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signed by Mr Jordi AYET PUIGARNAU, Director

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to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**on the Implementation by the Republic of Moldova of the Action Plan on Visa  
Liberalisation**

# REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

## on the Implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation

### I. Introduction

The EU-Republic of Moldova Visa Dialogue examining the conditions for visa-free travel for citizens of the Republic of Moldova to the EU was launched on 15 June 2010. The Action Plan on Visa Liberalisation (VLAP)<sup>1</sup> was presented to the Moldovan authorities by the Commission on 24 January 2011. The VLAP sets a series of benchmarks for the Republic of Moldova on four 'blocks' of relevant issues, with the view of both the adoption of a legislative and policy framework (phase 1) and its effective implementation (phase 2).

The Commission has regularly reported to the European Parliament and to the Council on the implementation of the VLAP. The **First Progress Report** on the implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation was presented on 16 September 2011<sup>2</sup>. A Senior Officials Meeting took place on 7 October 2011, during which the First Progress Report was presented and the next steps in the process were discussed.

Evaluation missions on Blocks 2, 3 and 4 of the VLAP were organised in the second half of October and at the beginning of November 2011, involving experts from EU Member States accompanied by officials of the Commission services and the EEAS. The purpose of these expert missions was to assess the legislative, policy and institutional framework under the first phase benchmarks of the VLAP and its compliance with European and international standards. The **expert reports** were finalised in December 2011.

The **Second Progress Report** on the implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation was issued on 9 February 2012<sup>3</sup>. A Senior Officials Meeting took place on 27 February 2012 during which the Second Progress Report was presented and the next steps in the process were discussed.

This **Commission Report** is the third and final progress report on first phase of the VLAP. It presents a consolidated assessment by the Commission of the progress made by the Republic of Moldova in meeting the first phase benchmarks of the VLAP related to the establishment of the legislative, policy and institutional framework.

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<sup>1</sup> Council document 18078/10.

<sup>2</sup> SEC (2011) 1075 final.

<sup>3</sup> SWD (2012)12 final.

## II. Assessment of measures under the four blocks of the Visa Liberalisation Action Plan

### Block 1: Document security, including biometrics

#### General assessment

The legislative framework is in place. A clear schedule has been provided for the complete roll-out of International Civil Aviation Authority (ICAO)-compliant biometric passports, including at Moldovan consulates abroad, as well as for the complete phasing-out of non-ICAO compliant passports.

The Commission considers that the Republic of Moldova meets the benchmarks set under Block 1.

#### Detailed comments

- **Consolidation of the legal framework for the issuing of machine-readable biometric passports in full compliance with the highest ICAO standards on the basis of secure identity management (civil registry and breeder documents) and taking into account adequate protection of personal data**

The legal framework for issuing machine-readable biometric passports, in full compliance with the highest ICAO standards, has been supplemented by two laws adopted on 9 June 2011 and a Government decision adopted on 10 May 2011. These additional provisions ensure a consolidated framework for secure identity management. In addition, an additional law was adopted on 27 December 2011 which ensures that the one person one document principle is now also foreseen in relation to diplomatic and service passports.

- **Adoption of an Action Plan containing a timeframe for the complete roll-out of ICAO-compliant biometric passports, including at Moldovan consulates abroad, and the complete phasing out of non-ICAO-compliant passports**

An Action Plan with a clear schedule has been adopted.

- **Establishment of training programmes and adoption of ethical codes on anti-corruption, targeting officials of any public authority that deals with passports, as well as identity cards and other breeder documents**

The 'Ethical Code for staff working in civil registration and document issuance' was adopted on 1 April 2011. It refers to the Labour Code for sanctions in the event of violation of its provisions. It introduces provisions on conflicts of interest, incompatibilities and obligation to report irregularities.

The Order 'on some prevention measures against corruption and protectionism' was approved on 31 May 2011 by the Director General of the CSIR '*Registru*' and was followed by the 'Risk Management Action Plan on corruption risks in the area of population documentation and civil status registration' on 11 August 2011. The 'Management plan of corruption risks in the field of population documentation' was approved on 5 April 2012 by the Director General of the CSIR '*Registru*'. Training courses for the employees of the territorial subdivisions for population documentation were given during 2011 and in the first trimester of 2012.

## **Block 2: Irregular immigration, including readmission**

### **General assessment**

In the area of **border management**, the relevant legislation was adopted. The institutional framework is in place, including provisions on training and ethical codes to fight corruption.

With regard to **migration management**, the Republic of Moldova has laid down a comprehensive basis for an efficient migration management system and the relevant legislative framework is in place. Although some improvements are necessary, the instruments adopted are largely in line with European and international standards. Most of the institutional framework is in place, although more resources should be allocated to the implementation of the relevant provisions.

In the area of **asylum**, there is a solid legislative basis largely in line with European and international standards.

The Commission considers that the Republic of Moldova generally meets the benchmarks set under Block 2.

### **Detailed comments by policy area**

#### **Block 2 / topic 1 - Border management**

- **Consolidation of the legal framework for border management including adoption of a new Law on the State Border, allowing the Moldovan Border Guard Service to participate in the detection and investigation of cross border crime in cooperation with all competent law enforcement authorities and extending its area of responsibility to the whole territory, as well as a legal framework for efficient inter-agency cooperation between the Border Guard Service, law enforcement agencies and other agencies involved in border management**

The Law on the State Border was adopted on 4 November 2011, published on 20 April 2012 and will enter into force on 1 July 2012. It follows the definitions and framework of the Schengen Borders Code (Regulation (EC) 562/2006) and also takes into account the European Union legal framework for carriers' liability. As such, it provides a good framework for other legislation and policy papers. Adoption of the relevant bylaws is planned before the entry into force of the law.

The Law on Border Police was adopted on 28 December 2011, published on 20 April 2012 and will enter into force on 1 July 2012. The law provides a good basis for demilitarisation and professionalization of the Border Guard Service, which will be transformed into a Border Police. The law lays a solid foundation for modern border management. It also confers to the Border Police the competences and executive powers necessary for efficient border policing. In particular, the legislation will allow the Border Police to participate in detection and investigation of cross border-crime in cooperation with all competent law enforcement authorities. It will also extend the Border Police area of responsibility to the whole territory. Furthermore, the law provides a legal framework for efficient inter-agency cooperation between the Border Police, other law enforcement agencies and other agencies involved in border management. However, cooperation arrangements, operational procedures and the

division of tasks should be further clarified. In particular, procedures for surveillance of aliens and for dealing with detected illegal immigrants and asylum-seekers should be agreed through cooperation protocols at least.

The Law on the amendment of the Contravention Code was adopted on 21 October 2011, published on 16 December 2011 and will enter into force on 1 July 2012. It grants to the Border Police the competencies for examination of administrative offences such as violation of state border regime and rules on crossing the state border, damage and destruction of border signs and violations of the rules on foreigners' residence rights in the Republic of Moldova.

The Law on the amendment of the Contravention Code regarding carriers' liability was adopted on 23 February 2012. It imposes sanctions for violations of rules on transporting foreigners into the country and is in line with international and European standards.

The Moldovan Border Guard Service has cooperation agreements and protocols with the neighbouring countries, namely Romania and Ukraine, which provide a basis for cooperation with border guards in those neighbouring countries. Cooperation agreements have been signed with several EU Member States (Latvia, Lithuania, Estonia, Hungary and Poland), as well as with Russia and Georgia. The Border Guard Service intends to finalise cooperation agreements with the border guard services from Belarus and Kazakhstan in 2012. A working arrangement with FRONTEX was signed in August 2008 and the Republic of Moldova is fully committed to and active in its cooperation with the EU Border Assistance Mission (EUBAM). A new Cooperation Plan for 2012-2014 was signed in December 2011 by FRONTEX and the Republic of Moldova.

