEVELOPMENT OF LIMITED LIABILITY COMPANIES IN THE REPUBLIC OF MOLDOVA

MARIA GRĂU-PANȚUREAC

Ph.D. in Law, Associate Professor,
Academy of Economic Studies of Moldova,
e-mail: grau-pantureac.maria@ase.md
ORCID ID: 0009-0002-3274-7291

Abstract: In this article, we will analyze the most widespread form of business in the Republic of Moldova – Limited Liability Company. In this scientific approach, we will make an analysis of the evolution of this form of business highlighting its characteristics and advantages. We will mainly refer to the legislation that concerns companies, recently amended. The Government approved the draft law on modification of some normative acts aimed at regulating the relations between associations/founders of companies. It provides for innovations in the legal framework, new possibilities in decision-making, more rights for associates, and simplification of several procedures. Entrepreneurs, especially those associated with Limited Companies (LLC), will gain more freedom for business growth and development and will have fewer bans at the law level.

The actuality of the theme is an obvious one, the Limited Liability Company is the most widespread form of organization of entrepreneurial activity in the Republic of Moldova, a fact confirmed by the statistical data. Unlike joint-stock companies, which are the largest commercial organizations with large capital, limited liability companies are part of organizations with medium-sized capital. Limited liability companies are favorable for small businesses. Moreover, the practice proves that many such forms of company are constituted by spouses within a family.

Purpose and research tasks. The purpose of the research is to carry out a multi-aspectual research of the limited liability company, as the most common form of business in the Republic of Moldova. To achieve the proposed purpose, we have drawn up the following tasks: a) to analyze the limited liability company in the light of national legislation; b) the comparative analysis of this form of business; c) identification of the advantages and disadvantages of the limited liability company.

Methods and materials applied. In the process of elaboration of this article, the following research methods were used: analysis, synthesis, historical, comparison method, etc. The Law on Entrepreneurship and Enterprises was used as scientific materials, nr. 845/1992; Civil Code of the Republic of Moldova nr.1107/2002; Limited Liability Company Act nr.135-XVI/2007, as well as valuable doctrinal sources in the domain.

Obtained results and debates consist of the theoretical and practical approach to all factors and circumstances relevant to the research topic.

Keywords: Limited Liability Company (LLC), entrepreneur, opportunity, challenge.

JEL Classification: K2, K22.

Basic content. A limited liability company is a legal person, which assumes limited liability before the law and towards its owners. It is a hybrid form of business with characteristics of both a partnership and a capital company, being more flexible than other forms of companies and more advantageous for a single owner or a small number of members.

In developing this scientific approach, I used historical and comparative methods.

From a chronological point of view, the limited liability company as a form of economic company is the last born both in our law and in the legislation of other countries.

This form of company was initiated to meet certain requirements of the commercial activity. Indeed, the companies of persons (especially the company in a collective name) provided the conditions for the use of small capital, and the capital companies (especially the joint stock company) were suitable for the use of large capital, destined for large-scale businesses. A form of company was needed that would be adapted to the demands of the capitalization of medium-sized

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capital. This was done by introducing the limited liability company as a mixed form that borrows certain characters from both individual companies and capital companies (Angheni et al., 2000).

Limited liability companies are a practical application of the principle of limitation of liability of traders for their commercial liabilities (Cârpenaru, 2012). The limited liability company first appeared in 1892 in Germany (Amititeloai, 2012) in this respect being regulated by a special law of April 1892, under the name *Gesellschaft mit beschränkter Haftung*, (Amititeloai, 2012) published in *Reichgesetzblatt* (Reich Law Gazette), the law that was maintained in force after the entry into force of the Commercial Code of 1896 (Săuleanu, 2012). This law was an inspiration to other countries, so Austria, by the law of March 6, 1906. In France, it is regulated by the law of 7 March 1925, in Luxembourg in 1923, in Belgium in 1935, in Italy, by the code of 1942, in Spain, by the law of 17 April 1953 in Greece, by the law of 1971 (Amititeloai, 2012).

In the Republic of Moldova, it found its legal consecration in the following chronological order:

Government Decision of the Republic of Moldova 500/1991 on economic companies (currently repealed);

Law on entrepreneurship and enterprises, nr. 845/1992;

Civil Code of the Republic of Moldova nr.1107/2002;

Law on limited liability companies nr.135-XVI/2007.

