

MOLDOVA VS ROMANIA: A TRANSFER PRICING PERSPECTIVE

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Abstract: *The importance of the transfer pricing topic has grown increasingly in the past years, due to globalization process and the expansion of multinational business structures. As cross-border intra-group transactions intensify, national tax systems face growing challenges in ensuring compliance with the arm's length principle and preventing base erosion. This article undertakes a comparative analysis of the transfer pricing frameworks in the Republic of Moldova and Romania, highlighting both similarities and structural differences in their legal and administrative approaches. While scientific literature extensively addresses transfer pricing in developed economies and EU Member States, comparative studies involving emerging or transition economies remain relatively rare. By examining the Moldovan and Romanian experiences, the article contributes to the academic debate on regulatory convergence, enforcement capacity, and the practical effectiveness of transfer pricing rules in differing institutional contexts. Thus, the paper itself focuses on qualitative research, by comparing the legal framework governing transfer pricing in both countries. The results have shown that although the legislation of the Republic of Moldova and Romania is comparable in terms of principles and objectives, it is not fully equivalent from a functional point of view. Comparability is more theoretical and normative than practical, requiring taxpayers and multinational groups to adopt differentiated approaches to compliance and tax risk management, tailored to the specificities of each jurisdiction.*

Key words: *transfer pricing, arm's length principle, associated enterprises, documentation*

JEL: H25, H32, K34.

Introduction

International transfer pricing regulation has developed progressively, starting from the initial recognition of the need to protect the tax base and leading to a complex framework developed by the OECD/G20, which includes the arm's length principle – ALP), detailed guidelines such as the OECD Guidelines, and the latest BEPS (Base Erosion and Profit Shifting) initiatives, aimed at limiting aggressive tax optimization. This evolution has led to the introduction of rigorous documentation requirements (Local File, Master File, Country by Country Reporting) and debates on the taxation of the digital economy, with the aim of harmonizing practices globally and increasing the transparency of transactions between affiliated entities.

At the regional level, Central and Eastern Europe offer numerous examples of interactions between economies on different paths of fiscal convergence but deeply connected economically. In this context, the relationship between the Republic of Moldova and Romania is distinguished by a high degree of trade and investment interdependence, as well as an increasingly significant volume of intra-group transactions. Groups of companies operating in both jurisdictions frequently structure flows of goods, services, financing, or intellectual property rights, which places transfer pricing issues at the centre of the tax risks associated with these cross-border relationships.

The comparison between Moldova and Romania from a transfer pricing perspective is not arbitrary but reflects an economic and fiscal reality that is increasingly relevant for the region. The two countries are deeply interconnected through trade and investment relations, with Romania being one of Moldova's main economic partners. In recent years, there has been a steady increase in the number of groups of companies conducting cross-border activities between the two jurisdictions, particularly through holding structures, operating subsidiaries, service centres, or production and distribution entities. This dynamic generates a significant volume of intra-group transactions, which places transfer pricing issues at the centre of taxpayer's tax concerns.

Although Moldova and Romania share many cultural, linguistic, and business practice similarities, the fiscal framework and maturity level of transfer pricing legislation differ significantly. Romania has a consolidated transfer pricing regime, aligned for several years with the OECD Guidelines, with clear documentation requirements and a well-developed tax control practice. In contrast, the Republic of Moldova is in an accelerated process of harmonization with international standards, and the regulatory framework and administrative practice in the field of transfer pricing are still evolving. This combination of similar business models but different tax rules create a fertile ground for adjustment risks and divergent interpretations of the arm's length principle.

Intra-group transactions between Moldova and Romania are frequently subject to scrutiny by tax authorities, particularly about intra-group services, financing, royalties, and profit margins applied. Differences in approach between the two tax administrations can lead to transfer pricing adjustments and, implicitly, to double taxation risks, issues that are becoming increasingly relevant amid intensified tax controls and growing compliance requirements.

Therefore, a "Moldova vs. Romania" analysis from a transfer pricing perspective goes beyond a simple theoretical comparison of two tax systems and becomes an exercise of major practical relevance for corporate groups, tax advisors, and investors active in the region. This comparison highlights a veritable regional transfer pricing laboratory, where transaction frequency, regulatory differences, and intensified tax controls make transfer pricing an essential topic for tax risk management and ensuring long-term compliance.

Methodology

The research question of this paper is as follows: *What are the main similarities and differences between Moldovan and Romanian legislation on transfer pricing, from the perspective of alignment with the arm's length principle and Organization for Economic Co-operation and Development's (OECD) standards?*

In this context, qualitative research was performed, based on the transfer pricing legal framework, both in Moldova and Romania.