- **Adoption of an Action Plan for the effective implementation of the National Integrated Border Management Strategy, containing a timeframe and specific objectives for the further development of legislation, organisation, infrastructure, equipment, as well as sufficient financial and human resources in the area of border management**

The National Strategy on Integrated Border Management (IBM) for 2011-2013 was adopted on 27 December 2010. It addresses all topics relevant for efficient border management and is in line with European standards and best practices.

The IBM Action Plan for 2011-2013 was approved on 16 May 2011. It contains more detailed plans on how the national IBM Strategy will be implemented, including concrete objectives and actions. Like the IBM Strategy, the IBM Action Plan is well drafted and includes all topics relevant for implementing the IBM Strategy. The main objectives cover areas connected with improving the legislative and policy framework, border control and inter-agency and international cooperation and with developing the organisational structure, management of human resources, logistics and a risk analysis system. In the implementation phase, the IBM Action Plan should be supplemented by more detailed plans which include inter alia numbers and locations of equipment and devices, as well as plans on establishing coordination centres, an Air Surveillance Service and a Document Examination Centre.

The legislative framework provides for sufficient financial and human resources in the area of border management.

- **Establishment of training programmes, and adoption of ethical codes on anti-corruption specifically targeting border guards, customs and any other officials involved in border management**

A number of training programmes, both theoretical and practical, have been established, at both basic and university level. Continuous training for (internal and external) staff aiming to raise the level of professionalism is also provided. The training programmes in place offer a good framework to provide for professional border management.

An appropriate policy framework for corruption prevention and for ethical behaviour of officers is in place. The Deontological Code for border guards, including rules on behaviour in case of conflict of interests and principles for the use of force was approved on 13 June 2008. The Customs Service has a similar ethical code. Moreover, the Law on Border Police spells out border police officers' rights and obligations and, in this context, also includes ethical norms. The IBM Strategy and the IBM Action Plan include measures on corruption prevention. They take into account the Schengen Catalogue's recommendations and best practices. In addition, several anti-corruption activities have been launched under the auspices of the EUBAM.

## **Block 2 / topic 2 - Migration management**

- **Consolidation of the legal framework for migration policy, including measures for the reintegration of Moldovan citizens (returning voluntarily or under the EU-Republic of Moldova readmission agreement) and the fight against irregular migration (including efforts to conclude readmission agreements with main countries of origin and inland detection of irregular migrants)**

A new Law on foreigners in the Republic of Moldova was adopted on 16 July 2011. It is a framework law on the legal procedures for granting residence rights to foreigners in the Republic of Moldova. Its extensive provisions cover all fields of immigration matters. Additional operational procedures have been in place since July 2011, bringing greater clarity to the new law. However, some older national laws still apply to legal stays of foreigners in the Republic of Moldova. In order to increase legal certainty, they should be repealed and integrated into the new law (see also below under Block 4).

A 'one-stop-shop' was established within the Bureau for Migration and Asylum (BMA) under the new 'Law on foreigners' in January 2011. The new law makes procedures for applying for visas, residence and work in the Republic of Moldova clearer and simpler. It is an important step forward in development of a migration management system.

The Law on Integration of Foreigners was adopted on 27 December 2011, published on 13 March 2012 and will enter into force on 1 July 2012. It brings greater legal certainty with regard to the integration rights and facilities that are to be provided for the eligible foreigners residing in the Republic of Moldova.

Concerning the reintegration of Moldovan migrants back into the country, the Republic of Moldova is developing a new Action Plan to replace the former Plan on fostering the return of Moldovan migrant workers from abroad. A number of activities have been implemented, such as the PARE 1+1 Programme, which foresees training on entrepreneurial skills as well as financial assistance for business start-ups. In addition, activities aimed at improving the system for the recognition of skills and qualifications, as well as strengthening the local labour market have been implemented, including in the context of the EU-Republic of Moldova Mobility Partnership.

The Law on the Republic of Moldova's accession to the Convention on the Status of Stateless Persons was adopted on 27 December 2011. The law on the accession to the Convention on the reduction of Statelessness was adopted on 8 December 2011. These laws fill the legislative gap in this field.

The Republic of Moldova issued Methodological Recommendations on fight against illegal stay of foreigners, which provide operational guidelines for immigration officers working at local level.

With regard to institutional capacity, the BMA was empowered with complex prerogatives, as the main body responsible for managing migration flows on the territory of the Republic of Moldova. Further capacity building of the BMA is needed, especially at local level, as well as establishing cooperation protocols between the relevant bodies of the Ministry of the Interior, which would clarify the division of competences during the immigration procedures.

The Republic of Moldova is party to readmission agreements with the European Union (in force since 1 January 2008), Ukraine (1997), Switzerland (2004 and 2010), Norway (2006), the Former Yugoslav Republic of Macedonia (2008), Serbia (2011) and Denmark (2011). Between 2009 and 2011, the Republic of Moldova signed additional implementing protocols to the EU-Republic of Moldova Readmission Agreement with 11 EU Member States. Negotiations are under way with another 11 EU Member States.

In the meantime, negotiations for readmission agreements between the Republic of Moldova and main countries of origin of irregular migrants continue. In 2007, a draft intergovernmental agreement on readmission of persons residing without authorisation was approved and sent to Russia, Uzbekistan, Tajikistan, Georgia, Azerbaijan, Armenia, Kazakhstan, Belarus, Kirghizstan, Turkmenistan, Turkey, Syria, Bangladesh, India, Lebanon, Pakistan, Jordan, Afghanistan, Iran, Iraq, China, Bosnia Herzegovina and Montenegro. Negotiations are effectively under way with Russia, Montenegro and Bosnia Herzegovina. Negotiations on the signing of a new readmission agreement with Ukraine have been launched. Some developments have been reported in the negotiations with Turkey. The Turkish authorities have asked the Moldovan authorities to consider a visa free regime. According to the Republic of Moldova, one of the preconditions would be the conclusion of a readmission agreement with Turkey.

- **Adoption of a National Migration Management Strategy for effective implementation of the legal framework for migration policy and an Action Plan, containing a timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources**

The Strategy on Migration and Asylum was adopted on 6 July 2011. It is an important policy tool for managing migration flows. The Strategy identifies objectives for a sufficiently long period of time (2011-2020) and defines principles that will ensure comprehensive and consistent implementation of policies. It also assigns the role of coordination of activities regarding the migration process in the Republic of Moldova to a Governmental Commission. The Strategy will be implemented through the Action Plan (2011-2015) that was adopted on 8 November 2011. The Action Plan contains detailed activities for achieving the long term objectives of the Strategy, the funding allocation, the institutions responsible, deadlines and progress indicators.

Appropriate human resources should be made available for the relevant authorities (especially the BMA) to fulfil their tasks for overall implementation of the Strategy.



- **Establishment of a mechanism for the monitoring of migration stocks and flows, defining a regularly updated migration profile for the Republic of Moldova, with data both on irregular and legal migration, and establishing bodies responsible for the collection and analysis of data on migration stocks and flows**

The complex Extended Migration Profile exercise, carried out by International Organisation for Migration (IOM) Republic of Moldova with financial support from the European Commission, is well advanced. This tool will help Moldovan authorities to manage migration better and to include migration issues in other policies, such as employment and social policy, for the overall development of the country. The Migration Profile was considered best practice at the Global Forum on Migration and Development (GFMD) which took place in December 2011 and Moldovan authorities have been active in sharing their expertise in that regard. The BMA was given the task to regularly update the Migration Profile.

The “Migration and Asylum” Informational Integrated Automatic System is in the process of being established. The different sub-systems are being developed. Inter-agency cooperation with regard to collecting and analysing data on migrants, including the extent of interconnection between information systems containing data about migrants will need to be further clarified.

