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

**First Progress Report on the implementation by Russia of the Common Steps towards  
visa free short-term travel of Russian and EU citizens under the EU-Russia Visa  
Dialogue**

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

## **First Progress Report on the implementation by Russia of the Common Steps towards visa free short-term travel of Russian and EU citizens under the EU-Russia Visa Dialogue**

### **I. Background**

The EU-Russia Summit in St Petersburg in May 2003 agreed that the Parties would start examining the conditions for reciprocal visa-free travel as a long-term perspective which laid down the basis for the visa free discussions between Russia and the EU. Consequently, in spring 2007, the EU-Russia Visa Dialogue was launched. Similarly to the visa dialogues with other third countries and based on the requirements of Regulation (EC) No 539/2001, the EU-Russia Visa Dialogue was built around four Blocks (document security including biometrics, illegal migration including readmission, public order and security, and external relations).

Between December 2007 and March 2010 six expert meetings took place in Moscow in order to explore the state of EU and Russian legislation and practice in all fields under the four Blocks of the Visa Dialogue.

Based on the findings of these expert meetings, the Commission proposed to the Council that, at the May 2010 EU-Russia Permanent Partnership Council on Justice, Freedom and Security (JLS PPC), both sides should agree to start working towards a document on "Common Steps towards visa-free travel" that would list technical criteria and requirements for a visa free regime. The Council accepted that approach.

On that basis, the May 2010 JLS PPC tasked the senior officials to discuss how to move to a practical phase. On the proposal of the senior officials, who met several times in 2010, the November 2010 EU-Russia JLS PPC endorsed formally the methodology of the Common Steps and invited the senior officials to draft the document.

The first EU draft of such a list was transmitted to Russia in March 2011 with a view to starting the negotiations. The process lasted until the end of the year and the "Common Steps towards visa free short-term travel of Russian and EU citizens" were officially agreed between the EU and Russia at the 15 December 2011 Summit. The Summit also launched their implementation.

A dedicated kick-off meeting between the EU and Russian experts took place in March 2012. During that meeting both sides discussed and explained their understanding of each Common Step and operational measure necessary to be addressed in order to fully evaluate their proper implementation.

Russia and the EU thereafter prepared their respective written reports on the state of implementation of all the Common Steps. Russia transmitted its written report on 13 April 2012 whereas the EU side did so on 31 May 2012. Further written exchanges and replies to additional questions formulated by both sides were carried out until September 2012.

On the basis of the written exchanges both Parties organised experts' field missions. Four missions of EU experts to Russia (both Moscow and numerous regions) took place between September 2012 and

July 2013 (one mission per Block). Similarly, Russian experts undertook four missions in the EU between December 2012 and October 2013 (in total 23 visits to particular Member States were organised).

The EU-Russia Visa Dialogue is based on full reciprocity between the Parties. The way towards visa liberalisation depends on the progress made in implementing the Common Steps and there is no automaticity in the process. As the Common Steps specify in their final provisions, only once the implementation of the Common Steps is completed, the Parties will decide, in accordance with their respective internal procedures, on starting negotiations on an EU-Russia visa waiver agreement. The full implementation of the EU-Russia visa facilitation and readmission agreements is very important for the Visa Dialogue.

Furthermore, while considering the implementation of the Common Steps, the evolution and assessment of other issues, as listed in the final provisions of the Common Steps, will be also taken into account (links between the migratory flows and protection of human rights and fundamental freedoms; rate of visa applications refusals, of readmission applications accepted and of effective returns; number of return decisions, of refused entries at the border and of apprehensions of respective citizens irregularly staying at each other's territory as well as border crossing time between the EU and Russia).

The Commission has regularly reported both to the Council and to the European Parliament about all developments under the Visa Dialogue. At the appropriate time, the Commission will also present a comprehensive assessment of inter alia possible migratory, border management and security impacts on the EU and on the regional coherence of a future EU-Russia visa free regime.

This is the first progress report presented by the Commission describing the state of play of the implementation of the Common Steps by Russia, formulating issues of concern and recommendations.