The general hypothesis underlying the research is as follows: *there are significant differences and similarities between the legislation of the Republic of Moldova and that of Romania in the field of transfer pricing, which can be identified and analysed through a comparative approach to the relevant legal standards.*

Analysis performed

1. Implementation of transfer pricing regulations

Formal transfer pricing laws were implemented by the Moldovan Tax Code and went into force on January 1, 2024. Implementing the transfer pricing concept in the Republic of Moldova involves a complex process of aligning local legislation with the OECD Guidelines.

Also, the Ministry of Finance of Moldova approved and published on 26 January 2024 the secondary legislation on transfer pricing rules implementation, consisting of Order No. 9.

In Romania, the arm's length principle was implemented in 1994, in the national tax legislation, however the legislative formalization of transfer pricing in Romania only began in the 2000s. (*Feleaga, Neacsu, 2016, p. 128*) In 2016, starting January 1, new tax legislation comes into force, Order No. 442, an improved version of the 2008 Order, which treats the subject of transfer pricing with increased attention.

2. Main concepts definition

In the transfer pricing area, there are certain concepts that are internationally recognized and commonly applied, forming the conceptual basis for national regulations and guiding the interpretation and implementation of transfer pricing rules at domestic level. Among the most relevant are the arm's length principle and the notion of associated enterprises.

The *arm's length principle* (ALP) requires multinational enterprises to price transactions performed between headquarters and their affiliates as if they were independent companies, using market-based comparisons. (Choi, et.al, 2020, p. 2)

In the tax code of the Republic of Moldova (chapter 112, article 226¹⁷), as well as in Romania (title 1, chapter 3, article 7), the definition of the arm's length principle is aligned with the OECD Guidelines.

Regarding the associated enterprise concept, there have been found few differences. As the definition provided in the OECD Model Tax Convention is a general one, further, each jurisdiction should establish the threshold for affiliation, defined in each country's law.

Moldova and Romania both follow the 25% minimum threshold for the affiliated party definition. The difference in the definition of the related party is the degree of relatedness. In Romania, "an individual person is affiliated with another individual if they are spouses or relatives up to and including the IIIrd degree" at the same time, in Moldova "an individual person is affiliated with another individual if they are spouses or relatives up to and including the IInd degree".

Given that affiliation also arises because of control exercised by either an individual or a legal entity, it is necessary to examine the similarities and differences regarding the concept of control.

In Romania, a person is considered to have effective control over a legal entity when the person who manages or administers an entity has both legal and factual decision-making power. Decision-making power may result from the use of relevant information and/or documents, from transactions with other legal persons under common control, or from the fact that the person in charge is a shareholder or director of the entity concerned.

Decision-making authority may result from the use of relevant information and/or documents, from transactions with other legal entities under common control, or from the fact that the manager is a shareholder or director of the entity concerned.

Contracts concluded between the parties involved, as well as rights granted by articles of association, powers of attorney, individual employment contracts, or service contracts, are considered to demonstrate that effective control exists.

On the other hand, in Moldova, a person is considered to exercise effective control over a legal entity when it is established that, from a legal and factual point of view, they have decision-making power over its activities. This power may mainly manifest itself in the ability to appoint or dismiss most of the members of the supervisory or management bodies, including the executive body or the control bodies.

Effective control may also result from the exercise of rights conferred by a contract concluded with the legal entity, by clauses provided for in its articles of association or statutes or based on an agreement concluded with other persons holding voting rights in that entity.

Fundamentally, both definitions convey the following concept: control exists when a person, directly or indirectly, legally and factually, has the power to make decisions regarding the activities of a legal entity.

3. Transfer pricing methods

The transfer pricing methods are defined in the Chapter II of the OECD Guidelines. According to it there are five transfer pricing methods, but also, OECD allows to use other methods as well. Thus, the figure below shows the methods approved by Moldovan and Romanian legislation regarding transfer pricing.

