

4. Trade and Transport

4.1 How is E-commerce regulated under Moldovan law?

The Moldovan Law No. 284 on E-commerce (the „**E-commerce Law**”) of 22 July 2004 has undergone an extensive amendment in 2018, turning out to be a legal instrument adapted to the current needs of the e-commerce environment. The E-commerce Law has transposed into national law several parts related to online commerce, comprised by the Directive 2000/31/EC on Electronic Commerce.

Under the E-commerce Law, e-commerce is the economic activity deployed by individuals and legal entities, consisting of trading goods, providing services or executing works, which is performed by means of electronic communications or electronic contracts.

The business activity of e-commerce is called „information society services” and the traders of goods and services by means of electronic commerce are defined as „providers of information society services”.

Under Moldovan law, any service provided remotely by electronic means, in order to obtain remuneration, upon the individual request submitted by the recipient of such service is included in the category of „information society services”, thus is deemed to fall under the e-commerce notion. In this regard, not only the provision of services, but also the sale of goods online and execution of works are considered information society services, i.e. e-commerce.

However, there are certain activities not constituting information society services and thus not falling under the e-commerce notion and the applicable regulatory framework. Such activities are, as follows:

- a) services provided in the physical presence of the provider and the receiver of services, even if such services involve the use of electronic equipment;
- b) services involving a material content, even if they are provided by means of electronic devices;
- c) services provided without the use of Internet (off-line services), such as the distribution of programs on storage devices;
- d) services that are not provided through electronic data processing and storage systems, such as:
 - voice telephony services, fax / telex services;
 - services provided by voice telephony or fax;
 - direct sales by phone / fax;
- e) services provided by means of data transmission, without an individual request submitted, for the purpose of their simultaneous reception by an unlimited number of individuals (point-to-multipoint transmission), such as:
 - services of broadcasting or re-broadcasting of audio-visual program services;
 - teletext.

4.2 Licenses or permits necessary for E-commerce

As a general rule, the e-commerce is not subject to prior authorisation or licencing. Thus, the provider of services may start to deploy the e-commerce activity from the moment it is registered as an entrepreneur, as regulated by Moldovan law.

However, if the economic activity envisaged by the provider requires certain permits, authorisations or licences, such acts are to be obtained in the first place. Thus, if the usual

commercial activity requires certain permissive documents, electronic commerce can only be carried out from the moment such acts are obtained by the provider or services. Therefore, the requirement for authorisations, licences and permits has not been removed for the e-commerce.

Additionally, to perform e-commerce in Chisinau, a special Notification to the competent authority should be submitted. The Notification should disclose the exact type of e-commerce services to be provided, as well as data about the provider of such services.

The Notification can be submitted through the governmental portal of public services: <https://servicii.gov.md> or by means of the one stop shop for the management of permissive documents (SIA GEAP, <https://actpermisiv.gov.md>).

The fee to be paid quarterly for performing e-commerce activity in Chisinau is MDL 10 000 (i.e. about EUR 517).

4.3 Deep and Comprehensive Free Trade Area

The DCFTA between the Republic of Moldova and the European Union, initialled on November 29, 2013, is part of the Association Agreement between the Republic of Moldova and the European Union.

This preferential trade system has allowed Moldova to benefit from reduced or eliminated tariffs for its goods, an increased services market and better investment conditions.

The DCFTA committed the Government to a course of reforms to bring to its governmental, regulatory and business practices in line with EU standards.

The scope of implementation of the DCFTA is to integrate further into the European common market and create more opportunities for investment in Moldova as a bridge between Western and Eastern European markets.

The provisions of DCFTA assume the gradual liberalization (up to 10 years from the date of signature) of *trade in goods and services*, free movement of labour, *reduction of customs duties* and non-technical barriers, the abolition of quantitative restrictions and harmonization of Moldovan legislation with EU legislation.

The following preferential rules applies under the DCFTA:

(a) Tariff duties

Complete elimination of all import duties and prohibition of export duties, on all goods on the EU side. Only some agricultural goods (mostly products of animal origin, sugars and cereal products), which are considered sensitive in the EU, will be subject to monitoring of trade flows. This monitoring will aim to ensure that imports of products classified as Moldovan do correspond to the Republic's production capacity and no tariff circumvention by products of non-Moldovan origin occurs. In addition, a limited number of fruits and vegetables, which are subject to entry prices in the EU, will be liberalised (ad valorem free) within TRQs (tariff rate quotas) covering traditional trade flows.

As regards the Republic of Moldova, an immediate elimination of all import duties is foreseen for a majority of products. A staged liberalisation process (between 3 and 10 years, depending on a product) is foreseen for certain sensitive products (mostly agricultural, such as wine, certain

processed agricultural goods, certain meat products and vegetables/fruits, as well as textiles/clothing among industrial goods) for the Republic. Certain products remain non liberalised, managed within tariff rate quotas (poultry and pork meat, certain dairy products, processed meat products or sugar and related). The TRQs cover however the traditional trade flows between the EU and the Republic.

(b) Rules of origin

The Republic of Moldova will apply the rules of origin which make it possible to join the Pan-Euro-Med (PEM) Convention, as a zone of cumulation of manufacturing processes with the EU and other PEM members, and which fosters positively regional economic integration for trade in goods. However, to smoothen the transition between the autonomous trade regime 3 and DCFTA, until end 2015, the Autonomous Trade Preference for the Republic of Moldova will continue to apply on the basis of the applicable rules of origin (for the purpose of benefiting from that preference, not DCFTA).

Republic of Moldova benefits from the Autonomous Trade Preferences („ATP”) by the European Union. Thus, most industrial products originating in our country are not subject to customs duties. It is important to mention that these provisions refer to goods produced entirely in our country, or which are originally from another country, have been processed to a sufficient extent to receive the certificate of origin from the Republic of Moldova.

With regard to the exemption from import duties, however, there are exemptions which relate in particular to certain products of plant and animal origin. For many of them, there are certain quotas within which Moldovan exports are exempt from import duties, but the products will be taxed when the Republic of Moldova exceeds this quota.

Starting with 2014, the quantitative restrictions for Moldovan wines were lifted, thus their export to European Union market being fully liberalized.

Tax exempted product (in the limit of quota) include: the main types of fresh and frozen meat, most processed meat products, including preserves, but also other products of animal origin (such as milk and eggs), some cereals and sugar white. It is important to note that the requirements for animal products are very strict in the European Union, which limits the ability of domestic producers to export.

For more detailed information, please visit the link: <http://dcfta.md/>