## **II. Assessment of the implementation of the Common Steps under each Block**

<b>Block 1: Document security, including biometrics</b>
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### **General assessment**

During the last few years, Russia has made a lot of progress in this area. This includes the introduction of the biometric passport in 2006 and its updates according to ICAO standards in 2010 and 2013. The production, issuance and personalisation of international biometric passports are quite secure and follow the relevant practices and standards of ICAO. Stolen and lost passports are reported to the centralised Interpol database, albeit through a manual process. Breeder documents (including internal passports — Russia's main identity documents (IDs)) are secure enough for their purpose and the personalisation as well as issuance procedures reflect the current standards. Training programmes including measures against corruption are provided, although their efficiency remains to be analysed. It should also be noted that the liberal regulation concerning change of name, coupled with the fact that there is no central civil registry, might create potential for abuses.

### **Detailed comments**

- **Introduce ICAO-compliant biometric passports on the basis of a comprehensive and secure identity management, taking into account work carried out in the ICAO framework and adequate protection of personal data and ensure their authenticity,**

**facilitate accurate verification of identity of their holders by relevant authorities of both Parties.**

Following the introduction of **biometric passports** in 2006, an updated version has been issued since 1 March 2010. It is ICAO-compliant and includes enhanced security features. Starting from 2013, a third generation of biometric passports containing also information on fingerprints is being issued. Although the demand for non-biometric passports is declining, it is still possible to obtain them and there are no plans to end their issuance.

The main **competences** for the production and issuance of both international passports and breeder documents are held by: State Printing House Goznak; State Registry Office (ZAGS) with its regional and local offices (responsible for issuance of source certificates); the Federal Migration Service (FMS) with its regional and local offices (responsible for issuance of international passports and Russian internal passports).

The current generation of biometric passports is well protected against forgery and meets ICAO standards. The issuing process is reliable and quite secure, be it at the stage of checking the identity of the applicant, printing and storing blank passports or personalising them. The security of the information stored for this process is governed by the Federal Law No 152-FZ of 27 July 2006 'On personal data'.

The **breeder documents** (i.e. internal passports and source certificates) are technically well protected against forgery. Furthermore, the new type of internal passport (issued since January 2008) carries additional security features and its content is machine-readable according to ICAO standards. Blanks are produced (at central level) and stored in a secure and efficient way. Personalisation and issuance of those documents take place at the regional level and the relevant procedures reflect the current standards.

The visited central and local **premises** of the relevant authorities handling both international passports and breeder documents were well secured. The administrative security procedures concerning access to and handling of documents were in place.

There is no central **registry**. The source certificates are handled regionally and each region has its own registry and electronic database (at least in the offices visited by the EU experts). Consultations between regions take place administratively in case of any doubts (via official request sent by post). The Russian authorities referred to plans to establish a new centralised electronic civil registry but no firm date was provided. Some improvement in this regard might be a portal of interconnection between various federal agencies and ministries (SMEV), allowing for electronic handling of requests (reportedly already operational).

The rules for changing one's name appear to be quite liberal and remain a concern. In fact, there are currently no restrictions on citizens who want to change their name. Moreover, due to the lack of a centralised civil registry, name changes can only be tracked at the regional level or after a formal request to another ZAGS regional office, which requires time, thus creating scope for abuses.

- **Ensure prompt and systematic reporting to the Interpol database on lost and stolen passports.**

Information about lost and stolen international passports is stored in the centralised database of the FMS and then reported to the National Central Bureau (NCB) of Interpol (based at the Ministry of the Interior, MoI) in order to be integrated through the push-pull information system of Interpol's Stolen

and Lost Travel Documents (SLTD) database. Uploads to the Interpol database are done manually on a daily basis.

The MoI has been carrying out a development project in order to improve the information exchange between the FMS and Interpol's NCB aiming at automatic uploads to SLTD (to be accomplished by 2013).

So far, Russia has not integrated lost and stolen internal passports or breeder documents into Interpol's SLTD database because those documents cannot be used abroad. Nonetheless, the possibility of including also such documents is being considered by the Russian side.

- **Maintain regular exchange of passport specimens and visa forms, information on false documents and cooperation on document security.**

Passport specimens and visa forms are regularly exchanged via diplomatic channels of the Ministry of Foreign Affairs (MFA). The FMS receives the specimens of foreign documents from the MoI and sends them for information to the FMS's territorial offices.

- **Conduct training programs on the methods of the document protection, on the basis of ICAO standards, inter alia on introduction of biometric parameters, as well as exchange of information on the methods and respective possible scientific researches in the field.**

Officers of ZAGS and FMS are subject to initial trainings followed by regular updates. E-learning programmes are also provided. The Consular Department of the MFA has established a training centre offering courses on the issuance procedure and security features of biometric passports.