### **Block 2 / topic 3 - Asylum policy**

- **Consolidation of the legal framework for asylum policy through adoption of legislation on the integration of refugees or beneficiaries of other forms of protection**

The Republic of Moldova has adopted a solid legislative framework for asylum in a very short period of time. The most important law is the 'Law on Asylum', which was adopted on 18 December 2008 and entered into force on 13 March 2009. It provides the necessary institutional framework, legal procedures and principles and is largely in line with European and international standards. However, some of its elements require improvement. The law foresees the possibility for refugees to apply for a travel document but does not oblige the authorities to grant one (it is a 'may' clause). During the implementation phase, efforts will have to be undertaken in order to ensure that travel document are delivered to the beneficiaries of international protection. The authorities plan to be able to issue the documents by July 2012. In addition, the law foresees wider grounds for exclusion from refugee status and *refoulement* than the 1951 Convention. It should be amended accordingly. Some improvements should also be made to the law to allow the asylum-seekers the possibility to clarify any inconsistencies and gaps in their account and have access to the content of the interview report.

The Law on Integration of Foreigners was adopted on 27 December 2011, published on 13 March 2012 and will enter into force on 1 July 2012 (see above under topic 2). It contains provisions on how to put into practice the rights for refugees and beneficiaries of humanitarian protection described in the 'Law on Asylum'. To that end, the draft law provides the necessary institutional framework, legal procedures, mechanisms and principles. It also creates coordination mechanisms with central and local public authorities. In order to facilitate the integration process, the Republic of Moldova should also consider lowering the residency requirement for acquiring citizenship by refugees, beneficiaries of humanitarian protection and stateless persons from the current requirement of eight years of legal and habitual residence to five years or fewer.

The Regulation on the Activity of the Centre for accommodation of asylum seekers is largely in line with European and international standards. The most important rights, duties and procedures are covered. Some improvements could be made, however, including with regards to special provisions for vulnerable groups or making the right to psychological and social assistance unconditional.

### Block 3: Public order and security

#### General assessment

The legislative and policy framework on **preventing and fighting organised crime** has been established. The Law on organised crime was adopted as well as the Strategy and the accompanying Action Plan and they are largely in line with the European and international standards.

The legislative and policy framework on **preventing and fighting trafficking in human beings** is consolidated, in line with the European and international standards. The Action Plan for 2012-2013 provides for a holistic approach in addressing THB.

Regarding the **anti-corruption policy**, a comprehensive legislative and policy framework is in place and in an advanced stage of consolidation. The Republic of Moldova has passed and is about to pass a considerable number of legislative amendments aimed at aligning the legislative framework with the main European and international instruments. The Anti-Corruption Strategy and the Action Plan 2012-2013 were adopted. A new Law on the Centre for Combating Economic Crimes and Corruption (renamed **National Anti-Corruption Centre**) was adopted. The strategic planning and needs assessment should be further improved in order to ensure an effective implementation. Capacity, distribution of powers and cooperation among institutions with tasks in the anti-corruption field should be further strengthened.

Regarding the **law enforcement cooperation**, coordination should be further improved in order to allow an effective exchange of information. The legislative and policy framework for preventing and fighting **money laundering** and the **financing of terrorism** is in place, in line with the European and international standards.

The Republic of Moldova has acceded to all UN and Council of Europe conventions in the area of public order and security and to a large majority of UN and Council of Europe Conventions regarding the fight against terrorism. Further steps should be taken, especially by the EU side, towards negotiating agreements with Europol and Eurojust.

The adopted legislative and institutional framework on **data protection** is largely in line with European standards. The Republic of Moldova put in place the legislative, policy and institutional framework required in the **anti-drug policy**, which is in line with European and international standards. The legislative framework regarding **judicial cooperation in criminal matters** was further consolidated. The Republic of Moldova signed the 2<sup>nd</sup> Additional Protocol to the Council of Europe Convention on Mutual Legal Assistance in Criminal Matters which is now pending ratification.

Important **institutional reforms**, relevant for the whole area of public order and security, like the Reform of the Ministry of the Interior and its subordinated and decentralised structures, and the Justice Reform were adopted, and subsequently further developed: a Reform Centre was created in March 2012; the Strategic Development Plan of the Ministry of Interior 2012 - 2014 is being implemented; additional legislation relevant for the reform process is in an

advanced stage of adoption. The Justice Reform is being pursued and the Action Plan on the implementation of the Strategy was approved by Parliament.

Regarding the Action Plans under Block 3, further attention will be paid to their expected results, timeframe/deadlines, performance indicators and the necessary human and financial resources for their implementation.

The Commission considers that the Republic of Moldova generally meets the benchmarks set under Block 3.

## Detailed comments

### **Block 3 / topic 1 - Preventing and fighting organised crime, terrorism and corruption**

- **Adoption of a law and comprehensive strategy on preventing and fighting organised crime, together with an action plan containing a timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources**

The Law on Preventing and Combating Organised Crime in a revised version was adopted by the Parliament on 22 March 2012. The Law introduces a distinction between the preventive and procedural measures and indicates the applicable procedures in the field of organised crime. It contains, inter alia, measures to prevent and combat the creation of new groups or criminal organisations, measures to prevent and combat criminal activity, information campaigns to prevent and fight organised crime, operative monitoring of people vulnerable to being attracted in organised criminal activity. The law also indicates the authorities that have competences in this area: the General Prosecutor's Office, the Ministry of Interior, the Ministry of Justice, the Intelligence and Security Service, the Anti-Corruption Centre and the border police.

The law provides a basis for vocational trainings for experts, in association with international organisations and NGOs. The Law could however benefit from a further alignment with the horizontal European and international instruments such as the UN Convention on Transnational Organised Crime. More specific definitions could be included on the organised groups and the criminal offences to which the Law applies. Further alignment could also be made as regards the criminalisation of participation in an organised criminal group, confiscation and seizure, jurisdiction, transfer of sentenced persons, criminalisation of obstruction to justice, protection of witnesses, assistance to and protection of victims as well as the collection and analysis of information on the nature and extent of organised crime.

Regarding the policy framework, the Strategy for Preventing and Fighting organised crime for 2011-2016 was approved by the Government on 22 June 2011 and the Action Plan on 11 November 2011. The Strategy foresees the permanent assessment of the threats and risks of organised crime. It establishes basic principles for fighting organised crime, general objectives as well as competences of line authorities. The main objectives of the Strategy are to promote institutional and functional development, to improve management capacity, to harmonise the legislation, to improve operational activity, to consolidate international cooperation and to strengthen cooperation between national authorities. It provides a good basis for tackling organised crime as long as the methods and the measures chosen are effective. The Action Plan covers the following areas: operational and institutional development, strengthening of inter-agency and international cooperation, strengthening and modernising management capacity, strengthening institutional capacity and adjusting the legal

framework to the EU standards. The Action Plan includes a number of general objectives, which are adequate, but does not set deadlines for every measure whereas some of the progress indicators are not measurable, or not sufficiently precise.

Regarding the institutional framework, several entities have competences in preventing and combating organised crime. The General Prosecutor's Office coordinates all the operative activities of these entities. The role of the General Prosecutor should be further strengthened in a consistent way with the ongoing institutional reforms, in particular the Justice and Criminal law reforms.

- **Consolidation of the legal framework on preventing and fighting trafficking in human beings and regular updating of the respective National Plan, including a timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources**

The legislative and policy framework on preventing and fighting trafficking in human beings (THB) has been consolidated since several years. The framework Law on Preventing and Fighting Trafficking in Human Beings was adopted in 2005 and has been supplemented by a number of other legal acts, including the relevant provisions of the Criminal Code and Criminal Procedural Code as well as international conventions.

The Law on Ratification of the Council of Europe Convention (Lanzarote Convention) on the protection of children against sexual exploitation and sexual abuse, was adopted by the Parliament on 19 December 2011. The ratification instruments were deposited with the Council of Europe on 12 March 2012 and the Convention will enter into force on 1 July 2012. A Law on modification and amending the Criminal Code and Criminal Procedure Code in order to adjust the national legislation to the provisions of the Lanzarote Convention has been adopted by the Parliament on 12 April 2012.

