

LEGAL ASPECTS REGARDING THE HARMONIZATION OF THE LEGISLATION OF THE REPUBLIC OF MOLDOVA WITH THE SINGLE SUPERVISORY MECHANISM OF THE EUROPEAN UNION

CEAUS SERGIU

PhD Student, Department of International and European Law, Moldova State University,
Chişinău, Republic of Moldova, e-mail: Sergiu.ceaus@gmail.com
ORCID ID: 0009-0008-2871-4896

Abstract: The current study investigates the legal aspects of transposing the European Single Supervisory Mechanism (SSM) into the national banking legislation of the Republic of Moldova, aiming to determine the compatibility of the domestic regulatory framework with the principles of the European Banking Union. The purpose of the research is to highlight the normative, institutional, and doctrinal challenges faced by Moldova in adapting its banking legislation to European standards, particularly in the context of financial stability, prudential supervision, and the integration process with the European Union.

The subject of the study focuses on the correlation between Moldovan laws, such as Law no. 548/1995 on the National Bank of Moldova and Law no. 202/2017 on banking activity and European Union instruments, including Regulation (EU) No 1024/2013 establishing the SSM and the ECB's supervisory manuals. The methodology is based on comparative legal analysis, critical interpretation of doctrine, and examination of the convergence criteria applied in European integration. Special emphasis is placed on Moldovan doctrinal contributions (Armeanic Alexandru, Cojocaru Vladlen, Gribincea Lilia) as well as Romanian and European scholarship addressing the structural evolution of banking supervision.

The results show that Moldova has taken significant steps in harmonizing its legislative framework with European banking acquis, particularly by aligning prudential supervision and risk management standards. However, important gaps remain in terms of institutional independence, operational capacity of the National Bank, and integration of EU - level governance mechanisms. The findings suggest that a gradual transposition, supported by legislative adjustments and enhanced supervisory capacity, is the most feasible path forward.

In conclusion, the research contributes to the doctrinal debate by identifying both opportunities and challenges for Moldova in approximating to the SSM. This strengthens the academic understanding of the convergence between national banking law and European supervisory mechanisms, while offering concrete directions for future harmonization.

Keywords: Banking law, Single Supervisory Mechanism, European Banking Union, financial stability, National Bank of Moldova.

JEL Classification: K15, E5.

INTRODUCTION

Over the past two decades, the evolution of European banking law has been profoundly shaped by the consolidation of the European Banking Union (EBU), a cornerstone of the European Union's (EU) financial architecture. Established as a response to the 2008-2009 financial crisis, the EBU aims to ensure financial stability, restore confidence in banking institutions, and prevent systemic risk. Within this framework, the Single Supervisory Mechanism (SSM) represents the first pillar of the EBU, ensuring integrated supervision of credit institutions across the euro area under the coordination of the European Central Bank (ECB) and national competent authorities.

Although the Republic of Moldova is not a member of the EU, it is engaged in an extensive process of legislative and institutional approximation with the EU acquis, as part of its Association Agreement with the European Union (2014) and its roadmap for deep economic integration. In the banking sector, this process entails not merely the formal transposition of EU norms but also the substantive adaptation of the national regulatory framework to the principles and governance

mechanisms promoted at the European level (Cojocaru, *Drept bancar comparat*, p. 114; Cușnir, *Drept bancar și valutar*, p. 76).

The scientific relevance of this study stems from the ongoing modernization of the regulatory framework governing the National Bank of Moldova (NBM) and credit institutions, in line with the standards of the European Banking Union. Specifically, the research analyses the correlation between Law No. 548/1995 on the National Bank of Moldova and Law No. 202/2017 on Banking Activity, and the provisions of Regulation (EU) No. 1024/2013 establishing the SSM.