According to art. 280 of the Civil Code of the Republic of Moldova and art. 2 of Law no.135–XVI/2007 on limited liability companies, ***the limited liability company is defined as the company whose share capital is divided into social parts according to the instrument of incorporation and whose obligations are guaranteed with the patrimony of the company.***

The Republic of Moldova has only advantages for the establishment and management of a company: low fees compared to the rest of the countries in Europe, working flexibility of state institutions, online reporting of all accounting reports, etc, the possibility of using electronic signatures, developed banking systems, are just some of the country's benefits for entrepreneurs (Grău-Panțureac, 2022).

Characteristics of the limited liability company. Considering all the legal provisions regarding this type of company, the following particularities can be synthesized that make the limited liability company a distinct type of company:

the association is based on the trust of the associates;

the associates of this form of company are responsible for social obligations within the limit of their contribution to the share capital;

specific to a company is the fact that they can be established as one-person societies. The social contribution to the formation of the whole capital belongs to the single associate.

the company has a stable structure. This structure involves the existence of a supreme deliberation and decision-making body, an executive body, and a control body (Grău-Panțureac, 2022).

An LLC may be registered with any territorial subdivision of the Public Services Agency upon presentation of the identity card. At the same time, at this stage, it is checked whether you do not have debts to the state or other enterprises if you have unpaid fines or a ban on setting up new businesses. To found a limited liability company, you need to go through three stages: business registration, opening of the bank/payment account, and taking into account. An important aspect is the name LLC because it is not allowed to repeat an existing name.

The tax administration requires a confirmed legal address, which must be carried out immediately after the business registers.

We should mention that basically all companies established in the Republic of Moldova follow, in principle, the same structure composed of (Law of the Republic of Moldova on Limited Liability Companies, 2007, art. 48-62):

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management bodies (General Assembly of Shareholders);
administrative bodies (Manager/Management Board);
control bodies (Censors/Auditors).

Management bodies have, mainly, the following tasks: to discuss, approve or amend the annual financial statements; to elect and revoke the administrator, board members, and censors; to decide on the management of the administrator, the board of directors, respectively the directorate; to decide to change the legal form of the company; decide any other amendment to the constitutive act or any other decision for which the approval of the general meeting is sought, etc.

Administrative bodies have, mainly, the following duties: to represent the company in its relations with third parties; to conclude contracts and other legal acts on behalf of the company; to act, on behalf of the company, in relations with third parties; to respect and enforce decisions of management bodies; to present the work carried out on behalf of the company, before the governing bodies (Law of the Republic of Moldova on Limited Liability Companies, 2007, art.69-76).

Control bodies have, mainly, the following tasks: supervising the management of the company; verifying the legality of the financial statements; presenting all the attributions of the management/administrative/control bodies of the company (commercial); checking and determining whether some of the duties of the management/administrative/control bodies of the company can be changed (Law of the Republic of Moldova on Limited Liability Companies, 2007, art.48-62).

The advantages of the limited liability company are as follows:

Limited liability of associates. Within the limited liability company, the associates are obliged only to pay the social parties, so the creditors cannot trace the personal wealth of the associates to cover the debts of the enterprise.

Simple formalities at foundation. For the constitution of the limited liability company, it is sufficient to draw up the company's statute and draw up the company contract.

An unlimited number of associates. There is no lower limit of associates for the establishment of the limited liability company. This can be established even if there is a unique associate. Instead, in the Republic of Moldova is an unlimited number of associates.

Control over business and management can be carried out directly by the associates during the financial year and set up at the end of the year in ordinary meetings.

Limited liability companies also have some disadvantages.

A person may be the sole associate of a single LLC. A person can participate in several LLCs that have only several associates.

Lack of business continuity. This disadvantage occurs only when there is only one entrepreneur. In case of illness, the business may suffer, and in case of death, the company dissolves if the entrepreneur has not taken steps to prepare a successor.