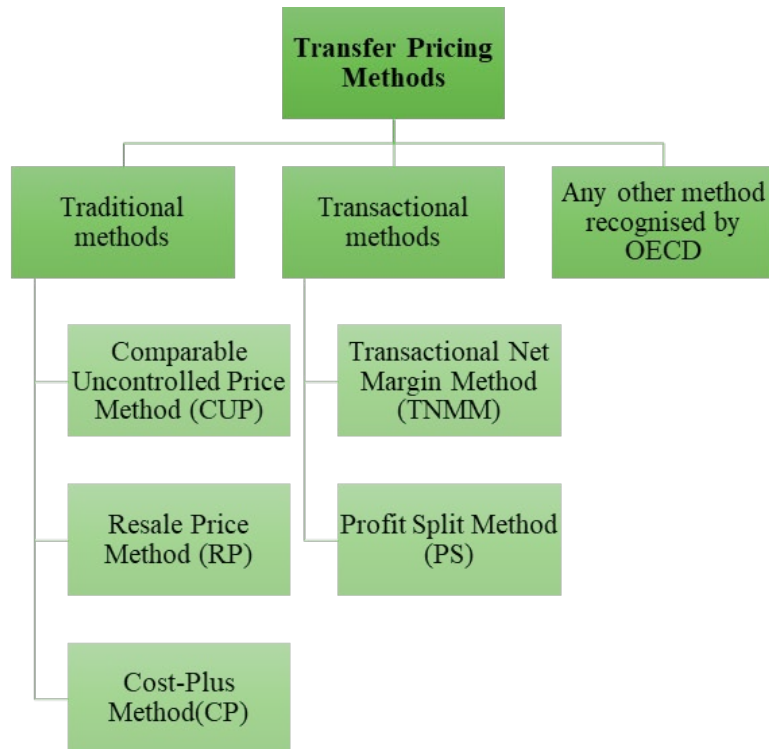


Figure 1. The methods approved by Moldovan and Romanian legislation regarding transfer pricing

Source: own processing

In Romania, the methods are described directly in the tax code, while in Moldova the methods are described in Order No. 9 of January 26, 2024.

4. Documentation

To show / sustain that an intragroup transaction satisfies the arm's length principle, a taxpayer must provide documentation in connection to the transaction performed. Thus, tax administrations have adopted certain rules for documentation, the same applies to Romania and Moldova.

The Figure 2 below shows the materiality thresholds for taxpayers to document transfer prices, on the one hand in Moldova and on the other hand in Romania:

| Moldova | Romania |
|--|--|
| <ul style="list-style-type: none"> • The transactions performed with the affiliated parties, in a tax period, with a total equal or greater than 20,000,000 MDL, VAT excluded, should be documented by the taxpayer through transfer pricing documentation, meaning transfer pricing file, submitted to the State Tax Service. | <ul style="list-style-type: none"> • An annual transfer pricing file must be prepared by large taxpayers who engage in transactions with affiliated persons whose total annual value - which is determined by adding the value of transactions with all affiliated persons, excluding VAT, is equal or greater with the following thresholds: <ul style="list-style-type: none"> • 200,000 EUR, for interests payed/received; • 250,000 EUR, for services received / provided; • 350,000 EUR, for sales / purchase of tangible or intangible assets. • For taxpayers who do not fall into the category of large taxpayers, the following materiality thresholds are applicable: <ul style="list-style-type: none"> • 50,000 EUR, for interests payed/received; • 50,000 EUR, for services received / provided; • 100,000 EUR, for sales / purchase of tangible or intangible assets. • If the transaction values are below the materiality thresholds, documentation of compliance with the arm's length principle for intragroup transactions will be provided at the request of the tax authority during the tax inspection. • Note! For materiality thresholds, the equivalent in RON will be calculated according to "the exchange rate communicated by the National Bank of Romania valid for the last day of the fiscal year." |

Figure 2. Materiality thresholds for transfer pricing documentation

Source: own processing

As can be seen in Figure 2, in Moldova, materiality thresholds are regulated in a relatively simplified manner and are used primarily to determine the obligation to prepare transfer pricing documentation. Therefore, the approach of the tax authorities is to focus on transactions that are significant in terms of value.

On the other hand, in Romania materiality thresholds are set separately and differ depending on the type of taxpayer and the nature of the transaction. This structure reflects a sophisticated approach, aimed at adapting documentation requirements to the risk profile of each taxpayer.