The efficiency of the training programmes is likely to vary according to the size of a particular office, its (more or less) remote location and human resources available. The officers who were met during the EU expert missions in all premises of the relevant authorities were well aware of the relevant procedures, their duties and competences.

- **Undertake and if necessary improve anti-corruption measures, including ethical norms, targeting officials of any public authority that deals with comprehensive and secure identity management.**

According to the Russian authorities, anti-corruption issues are included in the general trainings for the respective staff, and the anti-corruption content is updated when new relevant legislation is approved. However, the experts' mission could not really check the content and quality of the training courses and curricula requirements (in particular with regard to ZAGS).

As part of a general anti-corruption policy, the FMS adopted the Code of Ethics and Conduct of State Civil Servants (the FMS Order of 25 February 2011), which is being implemented with regard to all its employees. Some of its provisions are explicitly incorporated in the FMS's employment contracts. The FMS has also established channels of communication with citizens for the purpose of combating corruption (website, hotline, etc.) and is putting preventive measures in place.

The importance of anti-corruption measures in the field of document security is particularly underlined by the fact that, even if the system for the issuance of documents works well to prevent forgery, corruption may create more opportunities for obtaining original documents illegally.

<b>Issues of concern and actions recommended to be followed up under Block 1:</b>
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**On the basis of the above findings the Commission identified the following issues of concern requiring further discussion with the Russian authorities:**

- The rules regulating change of name in Russia are quite liberal and might open some scope for abuses and easy changes of identity. Those changes would not be easily detectable in particular by authorities of third countries including the EU Member States.
- Furthermore, the lack of information about the content and outcomes of trainings and curricula requirements of the FMS and ZAGS officials in particular with regard to anti-corruption measures did not allow the Commission to fully evaluate the progress in this area.
- Finally, the Commission will continue to exchange information with the Russian authorities with regard to further development of a centralised civil registry, the electronic system interlinking the federal agencies and Ministries (SMEV) and an automated system for the introduction of alerts into Interpol's SLTD database.

## **Block 2: Illegal migration, including readmission**

### **General assessment**

In recent years, Russia's migration policy has undergone significant changes. The new **Migration Policy Concept** that was adopted in 2012 is a visible sign of that process.

In fact, the Russian authorities have started a broader reflection on migration that takes into account also the beneficial effects that migration flows can bring in terms of economic development. Moreover, the Russian authorities have acknowledged that bureaucracy and inefficiency of the migration procedures are frequently the cause that turns many regular migrants into irregular ones and have recognised the pressing need to integrate migrants into Russian society.

As regards visas and **legal migration** channels, the FMS is the main authority managing migration in Russia and ensuring coherence. A full and comprehensive system of rules is in place. Some rules are still quite complex (e.g. quotas and work permits).

Certain amendments have already been introduced to the Federal Law, in particular in the context of implementation of the EU-Russia Visa Facilitation Agreement (VFA); improvement of the situation of highly qualified specialists (HQSs); facilitation of migration registration and visa procedures; and simplification of access to the labour market (regarding the quota system and patents). Further changes, in particular improving the legal migration procedures also for other groups of migrants, are expected.

**Irregular migration** is a challenge of which the responsible authorities are aware. Efforts are increasingly being devoted to ensuring the effective return of irregular migrants that are apprehended in Russian territory as well as to overall enforcement of the migration rules. Proper cooperation with Belarus (due to the State Union and absence of border controls) as well as the flows from CIS countries (including proper passport controls) seems to pose a challenge. The return procedures are in place and cooperation on returns with many countries of origin is being developed. The EU-Russia readmission agreement functions satisfactorily.

Both for irregular migration and border management, the **information gathering system** and in particular the **risk analysis**, including at the regional level, were difficult to evaluate. The collection of defined indicators (e.g. illegal border crossings, refusals of entry, etc.) on new irregular migration

channels, routes and cross-border crime, provided it is made available to local units, could enhance the effectiveness of border controls.

With regard to **asylum**, the administrative structures and procedures are in place, and the reception centres for asylum seekers that were visited by the EU experts met the basic requirements and current standards. Provision of more information at border crossing points (BCPs) for potential asylum seekers as well as reinforced and structured cooperation between the FMS and Border Guard Service (BGS) (a service of the Federal Security Service, FSB) could be considered. Rules making the access to certain rights for recognised refugees and asylum seekers subject to their registration as well as bringing the status of temporary asylum (subsidiary protection) closer to that of refugee should be considered. The new asylum law is expected to bring about some improvements in this sense.