The Plan for Preventing and Combating THB for 2010-2011 was approved on 13 September 2010 and included measures to tackle this phenomenon. An Additional Plan was approved on 21 December 2010 providing for more concrete measures. One of its goals was to improve of the mechanism for investigating and prosecuting the involvement of civil servants in THB cases. It also aimed at increasing protection of children who are victims of trafficking, which still remains an issue of concern. It addressed national and international cooperation, awareness raising and information. Both Action Plans included most of the elements required: a timeframe, specific objectives, activities and expected results but without performance indicators, nor specific figures on budgetary and other resources.

The new Action Plan for 2012-2013 has been drafted and is expected to be approved in June 2012. It includes elements missing in the previous Action Plans. One example is prevention/protection of vulnerable groups against the risk of becoming victims of trafficking, especially children left behind, known as social orphans. The new Action Plan provides progress indicators but does not describe measures of performance in detail. It includes a section aiming at strengthening the monitoring and evaluation of the Action Plan. It focuses mainly on increased coordination (both at national and international level) of anti-trafficking activities, on prevention of trafficking through capacity building and awareness raising activities, on social assistance and protection of victims and on strengthening investigative and procedural systems. This is in overall line with international and European instruments on THB.

The institutional framework is in place and consolidated. The Centre for Fighting Trafficking in Human Beings was established in 2006 and is fully operational. The relevant structures in these areas are both at administrative level, namely the National Committee for fighting trafficking in human beings, which is a consultative body within the Government and at prosecution level which is monitored by a Coordinating Council, chaired by the General Prosecutor, who appears to be fully involved in the fight against THB. Moreover, the National Referral System for Assistance and Protection of Victims of Trafficking, a framework of co-operation between governmental and non-governmental bodies, also includes multi-disciplinary teams set up at the regional level.

- **Adoption of legislation on preventing and fighting corruption and consolidation of the anti-corruption function of the Centre for Combating Economic Crime and Corruption; strengthening coordination and information exchange between authorities responsible for the fight against corruption**

The **framework Law on Preventing and Fighting Corruption** was adopted in 2008 and subsequently amended. It has been supplemented by a significant number of relevant legal acts (e.g. the Law on Conflict of Interest, the Law on Code of Conduct for Public Servants, the Law on the Civil Service and the Status of Civil Servants, the Law on Declaring and Monitoring the Income and Assets of State Dignitaries, the Law on Public Procurement, etc), including the relevant provisions of the Criminal Code, the Criminal Procedure Code and the Code of Administrative Offences.

Several **additional steps have been taken to improve the legal framework** with a view to aligning the national legislation with European and international requirements. A considerable number of pieces of legislation have been prepared and adopted in 2011 and 2012. The legislative amendments refer *inter alia* to: broadening the scope of corruption offences to foreign and international public servants; broadening the scope of bribery offences by extending the elements of crime included in this offence (e.g. 'offering', and 'giving'); introducing criminal liability for corrupting voters; setting out special confiscation and precautionary measures to compensate for damage and measures on third party confiscation in cases the third parties were aware of the illegal origin of the assets; amendments to the system for sanctioning protectionism and conflicts of interest set out in the Code of Administrative Offences; introducing liability of legal persons for active corruption offences.

Additional legislative amendments were adopted aiming at complying with GRECO recommendations or United Nations Convention against Corruption (UNCAC) requirements, such as: criminalisation of false accounting, strengthening the system for sanctioning breaches of the civil servants' code of conduct, strengthening the requirements for reporting corruption offences. The safeguards on protection of whistle-blowers against retaliation in both private and public sectors would need to be further strengthened in practice.

The recommendation from the second round of GRECO evaluation regarding the legal framework for the use of special investigative measures in all cases of corruption has been dealt with partially given that special investigative measures can be used only for 'serious crimes' and not for other ordinary corruption offences. The legislative framework was changed, in order to increase the level of sanctions for active and passive bribery which automatically qualified this type of offences as 'serious' crimes for which special investigative measures can be used. However, the scope of the provisions on use of special investigative measures has not been extended to other ordinary corruption offences which fall below the threshold of 'serious crimes', such as the offence of trading in influence.

Additional steps have been taken towards addressing some of the GRECO recommendations of the third evaluation round, notably as regards **incriminations** (e.g. scope of corruption offences, liability of legal persons, scope of corruption offences in the private sector, criminalisation of active trading in influence, etc).

**Financing of political parties and election campaigns** remains an area where GRECO has highlighted a number of significant shortcomings that need to be addressed as a matter of priority in order to ensure full transparency, efficiency of supervision and an effective, proportionate, and dissuasive sanctioning system for both regular party financing and funding of election campaigns. Currently the checks on party and election campaign financing are carried out by the Central Electoral Commission which comprises nine members (of whom only three are permanent). The current framework could be further strengthened to offer the necessary guarantees for detection and effective sanctioning of all cases of illegal party financing. Draft legislation on financing of political parties and electoral campaigns is under preparation with the view of following-up GRECO's recommendations.

Reporting by the Moldovan authorities on the implementation of GRECO recommendations will continue during 2012. The Republic of Moldova should continue to implement the GRECO recommendations and further information should be provided on how the outstanding GRECO recommendations will be implemented.

**Public procurement** remains one of the areas most vulnerable to corruption, with significant deficiencies in practice. A number of laws have an impact on this area and there have been intense discussions as to whether the definitions in those laws are sufficient given the high risks involved. The current system includes a mandatory requirement to publish a procurement intention announcement prior to drawing up a procurement process plan. However, often no announcement is published and no plan is drawn up. The sanctioning system is inefficient. More efforts need to be made to ensure a fully transparent public procurement process and dissuasive sanctions in case of breach of the legal requirements.

In relation to **conflicts of interest, incompatibilities and asset declarations**, the legislative framework is in place. The most significant shortcoming concerns the efficiency of the verification and sanctioning mechanisms. The Law on the **National Integrity Commission**, (NIC), was adopted by the Parliament in December 2011. The NIC is in charge of checking conflicts of interests, incompatibilities and asset declarations but is not yet operational. The law sets out the tasks and the powers of the NIC, its organisation and the procedures to follow. While it is welcome that a single institution was designated to perform thorough checks on conflict of interest, asset declarations and incompatibilities, further guarantees of its independence and impartiality in decision-making are necessary, given that its composition leaves room to political control. The president of the NIC is to be appointed by the Parliament. Out of five members, three are proposed by the parliamentary majority, one by the opposition and only one would come from civil society through open competition. The current composition creates the possibility of control of the political majority over the decisions of the NIC. The decisions on conflict of interest, asset declarations and incompatibilities should be impartial and free from any political interference. The law describes in fair detail the tasks of the NIC and the procedures related to the verification of conflicts of interest, asset declarations and incompatibilities. The effectiveness of the checks remains to be tested in practice. The selection of the NIC members and staff must follow objective and merit-based criteria and the decision-making process in individual cases should be safe from political influence or political deliberation.

In case of 'obvious difference' (not defined by the law) between an official's income and assets, the NIC can notify the prosecution services, if there are any suspicions that a crime has been committed, and the tax authorities. No specific powers are given to the NIC to propose confiscation of unjustified wealth. When conflicts of interest or incompatibilities are found, the NIC will issue an 'act of infringement' and may ultimately ask the public authorities to take disciplinary action or terminate the mandate or contract of the official in question. It may also ask the courts to cancel the administrative act adopted by the public official found in conflict of interest or in a situation of incompatibility. The law introduced an obligation to post the asset declarations on the website of the NIC. This would be a positive step towards giving the general public wide access to the asset declarations and potentially increasing the rate of detection of cases of unjustified wealth.