According to Article 5 of Law No. 548/1995, the NBM’s mission is to ensure price stability and maintain the stability and viability of the financial system by exercising prudential supervision over licensed banks. Article 41 further empowers the NBM to issue binding regulations on risk management, capital adequacy, and corporate governance in the banking sector. (Legea cu privire la BNM, 1995, art.41) These provisions correspond to Article 4(1) of Regulation (EU) No. 1024/2013, which assigns the ECB exclusive supervisory competences over significant institutions and coordinating roles for less significant ones. (Regulation (EU) No. 1024/2013, art., 4 (1))

In turn, Law No. 202/2017 on Banking Activity introduces a gradual transposition of CRD IV/CRR principles, setting capital requirements (Articles 39-46), internal governance and risk control standards (Articles 62-70), and the sanctioning framework (Articles 111-118). (Legea privind activitatea băncilor, 2017, art. Art 62-70; 111-118) These alignments illustrate Moldova’s convergence toward European banking standards, yet gaps persist regarding supervisory independence, bank resolution mechanisms, and the direct applicability of EU regulations.

The purpose of the research is to provide a doctrinal and practical analysis of the legal framework for the transposition of the SSM in Moldova, assessing the compatibility of national norms with European banking governance principles. The main objectives are:

- to examine the national legislative framework and its level of compliance with the EU banking acquis;
- to identify points of convergence and divergence between Moldovan and EU legislation;
- to formulate doctrinal recommendations for strengthening national supervisory and resilience mechanisms.

Methodologically, the research applies a comparative legal analysis, systemic interpretation of norms, and doctrinal-normative evaluation, complemented by secondary sources such as reports of the National Bank of Moldova, ECB documents, and relevant academic literature (Gribincea, L., *Reglementarea supravegherii bancare în Republica Moldova*, RDF, no. 2/2020, p. 58; Zlati, R., *Bazele supravegherii bancare în UE*, p. 167).

Hence, this study aims to provide an in-depth academic perspective on Moldova’s legislative and institutional harmonization with the European Banking Union, as a key element of its efforts to strengthen the stability and sustainability of the national financial system.

General Considerations on the European Normative Framework and Its Applicability in Associated States

The process of European integration of the Republic of Moldova implies not only economic and political convergence but also a profound legislative harmonization, including in the banking sector. Under the EU-Moldova Association Agreement, the chapter on Financial Services and Prudential Supervision requires the alignment of national legislation with the European standards established by the European Banking Union.

A central element of this framework is the Single Supervisory Mechanism (SSM), established by Regulation (EU) No. 1024/2013 of the Council, which grants the European Central Bank (ECB) exclusive competence in the prudential supervision of credit institutions (Regulation (EU) No. 1024/2013, Articles 4-6).

In legal literature, the SSM is regarded as the cornerstone of the European Banking Union, designed to consolidate financial stability and reduce systemic risk (Zlati, R., *Bazele supravegherii*

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bancare în Uniunea Europeană, 2020, p. 115). According to Mihai Buruiană, the SSM represents not merely a technical supervisory tool but also “an institutional architecture aimed at integrating supervisory culture and market discipline at the European level” (Buruiană, M., *Drept bancar european*, 2021, p. 92).

For the Republic of Moldova, direct participation in the SSM is not currently possible in the absence of EU membership. Nevertheless, the transposition of SSM principles and standards into national legislation represents a strategic stage in the progressive approximation to the European normative framework.

Law No. 548-XIII of 21 July 1995 on the National Bank of Moldova (NBM), republished in 2015 and subsequently amended, constitutes the foundation of prudential regulation and supervision in the Republic of Moldova.

Article 5 establishes that the NBM is the supervisory authority of the banking sector, with the responsibility to ensure the stability and security of the financial system. This provision is fully consistent with the SSM principles, which require supervision to be independent, proportionate, and risk-preventive. (Legea cu privire la Banca Națională a Moldovei, 1995, art.5)

Article 41 of the same Law provides that the NBM “carries out continuous supervision of banks’ activities, assessing compliance with prudential requirements and the risks associated with their operations.” (Legea cu privire la Banca Națională a Moldovei, 1995, art. 41)

This corresponds to the European model, in which the ECB conducts risk-based supervision, focusing on systemically important institutions (European Central Bank, *SSM Supervisory Manual*, 2022).