Relevant to this comparative analysis, also, are the deadlines for submitting/presenting transfer pricing information, as shown in Figure 3:

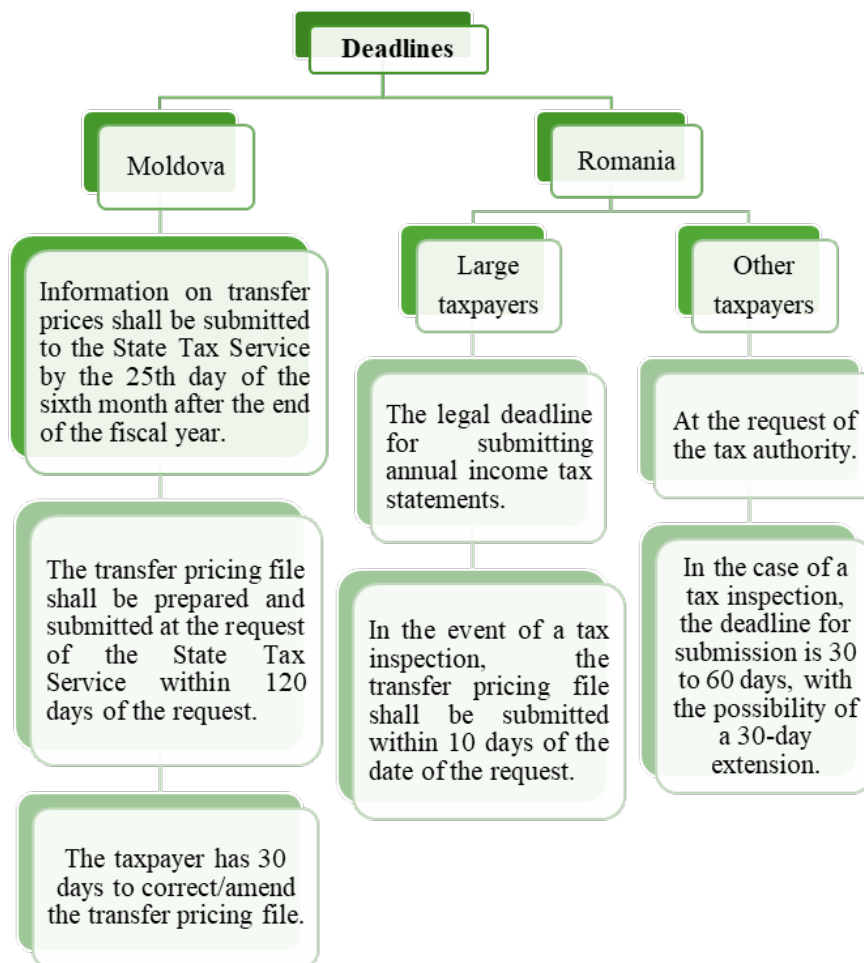


Figure 3. Deadlines for transfer pricing documentation

Source: own processing

From the information presented above, it appears that Moldovan legislation is more flexible in terms of preparation, submission, and presentation deadlines. In Moldova, the obligation to prepare and submit transfer pricing documentation is reactive in nature, being triggered exclusively at the express request of the tax authority. The taxpayer is not required to submit the documentation automatically within a fixed period after the end of the fiscal year but must submit it within the period set by the State Tax Service.

Romanian legislation establishes a more structured and predictable regime, based on pre-established deadlines that vary depending on the taxpayer category. For certain categories, especially large taxpayers, the obligation to have the transfer pricing file prepared is linked to a fixed deadline related to the end of the fiscal year, even if the actual presentation usually takes place in the context of an audit.

Following the analysis performed, the research hypothesis has been totally validated. A comparison of transfer pricing legislation in the Republic of Moldova and Romania reveals substantial alignment in terms of principles, with both systems built around OECD standards and the arm's length principle. However, conceptual similarity does not automatically translate into full comparability of legal regimes, as the specific methods of implementation and enforcement of obligations differ significantly between the two jurisdictions.

Conclusion

Since, Moldova is still consolidating its transfer pricing legislation and administrative practice and Romania an EU Member State, with a relatively mature transfer pricing framework, comparative research on the transfer pricing perspective both in Moldova and Romania helps identify regulatory gaps, convergence trends etc.

Also, Moldova and Romania face distinct but related challenges in safeguarding their tax bases while remaining competitive in attracting foreign investment, thus the subject is of high importance.

Research on transfer pricing in Moldova and Romania is particularly relevant for the academic field. Firstly, such research contributes to comparative examinations of how international standards are transposed and adapted within different legal, institutional, and economic contexts. Romania and Moldova provide a compelling comparison: one is an EU Member State with a relatively mature and formalized transfer pricing regime, while the other is a non-EU country in a process of gradual alignment.

Secondly, studying Moldova and Romania enables academics and practitioners to assess how institutional capacity, audit practices, and dispute resolution mechanisms influence the practical functioning of transfer pricing regimes.

Finally, research in this area has strong interdisciplinary relevance as transfer pricing directly affects investment flows, corporate governance, and tax compliance behaviour, making it a key subject for economists, public finance and researchers.

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