Sufficient budgetary and human resources have to be secured to ensure effectiveness of the verifications carried out by the NIC. All aspects related to independence in decision-making and capacity to perform verifications and propose sanctions are key to the effectiveness of the system which can only be tested through a track-record of implementation. Further information should be provided on what technical equipment and what electronic databases are at the disposal of the NIC.

Special attention should be paid to the **coherence of the overall legislative process** in order to avoid legal uncertainty and to ensure thorough implementation. The legal framework is undergoing successive changes required by a number of anti-corruption reform measures. While it is understandable that the pace of the reforms is accelerated and that is consequently reflected in the legislative setting, the coherence and stability of the overall framework must not be affected. The same piece of legislation is often amended through different legislative acts in the course of a few months. Legislative initiatives need to undergo thorough impact assessments, including on financial and human resources needs, and need to be coordinated.

The **Anti-Corruption Strategy for 2011-2015** was adopted by Parliament in July 2011 and sets clear priorities and objectives. The Strategy contains a brief assessment of the state of play, looking into a number of surveys that measure perceptions of corruption, as well as a very general analysis of the causes of corruption. It also defines the main principles and directions of action and sets a number of general performance criteria and overall targets to be met at the end of the implementation period. The Strategy describes in fair detail the monitoring process of its implementation and places the task of coordination under the responsibility of a Parliamentary Commission. The monitoring working group is made of several stakeholders, including from the private sector and civil society.

The **Anti-Corruption Action Plan for 2012-2013** was approved by the Parliament in February 2012. While the Action Plan comprises a number of detailed measures, deadlines, indicators and expected targets, it does not comprise cost assessment, budgetary and human resources references. The Action Plan also lacks reference to risk assessments or vulnerable sectors. While the Action Plan is focused on legislative and institutional solutions, further attention should be paid to operational measures. Measures regarding internal control mechanisms and their interaction with the law enforcement bodies should be further developed.

Regarding the **institutional framework**, the Centre for Combating Economic Crime and Corruption (CCECC) was established in 2002 and has since been restructured several times. A new Law on the Centre for Combating Economic Crimes and Corruption was adopted by the Parliament on 25 May 2012. The Centre has been renamed **National Anti-Corruption Centre**. Its independence was strengthened through making it accountable to Parliament and

ensuring an open competitive process for the selection of its director who is to be appointed by Parliament. Dismissal procedures are also fairly well described by the new law. The reform of the Centre followed several public consultations, including assistance from international community, which materialised in a draft reform strategy paper, submitted to the Government in November 2011, proposing three main strands of the reform: independence, increased capacity and public support. Of these, the new Law focused mainly on the issue of independence, while the efficiency and increased capacity remain to be further clarified and tested in practice. A new Strategy for the institutional strengthening of the Centre is currently being finalized, building on the objectives of the previous reform strategy paper, with the aim to focus on implementation of the new legal framework. Ensuring appropriate capacity for the Centre to carry out efficiently its tasks should be key elements of the reform complementing the independence guarantees.

The Centre kept in the new format both the prevention and investigative powers. In terms of repression, the Centre performs investigation activities under the prosecutors' control. The jurisdiction on investigations covers now only corruption and corruption-related offences. However, there is no differentiation according to the value of the prejudice or according to the position of official investigated. All corruption offences, irrespective whether they are petty or high-level, are under the jurisdiction of the Centre. All other economic and financial crimes not related to corruption offences have been transferred under the competence of the Ministry of Interior and Customs authority. Money laundering and terrorism financing remain under the competence of the Centre; the FIU remains an autonomous unit within the Centre (see also below under money-laundering).

The director of the Centre will be appointed by Parliament following an open competition. The dismissal of the director is also decided by Parliament, based on the grounds exhaustively provided by the law. The new law on the National Anti-Corruption Centre also comprises a number of integrity-related guarantees and checks on integrity of the Centre's employees. However, the effectiveness of the new system is still to be tested and a number of questions remain as to the division of powers and coordination with other law enforcement bodies. The Strategic Development Programme for the Centre for the next two years was approved by the Board of the Centre in January 2012. The Programme is relatively vague when it comes to future concrete measures. It mentions the budgetary resources and staffing levels of the previous years, but comprises no cost or human resources needs assessment for the next two years. Also, there is no detailed calendar of actions. The strategic programming on the Centre's activities does not offer a clear picture of how the efficiency of its activities and the coordination with other anti-corruption institutions and law enforcement bodies is going to be ensured.

Regarding **inter-institutional cooperation**, more needs to be done to ensure a clear division of tasks and an efficient cooperation between all institutions acting in the field of prevention and fight against corruption, including the National Integrity Commission, the National Anti-Corruption Centre, the internal control mechanisms, the FIU, the prosecution services and law enforcement bodies. Further steps need to be taken to promote an effective intelligence-led policing and improving information exchange systems among these institutions should be treated as a priority.

- **Consolidation of the legal framework for the prevention and fighting of money laundering and financing of terrorism in line with international standards set by the Financial Action Task Force on Money Laundering and Terrorist Financing**



**(FATF); regular updating of the respective national strategy; establishment of an independent Financial Intelligence Unit**

A law was adopted on 7 April 2011, amending the 2007 Law on Preventing and Fighting Money Laundering and Financing of Terrorism.

The 2010-2012 Strategy for preventing and combating money laundering and the financing of terrorism and the Action Plan have been approved by the Government on 3 September 2010. The Strategy represents a good working basis. Particularly welcoming was the realisation that previous strategies have not been fully effective because measures were removed from the Strategy at the end of the year regardless whether they had been implemented effectively or not. The lessons learned from this have resulted in a new approach of having a five year strategy based on yearly action plans but carrying over outstanding measures into the following year's actions. The Strategy seems to be addressing the lack of procedures on freezing and confiscating assets without the need to define a predicate offence.

Regarding the establishment of an independent Financial Intelligence Unit (FIU), the Law of 7 April 2011 established the Office for Preventing and Combating Money Laundering as a specialised independent division within the CCECC (see also above under anti-corruption) specifically endowed with the responsibilities of a FIU. Several additional Orders on its functioning have been approved.

The Office for Preventing and Combating Money Laundering is fully independent from the CCECC. The FIU must remain independent from other agencies in order to comply with international standards and to continue its functions. The FIU is a recognised member of the Egmont Group and the Camden Assets Recovery Inter-Agency Network (Carin).

The Office for Prevention and Combating Money Laundering produces a national risk assessment on anti-money laundering and measures to counter financing of terrorism. It plays both an operative and an investigative role, conducts criminal prosecutions and mediates between the data received, research and law enforcement bodies.

The conclusions of the progress report of 14 April 2011 by the Council of Europe Committee of Experts on the Evaluation of the Anti-Money Laundering Measures and the Financing of Terrorism (Moneyval)<sup>4</sup> acknowledged the steady progress made in the areas of customer due diligence and reporting. According to Moneyval's conclusions, there is a need for further indications as to the effectiveness of the regime, in particular regarding money laundering convictions and amounts of assets recovered. The 4<sup>th</sup> round evaluation by Moneyval should provide further indications of progress in this regard. A Moneyval on-site visit took place in November 2011 under the fourth round of evaluation and its draft report will be prepared for review and adoption in December 2012. It should provide further indications on progress in this regard.

Since July 2011 the Republic of Moldova is no longer monitored by FATF.