The **border management system and procedures at BCPs** are of standard value even if some improvements could contribute to their efficiency. Equipment at BCPs is regularly improved. The BGS is a professional border management and law enforcement authority with a well-established position among the agencies.

The BGS is in principle committed to **cooperation with the border authorities of the neighbouring countries and Frontex**. Some progress has been achieved also in regard to cooperation between the BGS and third countries' border management authorities, including with EU Member States. The latter should now be deepened and more structural information and data should be exchanged.

With regard to **cooperation with other relevant agencies in Russia**, the BGS should deploy additional efforts in order to render the scope of cooperation more concrete, in particular with the FMS and Federal Customs Service (FCS).

**Data gathering** is done on a regular basis and analysis units exist in the relevant agencies (at least in the BGS and FMS). The data are still gathered separately by each agency, which leads to fragmented statistics. The risk analysis is not shared and even if it is prepared there is some doubt about its comprehensiveness and methodology.

According to the Russian authorities, the training programmes including on document security for border guards are well developed. The anti-corruption measures form part of that and ethical codes exist. The content of those however was not shared with the EU experts.

## **Detailed comments**

### **2.1 Migration issues**

- **Conclude between Russia and all the relevant EU Member States the implementing protocols to the Agreement between the Russian Federation and the European Community on Readmission of 25 May 2006, while ensuring effective implementation of this Agreement.**

The EU-Russia readmission agreement entered into force on 1 June 2007. It is monitored regularly by the Commission in cooperation with the EU Member States (for the EU) and by the FMS (for Russia). The main platform for discussing any issues arising during the implementation of the Agreement is the Joint Readmission Committee (JRC) which so far has met twice per year (13 meetings organised until now in Moscow and Brussels).

All readmission procedures under the Agreement are operational. Overall evaluation of the Agreement is satisfactory. All the technical points are addressed regularly at the JRC meetings. Given the good



cooperation achieved so far, during the last JRC meeting it was decided to reduce the frequency of meetings to one per year.

The FMS is the main agency on the Russian side responsible for the implementation of the Agreement, and it has a special unit dealing with all related matters.

The BGS is responsible for the accelerated readmission procedure at the BCPs. The BGS's border delegates have been appointed for the implementation of the border readmission procedure. However, during meetings at some BCPs, the EU experts noticed that local BGS representatives were not fully aware of the details of that procedure.

The **implementing protocols** under the Agreement (between Russia and EU Member States) have been almost concluded. Protocols have been signed with 23 EU Member States). The Protocol with Greece has been signed and should be ratified in the near future. Russia informed that it is open to negotiating further with Croatia. During several JRC meetings Russia informed that it is ready to negotiate the protocol with the UK. Ireland and Denmark are not bound by the Agreement.

- **Effectively implement the Agreement between the Russian Federation and the European Community on the Facilitation of the Issuance of Visas to the Citizens of the Russian Federation and the European Union of 25 May 2006.**

The EU-Russia visa facilitation agreement (VFA) entered into force on 1 June 2007 (in parallel to the readmission agreement). It is monitored regularly by the Commission in cooperation with the EU Member States (for the EU) and by the MFA (for Russia). The main platform for discussing any issues arising during the implementation of the agreement is the Joint Visa Facilitation Committee, which meets regularly at the request of one of the Parties, normally at least once a year (9 meetings organised until now in Moscow and Brussels).

In order to ensure full, correct and harmonised implementation of the provisions of the VFA by the Parties, the Joint Committee developed and adopted **Guidelines for the Implementation of the VFA**. The meetings of the Joint Committee are considered by both Parties as a platform for constructive cooperation and an opportunity to discuss any technical issue arising in the context of the application of the Agreement. The Agreement is being implemented satisfactorily.

The Commission does not have detailed statistics on visas delivered by Russia for the period 2007-2011. The exact refusal rate for EU citizens is unknown but, according to the Russian side's estimation, would constitute approximately only 0.01-0.02 % (about 200-300 rejections a year). Approximately 1.25 million visas are issued annually to EU citizens, of which about 45 % are multiple-entry visas with a long-term validity.

Before the final decision on its signature is taken, the upgraded VFA must be assessed in the light of the overall EU-Russia relations.