In the following, we will refer to the legislative changes that refer to the Limited Liability Company. Entrepreneurs, especially those associated with Limited Liability Companies (LLCs), will gain more freedom for business growth and development and will have fewer bans at the law level. The deputies voted on a bill to amend some normative acts that regulate the relations between associations or founders of companies. According to the Communication and Public Relations Department of the Parliament, the amendments offer decisional alternatives for the associates, the possibility of using contemporary corporate governance systems, materialize the rights of the associates, and facilitate the procedures for the use of these rights which simplify and optimize procedures.

Innovations in the legal framework: EU rules are transposed; Flexibility in profit sharing; Corporate contract - more trust between the founders; Withdrawal of the minority associate - without the consent of the other associates; Distribution of profit regardless of share; Phantom

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stock - profit distribution for unfounded employees; More transparency - access to the LLC statement for the investor.

New possibilities in the decision-making process: The maximum threshold of the number of associates - threshold of 50 – excluded; A single constituent act and the State Register as the main source of official information; The social capital - more training possibilities.

More rights for associates: Wider access to company information and documentation; The right of the associate to be represented by the administrator; Adoption of decisions - 2/3 of the votes, not 3/4; The administrator of the company - the possibility to be a legal entity.

Simpler procedures: Electronic tools for keeping documents, submitting documents and procedures at meetings; Assemblies of associates - at a distance and without convening procedures; Simplification of expression within the legal framework - instead of ”report and accounts”, the term ”report” will be used, instead of ”financial accounts”, will be used ”financial statements”, and these financial statements will be ” examined” and not ”approved”.

Limited liability companies (SRL) will issue corporate bonds based on new simplified provisions, approved today by the Government. Thus, following the amendment of the Law on limited liability companies, clearer conditions for issuing bonds will be established, as well as the bodies responsible for this process. The new project will allow the application of modern instruments on the securities market and will offer the possibility of attracting investments, which will contribute to the development of the business environment. Therefore, the company, at the decision of the General Meeting of the associates or the Company Council, can issue bonds, in order to finance the activity of the SRL. This right will provide companies with simpler alternatives to attract financing, taking into account the fact that not all legal entities under private law have access to current sources of financing, due to the fact that they do not meet certain requirements imposed by banking institutions. At the same time, the document seeks to increase the protection of bond holders and offers the possibility of recovering financial means, without going to court, in case of non-honor of the bond issuers' commitments (Law of the Republic of Moldova amending certain normative acts, 2023, art.527).

According to the authors, the need to draft the law is argued by the fact that in recent years there has been a decrease in direct investment in the country's economy.

Thus, the conceptual proposal to modernize the rules on companies is to keep in the law only those prohibitions and limitations, which are necessary to ensure the public interest and to avoid abuses.

The purpose of the draft of the law consists of:

increasing the number of resident and non-resident investors and the value of investments in various areas of economic activity;

increasing in turnover, number of active enterprises, opening new jobs;

mitigating risks for external investors; implementing contemporary and advanced business management tools, applied in the European Union and other countries with the economy, democracy, and free market.

Expectations following the application of the legislative changes are to increase the number of resident and non-resident investors and the value of investments in various areas, increase in turnover, number of active enterprises, and, opening of new jobs, increase the confidence of investors, financial institutions and external partners towards the national investment climate.

In **conclusion**, as we said above, the most widespread form of company organization is the LLC, that is, a limited liability company, this represents at the same time one of the safest variants of organization for associates. The security in the case of LLC-type companies is given by the fact that the associations (individuals) of such a company will be liable in case of insolvency only with the company's patrimony and the share capital on which they brought him into the firm. We can say with certainty that any person eager to become a successful entrepreneur, and having a well-

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established business plan, has the opportunity to open up a limited liability company without taking enormous risks. In the Republic of Moldova, some entrepreneurs still believe that a business brings money only if it is not registered and runs a business avoiding the law. And some only register it after paying numerous fines, which is totally wrong. Registering a business and running a legal business is essential for several reasons. First of all, it provides stability and legal protection, not to mention the fact that a legal business is credible towards customers, suppliers, and financiers. Having a registered and legal business can access grants and financing from investors.

And we will finish this study with a motivational quote: “If you are sloppy in your thinking, your business will be sloppy. If you are disorganized, your business will be disorganized. If you are greedy, your employees will be greedy, giving you less and always asking for more.” – Michael Gerber

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