According to Valeriu Cușnir, “the evolution of the NBM’s legal framework reflects a clear transition from administrative control to a risk-based and governance-oriented supervision model” (Cușnir, V., *Drept bancar și valutar*, 2021, p. 137).

In this respect, the NBM has progressively adopted SSM standards, particularly regarding the Supervisory Review and Evaluation Process (SREP), transparency of reporting, and interinstitutional cooperation.

Additionally, Article 44 of Law No. 548 provides for the exchange of information with foreign supervisory authorities “under international treaties to which the Republic of Moldova is a party,” a key element for compatibility with cross-border cooperation mechanisms established by the SSM. (Legea cu privire la Banca Națională a Moldovei, 1995, art.44)

Transposition of SSM Principles into Law No. 202/2017 on the Activity of Banks

Law No. 202/2017 on the Activity of Banks represents a decisive step in aligning Moldova’s legal framework with EU standards. Inspired by Directive 2013/36/EU (CRD IV) and Regulation (EU) No. 575/2013 (CRR), the law reflects the core principles of the SSM, particularly regarding capital requirements, internal governance, and risk management.

Article 21 regulates initial capital and own funds, establishing minimum thresholds similar to those under the CRR, while Articles 27-35 introduce governance requirements, including the board’s obligation to ensure clear risk management, internal control, and audit policies. (Legea privind activitatea băncilor, 2017, art.21, 27-35)

According to Article 38, banks are required to perform periodic self-assessments of risks, a principle equivalent to the Internal Capital Adequacy Assessment Process (ICAAP) under the SSM. (Legea privind activitatea băncilor, 2017, art.38)

Moreover, Article 69 establishes early intervention measures, similar to those provided by Directive 2014/59/EU (BRRD) on bank recovery and resolution. (Legea privind activitatea băncilor, 2017, art.69)

As noted by Vladlen Cojocaru, “Law No. 202/2017 not only transposes CRD IV and CRR provisions but also creates systemic compatibility with the SSM architecture, granting the NBM

prerogatives comparable to those of the ECB” (Cojocaru, V., *Drept bancar comparat*, 2022, p. 245).

Thus, the Moldovan regulatory framework has become functionally aligned with European standards, enabling prudential supervision equivalence, even in the absence of formal participation in the European Banking Union.

The Harmonization of the Republic of Moldova’s Banking Legislation with the Single Supervisory Mechanism of the European Union

The process of harmonizing the banking legislation of the Republic of Moldova with the European Union’s standards represents a strategic objective of the country’s financial and economic integration. This process derives from the Association Agreement between the Republic of Moldova and the European Union, signed on 27 June 2014, which establishes the obligation to gradually approximate the national legal framework to the EU acquis in the field of financial services.

The Moldovan banking system is currently governed by a complex legislative framework, the core of which is formed by Law No. 548/1995 on the National Bank of Moldova (NBM) and Law No. 202/2017 on the Activity of Banks. These two acts are the main pillars of the national financial system and the key instruments for aligning the domestic supervisory regime with the standards of the Single Supervisory Mechanism (SSM) within the European Union.

The harmonization process aims to achieve a threefold objective:

Strengthening the institutional autonomy of the National Bank of Moldova in accordance with the model of the European Central Bank (ECB);

Implementing prudential banking standards and Basel III criteria regarding capital adequacy, liquidity, and internal governance;

Ensuring the convergence of supervisory mechanisms with those of the ECB and the European Banking Authority (EBA).