- **Adoption of a National Anti-Drug Strategy and its related action plan; establishing cooperation with the EMCDDA**

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[http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/Progress%20reports%20y/MONEYVAL\(2011\)6\\_ProgRep2\\_MLD\\_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/Progress%20reports%20y/MONEYVAL(2011)6_ProgRep2_MLD_en.pdf)

On 27 December 2010 the Republic of Moldova approved the National Antidrug Strategy for 2011-2018. The Strategy defines objectives, necessary actions and clear responsibilities of all stakeholders involved in combating drug addiction and drug trafficking. It was developed in line with the European Strategy on Drugs for 2005-2012 and the relevant UN Conventions. The Strategy proposes a comprehensive approach to issues related to drug use, based on complex, interdepartmental, interdisciplinary cooperation at all levels, with three main components: a) reduction of drug supply (exercising legal control over movement of drugs and combating drug trafficking and illicit distribution of drugs); b) reduction of demand for drugs (primary prevention, treatment and rehabilitation of drug users) and c) risk (harm) reduction.

In June 2011 the Government approved a decision on establishing the National Anti-Drug Committee, as a permanent body at Government level supervising, developing and coordinating policies related to drug demand and supply reduction. Its Secretariat was established in July 2011 by a Government decision and has started to gather and analyse the information and data provided by the national authorities.

Regarding the law enforcement dimension, there is an Anti-Drug Department in the Ministry of the Interior. Concerning policy coordination, an Interdepartmental Commission is in place. In addition, relevant structures have been established within the Ministry of Health. The National Anti-Drug Observatory has been consolidated.

Cooperation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) is ongoing. The Moldovan authorities are providing national data and working on trends. In a letter dated 28 October 2011, the Republic of Moldova requested formalisation of the cooperation with the EMCDDA by signing a Memorandum of Understanding (MoU). The procedure for the signing of the MoU between the Republic of Moldova and the EMCDDA is ongoing and the MoU is expected to be signed in the course of 2012.

- **Adoption of relevant UN and Council of Europe Conventions in the areas listed above and on fight against terrorism**

The Republic of Moldova has acceded to all UN and Council of Europe Conventions relevant to the above-mentioned areas. Regarding the fight against terrorism, a large majority of UN and Council of Europe Conventions have been ratified and have entered into force.

### **Block 3 / topic 2 - Judicial co-operation in criminal matters**

- **Adoption of a legal framework on mutual legal assistance**

The legislative framework in the area of mutual legal assistance is largely in place.

The Republic of Moldova is carrying out a very broad process of reform of its criminal and criminal procedure legislation. An inter-institutional Working Group on the amendment of the criminal procedure legislation in the areas of operative investigation and prosecution was established on the basis of the Government Decision of 9 February 2011. The Concept Paper on the reform of the system of prosecution and criminal procedure was drafted by the Working Group. Consequently, a draft 'Law on amending of some legislative acts (the Law no. 45-XII of 12 April 1994 on Operative Investigations, the Criminal Procedure Code)' was prepared in order to adjust them to the new provisions on combating cross-border crime and international joint investigation teams, review of national legislation on the interception of telephone conversations and review of relevant legislation in the framework of Police Cooperation Convention for South East Europe.

The 'Law on Special Investigating Activity' was adopted by the Parliament on 29 March 2012. The Law on amending some legislative acts (the Criminal Procedure Code) was adopted by the Parliament on 5 April 2012. The relation between the two laws will need further clarification.

- **Accession to the 2<sup>nd</sup> Protocol to the European Convention on mutual assistance**

The Republic of Moldova has signed on 13 March 2012 the 2nd Additional Protocol to the Council of Europe Convention on Mutual Legal Assistance in Criminal Matters which is now pending ratification.

- **Conclusion of an agreement with Eurojust**

Eurojust has established a contact point in the Republic of Moldova. Contacts aimed at starting negotiations on an agreement on cooperation between the Republic of Moldova and Eurojust have been established since 2006. Three meetings were held between 2008 and 2010 in this context. Full consolidation of the new Moldovan legal framework on data protection for the purposes of judicial cooperation in criminal matters is needed in order to make progress in such negotiations, as ensuring an adequate level of data protection is a precondition for the conclusion of a co-operation agreement with Eurojust (see also below under topic 4 data protection). The Republic of Moldova presented additional information to Eurojust on data protection in February 2012. It is expected that the negotiations of the agreement will start in the second half of 2012.

### **Block 3 / topic 3 - Law enforcement co-operation**

- **Establishment of an adequate coordination mechanism between relevant national agencies and a common database guaranteeing direct access to relevant officers**

The coordination between relevant national law enforcement agencies is ensured through the activity of the SELEC (The Convention of the Southeast European Law Enforcement Centre)/GUAM (Organisation for Democracy and Economic Development) National Virtual Centre which was established in 2006. It is a subdivision of the Ministry of the Interior which aims to develop the cooperation between relevant national and European agencies on combating cross-border organised crime and on security of borders. The National Virtual Centre SELEC/GUAM ensures the coordination between the following law enforcement authorities: the Ministry of the Interior, the Border Guards Service, the Customs Service, the Security and Information Service and the Centre for Combating Economic Crimes and Corruption. These authorities have direct access to the Centre's database on investigating, preventing and fighting against cross-border organised crime. The information is exchanged using SELEC/GUAM channels.

The general aims of the National Virtual Centre are: (1) to ensure the organisational framework necessary for cooperation and development of specific actions at national and international levels for preventing and combating trans-border crime and other types of serious crimes in the SELEC and GUAM Member States, (2) to exchange information between law enforcement agencies from SELEC and GUAM Member States on preventing and combating trans-border crimes and (3) to analyse, make available and use the information gathered for research and for combating and preventing trans-border crimes.

The Centre uses a database called "*Registru*". This database offers information on persons, vehicles, companies (the owners, kind of activity and means of transport registered in the

company's name), driving licenses, check on different types of documents like passports or, birth certificates and border crossings. As there are different types of database, under various operators ("*Registru*" under the Ministry of Information, Technology and Communications, information on crossing the state border from the Border Guard Service, information on real estate "*Cadastru*"), the Centre has access to these databases via the delegated liaison officers.

A 2006 'Law on the Electronic Information System on Recording Crime, Criminal Cases and individuals who committed crimes' established a coordination mechanism between relevant national authorities and a database. Three Common Orders were approved on the coordination mechanism: (1) a 2008 Order on a single record of offences, criminal cases and individuals who committed crimes, (2) a 2006 Order on unique record of operational files (searches and identification) on wanted persons, persons of unknown identity and unidentified bodies, and (3) a 2004 Order on a single record of marked objects, antiques and works of art and lost and found property.

Establishment of an adequate coordination mechanism between relevant national agencies should be further pursued by setting up a coordination committee of all agencies involved in intelligence and investigation. This coordination committee should be chaired by the General Prosecutor who should play a leading role and should be convened regularly.

It is not clear if any inter-agency structure is foreseen to enhance the exchange of information on organised crime or if the above-mentioned National Virtual Centre will play this role. Currently no central structure can provide direct access to all databases that could be of interest, i.e.: population (registry), vehicles, border crossings, stolen goods, finger prints, DNA, tax administration, customs database, Security and Information Service databases, criminal records, persons in jail, cadastre, etc. So far, the existing entities have no direct access to all the available databases, and they have to rely on liaison officers who will contact their administration in order to give them access the information they need.

Given that there is no universal standard on establishment of a "common database", some countries have one, others have separate databases, it is nevertheless important to put in place the tools necessary for proactive consultation of all available databases. The authorities should envisage establishing an interagency tool, such as the planned Information and Analysis Unit, where representatives of all intelligence and law enforcement agencies could have access to the various databases.

- **Conclusion of an operational cooperation agreement with Europol ensuring an adequate level of data protection**

The negotiation of an operational agreement with Europol is conditional upon assessment by Europol of the relevant data protection standards. Work on the data protection assessment is ongoing. Europol completed its first scrutiny of the material received and sent additional questions to the Republic of Moldova in January 2011. The Republic of Moldova replied on 23 March 2011 sending supplementary information on personal data protection. In April 2012 Europol was provided with additional legislation (see also below under 4. Data protection). Europol is currently proceeding with its assessment of the data protection legislation in the Republic of Moldova, pending any additional information and clarifications that might be necessary. The data protection study visit can be carried out following the entry into force of the legislation and once some practice has been gathered with regard to its application. The negotiation of an operational agreement with Europol can only start after authorisation of Europol's Management Board following the opinion of the Joint Supervisory Body, which is based on Europol's data protection report.