As noted by Moldovan doctrine, harmonization is not merely a technical exercise of legal transposition, but rather a conceptual transformation of the legal framework governing banking supervision (Cușnir, V., *Drept bancar și valutar*, Chișinău, 2021, p. 73). In this context, the operational autonomy, decision-making independence, and public accountability of the NBM must be regarded as core correlates of institutional convergence with the ECB (Țicu, *Elemente metodologice în cercetarea dreptului bancar european*, 2021, p. 114).

Law No. 548/1995 establishes the National Bank of Moldova as an autonomous public authority, acting as the central bank of the state, in full accordance with the principles enshrined in the Statute of the European System of Central Banks (ESCB). Article 4 (1) provides that “the NBM is a public legal entity, autonomous and independent in the exercise of its powers,” while paragraph (2) states that “the NBM shall neither seek nor take instructions from other public authorities or legal entities.” (Legea cu privire la Banca Națională a Moldovei, 1995, art.4)

This provision embodies the principle of institutional independence, as recognized under Article 130 of the Treaty on the Functioning of the European Union (TFEU). Moreover, Article 5 of Law No. 548 defines the NBM’s main functions, including the formulation of monetary policy, banking supervision and regulation, management of foreign reserves, and ensuring price stability. (Legea cu privire la Banca Națională a Moldovei, 1995, art.5)

Comparatively, the European Central Bank (ECB) performs similar functions, though under a more detailed and standardized legal framework established by Regulation (EU) No. 1024/2013, which created the Single Supervisory Mechanism (SSM). Within the EU framework, banking supervision is divided between the ECB (for significant institutions) and national competent authorities (for less significant ones), forming a shared supervision system.

For the Republic of Moldova, Article 26 of Law No. 548 grants the NBM supervisory and control powers over banks. (Legea cu privire la Banca Națională a Moldovei, 1995, art.26)

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However, the exercise of these powers has been significantly modernized since 2016, through the implementation of the NBM Banking Supervision Manual, aligned with the ECB’s methodology. According to the NBM’s 2023 Annual Report, the supervisory procedures for assessing solvency and risk management have been standardized following the Supervisory Review and Evaluation Process (SREP) used by the ECB (Banca Națională a Moldovei, *Reportul Annual 2023*, p. 47).

Another element of convergence is found in Article 51 of Law No. 548, which provides for transparency and public reporting, reflecting the principle of public accountability under Article 15 of the ECB Statute. This strengthens the institutional governance of the NBM and aligns it with European central banking standards. (Legea cu privire la Banca Națională a Moldovei, 1995, art.51)

Law No. 202/2017 largely transposes the provisions of Directive 2013/36/EU (CRD IV) and Regulation (EU) No. 575/2013 (CRR), which define prudential requirements for credit institutions. () Article 27 of the Moldovan law states that banks must have “adequate internal governance mechanisms ensuring sound and prudent management.” (Legea privind activitatea băncilor, 2017, art.27)

Articles 60-75 establish detailed provisions on capital adequacy, liquidity, and risk management, closely reflecting the Basel III framework adopted in the EU. (Legea privind activitatea băncilor, 2017, art.60-75) These provisions are consistent with the standards set by the ECB and the EBA for both macroprudential and microprudential supervision.

A key innovation is found in Article 83, which regulates bank recovery and resolution procedures, in line with Directive 2014/59/EU (BRRD). () Through this mechanism, Moldovan legislation introduces a modern framework for early intervention, granting the NBM expanded powers in managing distressed banks-similar to those of resolution authorities within the SSM.

Institutionally, a major development has been the establishment of the National Committee for Financial Stability, as provided by Article 93 of Law No. 202/2017. (Legea privind activitatea băncilor, 2017, art.93 This body functions analogously to the European Systemic Risk Board (ESRB), ensuring the coordination of macroprudential policies and enhancing the resilience of the financial system.

Hence, through Law No. 202/2017, the Republic of Moldova has achieved an advanced level of technical and legal harmonization with EU directives, particularly in the fields of:

- (a) capital adequacy,
- (b) internal governance,
- (c) risk management, and
- (d) crisis prevention and resolution.