Europol organised an awareness-raising seminar for Moldovan law enforcement authorities in April 2011. In July 2011 the Republic of Moldova was invited to second a permanent liaison officer to Europol.

### **Block 3 / topic 4 - Data protection**

- **Consolidation of the legal framework for the protection of personal data, including accession to the 2001 Additional Protocol to the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and trans-border data flows**

The Republic of Moldova's new Law on Data Protection, adopted on 8 July 2011, has entered into force on 14 April 2012. It repeals the existing Law on Data Protection of 2007 and aligns the Republic of Moldova's data protection legislation with the relevant Council of Europe instruments and the EU *acquis*. In addition, a 'Law amending and supplementing some legislative acts' was adopted on 21 October 2011, which *inter alia* strengthens the independence and powers of the supervisory authority and introduces sanctions for data protection breaches. These legislative changes are foreseen to enter into force on 16 June 2012.

Further efforts are ongoing in order to consolidate the legal framework fully by aligning other legislation and Government decrees with the new 'Law on Data Protection'. Particular attention should be paid to data protection rules in the police sector (in particular full implementation of the relevant Council of Europe Recommendation) including the revision of the Criminal Procedure Code and the 'Law on Special Investigating Activity' (see also above under Judicial co-operation in criminal matters). Full consolidation and effective implementation of the legal framework are a precondition for conclusion of operational cooperation agreements with Eurojust and Europol (see also above under topics 2 and 3).

The Republic of Moldova has ratified the 2001 Additional Protocol to the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and trans-border data flows. The ratification entered into force on 1 January 2012.

The National Centre for Personal Data Protection began its operations in mid-2009 on the basis of the Law on Data Protection of 2007. Its independence and powers have been strengthened by the new legal framework. The Centre is an institution under Parliament and is impartial and independent from any other governmental or administrative bodies.

<b>Block 4: External relations and fundamental rights</b>
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## **General assessment**

The Republic of Moldova adopted the relevant legislation, moving swiftly forward with the revision of the national legislation to meet the required benchmarks. With the adoption of a comprehensive Law on Ensuring Equality the Republic of Moldova completed the framework deemed to ensure effective implementation of the benchmarks in the area of external relations and fundamental rights. The Government of the Republic of Moldova also amended the Action Plan containing support measures for Roma people taking into consideration recommendations related to international standards on inclusion policies. It also further clarified aspects of the legislation mentioned in the previous report, notably related to determination of the status of stateless persons.

The Commission considers that the Republic of Moldova generally meets the benchmarks set under Block 4.

## **Detailed comments**

### **Block 4 / topic 1 - Freedom of movement within Republic of Moldova**

- **Revision of the legal and regulatory framework on registration and de-registration procedures for legally staying foreigners or stateless persons with a view to avoiding unjustified restrictions.**

In May 2011 the Government approved Decision no. 337 amending Government Decision no. 376 of 6 January 1995 on additional measures to consolidate the national passport system. The Decision was published in the Official Gazette in June 2011 and is in force. It aims to review provisions regarding the rules of evidence of population, in particular it establishes the mechanism for acquiring and processing biometric information and provides for regulation of the legal relations between individuals, legal entities, law enforcement and local government bodies to ensure free movement in the Republic of Moldova and the right to establish domicile or residence anywhere in the country.

In order to prevent and exclude cases of stateless persons in relation to the succession of states, amendments to the 'Law no. 1024-XIV of 2 June 2000 on Citizenship' were adopted by Parliament in June 2011 and published in the Official Gazette on 8 July 2011. In addition, in April 2012, the Republic of Moldova formally deposited its instruments of accession to the United Nations Conventions on the Reduction of Statelessness (adopted on 30 August 1961 in New York) and on the Status of Stateless Persons (adopted on 28 September 1954 in New York) (see also above under Block 2 topic 2).

The amendments to the 'Law no. 1024-XIV of 2 June 2002 on Citizenship' aim to adjust the legislation in order to prevent and resolve cases of statelessness resulting from the disintegration of the Soviet Union and issues related to state succession. The Republic of Moldova's accession to the Conventions on the Reduction of Statelessness and on the Status of Stateless Persons will lead to further developments in the mechanism and procedure for determining the status of stateless persons and will provide for the establishment of an institutional framework for determining statelessness. As regards the procedure for determining the status of statelessness, the Republic of Moldova could consider entitling applicants to legal employment pending the procedures, as in the case of asylum-seekers.

In November 2011 the Government approved an Action Plan for further horizontal legislative amendments with the aim of lifting all unnecessary restrictions concerning compulsory HIV/AIDS tests for the registration of foreigners. This was based on an assessment undertaken by a Working Group established and tasked with screening all relevant legal acts in force which included provisions on this matter. As a result, the Parliament adopted the legislative amendments to Law no. 23/2007 ‘on prophylaxis of HIV/AIDS’, and the Government approved and sent to the Parliament the draft law amending and completing Law no 180/2008 on labour migration and Law no 200/2010 on the regime of foreigners, with a view to facilitating the documentation process of foreigners in the Republic of Moldova.

#### **Block 4 / topic 2 - Citizens’ rights including protection of minorities**

- **Adoption of comprehensive anti-discrimination legislation, as recommended by UN and Council of Europe monitoring bodies, to ensure effective protection against discrimination**

In addition to constitutional anti-discrimination stipulations and provisions in criminal, civil and administrative laws, in May 2012 the Parliament adopted a comprehensive law on anti-discrimination: “The Law on Ensuring Equality”. The law aims to prevent and fight against discrimination and to ensure equality in rights for all the individuals on the territory of the Republic of Moldova in the areas of politics, economics, social, culture, and other areas of life making no difference in race, colour, nationality, ethnic origin, language, religion, belief, sex, age, disability, opinion, political view, or based on any other similar criteria. These criteria were clarified at the highest political level<sup>5</sup>.

As a result of prior public consultations the law contains provisions which limit its applicability to the marriage and adoption relationship governed by the legislation in force and to religious cults and their component parts related to their religious beliefs. Improvements were made to the rules regarding the work of the Council on prevention and combating discrimination and ensuring equality: a body that will act in terms of impartiality and full independence from the public authorities based on a comprehensive mandate in the field. The equality body also has a power of injunction and can impose sanctions following decisions on the existence of a case of discrimination. According to Article 12 paragraph 1, point k), and Article 15 paragraph 6, while examining a complaint regarding an alleged discriminatory treatment or action the equality body finds that they constitute an administrative offence, it can impose sanctions in accordance with the provisions of the Contravention Code.

Prohibition of discrimination on the basis of sexual orientation in the field of employment creates the general framework in line with Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in respect of employment.

In the Human Rights Dialogue with the Republic of Moldova that took place on 23 May 2012, the EU received reassurances that the law is intended to cover all grounds for discrimination in line with the international commitments of the Republic of Moldova. At the same time, the Moldovan side committed to issuing guidelines on the implementation of the law, which will be monitored by the EU within the existing dialogue frameworks.

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<sup>5</sup> See *inter alia* the statement by Mr Vlad Filat, Prime Minister of the Republic of Moldova, issued on 8 June 2012.

While the Commission and the UN Office in the Republic of Moldova have pointed out several shortcomings in the various drafts of the anti-discrimination law, some of which are still present in the final version, the law represents the necessary legislative basis to implement the benchmarks in the anti-discrimination area. It should be subsequently further improved with regard to definitions of direct discrimination and of sexual harassment, provisions applicable to the private sector with respect to goods and services, and further harmonisation with the EU *acquis* in order to explicitly clarify important aspects such as reasonable accommodation for disabled persons.