Overall, the Republic of Moldova’s banking legislation demonstrates a high degree of structural compatibility with European banking law, though achieving functional harmonization requires further institutional strengthening and deeper international cooperation.

The process of integrating the Republic of Moldova into the European banking supervision architecture represents one of the most complex and strategic reforms within the country’s financial sector over the past decade. The efforts toward legislative, institutional, and procedural harmonization are driven by the necessity to strengthen financial stability, mitigate systemic risks, and ensure compliance with European standards of banking governance and prudential oversight.

In Moldovan legal doctrine, Vladlen Cojocaru observes that “*the legislative alignment of the Republic of Moldova to the standards of the European Banking Union represents an institutional and doctrinal maturation process, consolidating the principles of responsibility, transparency, and risk-based supervision*” (Cojocaru, V., *Drept bancar comparat*, 2022, p. 193]. Similarly, Valeriu Cușnir underlines that “*the efficiency of banking supervision depends largely on the professionalization of supervisory authorities and the quality of secondary regulations issued by the National Bank of Moldova*” (Cușnir, V., *Banking and Monetary Law*, 2021, p. 256).

In conclusion, the legislative reforms introduced through Law No. 548/1995 and Law No. 202/2017, complemented by the secondary prudential regulations of the NBM, have established a functional framework compatible with the principles of the Single Supervisory Mechanism. Nevertheless, achieving full compatibility requires strengthening the institutional independence of the NBM, deepening international cooperation, and developing an integrated macroprudential supervision framework, in line with the standards set by the ECB and the European Banking Authority.

CONCLUSIONS AND RECOMMENDATIONS

The harmonization of the Republic of Moldova’s legislation with the Single Supervisory Mechanism (SSM) of the European Banking Union marks a profound and multi-dimensional legal evolution that goes beyond the technical boundaries of banking regulation. This analysis has demonstrated that legislative reforms, modern prudential regulation, and institutional independence of the National Bank of Moldova (NBM) are the key pillars of this transformation.

Firstly, Law No. 548/1995 on the National Bank of Moldova has been gradually updated to ensure institutional and functional convergence with the supervisory standards of the European Central Bank (ECB). Articles 5, 25, and 41 define the NBM’s supervisory mandate, operational autonomy, and international cooperation, reflecting the essential principles of the SSM framework.

Secondly, Law No. 202/2017 on the Activity of Banks effectively transposes the provisions of Directive 2013/36/EU (CRD IV) and Regulation (EU) No. 575/2013 (CRR), establishing modern rules on capital requirements, corporate governance, risk management, and early intervention measures. This law provides the legal foundation for Moldova’s transition to a risk-based supervisory model consistent with EU practice.

Thirdly, Law No. 232/2016 on Bank Recovery and Resolution complements this framework by introducing tools for crisis management and financial resilience, aligned with Directive 2014/59/EU (BRRD).

Although Moldova is not yet a member of the European Banking Union, its normative and institutional standards are already substantially aligned with those of the ECB and the European Banking Authority (EBA).

Doctrinal and Institutional Recommendations

Establish a Cooperation Memorandum between the NBM and the ECB to facilitate information exchange and technical assistance in banking supervision.

Strengthen the secondary normative framework concerning internal governance and risk evaluation (ICAAP/ILAAP), in line with EBA Guidelines and the ECB Supervisory Manual.

Expand the competences of the National Committee for Financial Stability to include macroprudential supervision of financial conglomerates and Basel III compliance monitoring.

Develop a national recovery and resolution mechanism interoperable with the EU’s Single Resolution Board (SRB).

Through continuous reform, institutional modernization, and doctrinal alignment, the Republic of Moldova has established a solid foundation for integration into the European system of banking supervision, positioning itself as a model of legal and prudential convergence within the Eastern Partnership region.

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