- **Adoption of a comprehensive National Human Rights Action Plan; actively pursue in the respective National Human Rights Action Plan the specific recommendations of UN bodies, OSCE/ODIHR, the Council of Europe/ECRI and international human rights organisations notably in implementing anti-discrimination policies, protecting minorities and private life and ensuring the freedom of religion**

On 12 May 2011 Parliament endorsed a comprehensive National Human Rights Action Plan which builds on specific recommendations by UN bodies, the OSCE/ODIHR, the Council of Europe/ECRI and international human rights organisations. It provides for measures in a large number of areas, including implementing anti-discrimination policies and protecting minorities and private life. The Government was tasked to publish an annual consolidated Progress Report on the implementation of the Action Plan and to submit it to Parliament by 1 April every year. The Progress Report is to be debated in yearly conferences. The Action Plan was prepared in close consultation with civil society and international organisations.

In July 2010 an Action Plan in support of the Roma population for 2011-2015 was adopted after consultations with civil society and with representatives of the Roma community. This was an important step demonstrating the Government's political will to pay special attention to improving the situation of the Roma population. Subsequent discussions with international organisations indicated that there was scope for further consolidation of the Action Plan. The authorities indicated that a new chapter concerning the introduction of Roma mediators would be added to it. In January 2012, the Government amended the Action Plan taking into consideration recommendations related to international standards notably on inclusion policies. It also launched an exercise aimed to secure necessary budgetary funds for its implementation on the basis of amending the Government's Mid-Term Expenditure Framework. The implementation has already started.

The National Human Rights Action Plan provides information on monitoring and assessment as well as resources to be allocated for its implementation. However, most of the activities are to be financed within the limits of general budgetary allocations, and only a few have specific budgetary allocations. The authorities will review the costs of activities each year, based on the priorities, financial possibilities, and the assessment results.

The National Human Rights Action Plan does not include measures targeting freedom of thought, conscience and religion. These aspects are to be covered in the "Law on freedom of conscience, thought and religion" adopted on 27 December 2011, which is a revised version of the 'Law on Religious Cults and their Component Parts' with a view to bringing domestic law and practice into compliance with international law. The new law is expected to create a more positive dynamic than that of previous years in relations with minority religious cults.



- **Ratification of relevant UN and Council of Europe instruments in the fight against discrimination**

The Republic of Moldova has committed to consider issuing a declaration under Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination (CERD) after the adoption of the “The Law on Ensuring Equality”. In 2000, the Republic of Moldova signed Protocol No. 12 to the 1950 European Convention on Human Rights but it has still not ratified it. The Moldovan authorities have also expressed willingness to consider the ratification of Protocol No. 12 after adoption of the “The Law on Ensuring Equality”. Discussions within the Government about lifting territorial reservations entered by the Republic of Moldova to the human rights treaties are ongoing.

- **Specify conditions and circumstances for the acquisition of citizenship of Republic of Moldova**

With reference to the conditions and circumstances for acquisition of the citizenship of the Republic of Moldova, on 3 May 2011 the Government approved amendments to the Law on Citizenship no. 1024-XIV of 2 June 2000 and amended the Government Decision relating to the rules on evidence of population in the Republic of Moldova. The Parliament adopted the amendments on 9 June 2011. The amendments aimed to remove obstacles to the acquisition of citizenship by stateless persons, who, under Article 12 (2) of the Law, meet the grounds for its acquisition, but were sentenced to imprisonment for premeditated crimes and have criminal records or were under criminal prosecution at the time of examination of their applications.

The Moldovan Government continued to address the situation in Transnistria actively. In April 2012, together with the "*de facto* authorities" in Tiraspol, the Moldovan Government reactivated the bilateral working group on civil status issues. At present, the national registration authority is applying special measures to confirm citizenship and provide access to national ID cards free of charge for inhabitants from the Transnistrian region, in accordance with the amended Law on Citizenship no. 1024-XIV of 2 June 2000 and Government Decision no. 959 of 9 September 2005 on safety measures relating to confirmation of citizenship and the documentation of the population from the districts in the Transnistrian region.

According to the latest information provided by the Moldovan authorities 229,489 persons citizens of the Republic of Moldova residing in Transnistria have been issued Moldovan passports, out of which 175,764 passports remain valid (i.e. have not expired). During the first three months of 2012 the authorities in Chisinau had issued 2,722 biometric passports to residents of Transnistria. The Ministry of Information Technology and Communication in cooperation with the Ministry of Justice and the Ministry of the Interior, has developed the legal framework for the procedures for identification, at first documentation, of persons from the Transnistrian region, based on additional information on family members and relatives (breeder documents of parents, marriage certificates and others).

Particular attention will be paid to ensuring effective implementation of the above mentioned legislative framework in the second phase of the VLAP.

### **III. Conclusion**

Since the launching of the EU-Republic of Moldova Visa Dialogue in June 2010 and the presentation to the Moldovan authorities of the Action Plan on Visa Liberalisation (VLAP) in January 2011, the Commission has been regularly reporting to the European Parliament and to the Council on the progress made by the Republic of Moldova in taking the necessary

measures to fulfil the benchmarks identified under the four blocks of the first phase of the VLAP.

In particular, two Progress Reports on the implementation of the VLAP have been presented (in September 2011 and in February 2012)<sup>6</sup>. The Second Progress Reports has been prepared building upon the analysis of the legislative framework, the findings of the evaluations missions under Blocks 2, 3 and 4 organised in October and November 2011, with the participation of Member States' experts, and the progress reports presented by the Republic of Moldova on the implementation of the VLAP.

Over and above this intense reporting process related to VLAP, the Commission has also continued to monitor the progress made by the Republic of Moldova in relevant areas of the VLAP in the framework of

- (1) the EU-Republic of Moldova Joint Visa Facilitation Committee;
- (2) the EU-Republic of Moldova Joint Readmission Committee;
- (3) the EU-Republic of Moldova Joint Sub-Committee n°3<sup>7</sup>;
- (4) the EU-Republic of Moldova Mobility Partnership.

In each of these committees and frameworks the state of dialogue and cooperation between the EU and Republic of Moldova is advanced. During the most recent Visa Facilitation and Readmission Joint Committees that took place in Chisinau on 23 May 2012 (with the participation of EU Member States), the Commission registered an overall satisfactory implementation of both agreements.

The EU-Republic of Moldova Visa Dialogue has proved to be an important tool for advancing reforms, not only in the Justice and Home Affairs area, but also beyond. The progress made by the Republic of Moldova under the various areas covered by the four blocks of the VLAP has been constant and effective in the last two years, showing the important commitment and the efforts put by the Moldovan authorities in making the implementation of the VLAP a priority in its legislative and administrative agenda.

The legislative measures requested by the VLAP under the first phase have been eventually adopted. Their assessment, carried out by the Commission services, the European External Action Service (EEAS), as well as by the Member States' experts, shows that they are in line with the benchmarks identified in the four blocks of the VLAP.

That being said, the Commission will continue to coordinate the monitoring of the legislative and policy framework in the subsequent steps of the dialogue with a view to assessing whether the necessary implementing regulations, under the four blocks of the Action Plan, are effectively adopted and implemented. Moreover, the Commission will pay particular attention to the fact that appropriate and necessary financial and human resources will be allocated by the Republic of Moldova for the implementation of the mentioned legislative acts and their implementing regulations.

Building upon the outcome of the continuous monitoring and assessments mentioned above, the Commission considers that the Republic of Moldova has eventually met all benchmarks of the first phase of the VLAP and that the assessment of the benchmarks under the second phase of the VLAP can therefore be launched.

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<sup>6</sup> (SEC(2011) 1075 final), (SWD(2012) 12 final).

<sup>7</sup> Sub-Committee N° 3: Customs, cross-border cooperation, money laundering, drugs, illegal migration.