- **Amend the above-mentioned visa facilitation agreement in order to further simplify visa requirements for the short-term travels.**

The text of the upgraded VFA has been cleared and will contain, inter alia, a reciprocal visa waiver for civilian air crew members and its provisional applicability as of signature. This will put an end to the current unbalanced situation, in which all EU Member States exempt Russian civilian air crew from the visa obligation, while Russia still maintains a visa obligation for those Member States with whom it does not have bilateral visa waiver agreements for this category of persons (BE, CZ, EE, EL, FI, IE, LV, LX, PT, SI, SK).

One issue remains open: the visa waiver for holders of biometric service passports as requested by the Russian side. On the EU side the safeguards that are to accompany this visa waiver are still being examined.

- **Work to ensure facilitation, further simplification and transparent application of the respective rules on registration/listing of citizens legally staying on the other Party's territory, on issuance of permits to legally stay/reside and exercise labour activity, aiming to reduce in practice the length of administrative procedures and burden for citizens; and regularly exchange information on respective visa policies.**

Russia has a comprehensive system of legal migration rules which are laid down in several federal laws and amendments thereto. The FMS is the main authority responsible for their implementation.

Many changes have been introduced with regard to the **listing** (recording) of foreigners, which is mandatory at each place of stay in Russia. Currently, this obligation is imposed on each foreigner (regardless of his/her length of stay) within seven working days at the FMS regional office (previously three working days). This period can be prolonged on the basis of bilateral agreements, as is the case, for instance, for France (10 days) or Kazakhstan (30 days).

Furthermore, third-country nationals (TCNs) residing as HQSs (see below) and their family members are entitled to stay in Russia for up to 90 or 30 days (depending on the circumstances) without migration recording.

The **migration recording procedures** are to be carried out by the Host Party (the latter is clearly defined by law) to the FMS. For tourists, this task should be performed by hotels or the person inviting them to Russia. The TCN is not obliged to have, at least directly, any specific contact with the FMS. The documents necessary for the recording (including copies of passport and migration card) can be submitted directly or by mail by the Host Party.

Furthermore, TCNs are no longer responsible for **non-compliance with the obligation of migration recording** and sanctions are only applicable to the Host Party (previously the responsibility was also on the TCN).

**Registration** procedures are applicable to TCNs legally residing in Russia for a longer period (work, studies, etc.). Some improvements have also been introduced in that procedure, in particular with regard to the ways of submitting the request. Having said this, despite the fact that the procedure is declaratory in nature, the supporting documentation required from the applicant is sometimes difficult to meet (e.g. proof of ownership of the property or a statement by the owner). Given that access to several social rights for migrants is dependent on valid registration, the procedure could create a de facto hurdle to accessing those rights.

The two **main types of permits** issued for legal stay of TCNs are temporary and permanent residence permits.

A TCN interested in obtaining a **temporary residence permit** in Russia needs to apply to the relevant territorial office of the FMS or to the relevant diplomatic mission or consular office of Russia in the country of residence. If the application is approved, a four-month visa valid for entry to Russia is issued. The application can be submitted in person or in electronic format, together with the requested supporting documents including a certificate confirming the absence of HIV or addiction to drugs. The

Russian authorities have six months to decide on the request. The reasons for refusal are clearly specified by law.

It appears that TCNs residing in Russia with a temporary residence permit are allowed to work only in the region and on the position as authorised in the (usually one-year) work permit. Furthermore, if their work permit is limited only to one region, their business trips within Russia cannot be longer than 10 days. Those rules seem to be quite restrictive.

The temporary residence permit has a validity of three years and can be renewed at the TCN's request by providing the same set of documents (including those concerning HIV and drug addiction), if the TCN had left the country and returned to Russia. If he/she has stayed in Russia uninterruptedly for three years, the TCN can also apply for a permanent residence permit (see below).

A privileged status in the legislation on labour migration of Russia is held by **HQSs**. To attract HQSs into the Russian labour market, the Russian authorities have facilitated their employment and residence rules. HQSs are quota-exempt and, together with their family members, entitled to receive multiple-entry visas for the period of validity of their work contracts (up to three years) and repeated extensions of their permits for up to three years each time. Moreover, if they perform labour activity in two or more regions, the permit issued is valid in those regions. In case of changed employer they have 30 working days to search for a new one. HQSs are also entitled to apply for a permanent residence permit without undergoing the procedure of a temporary residence permit and, together with their family members, they enjoy broad socio-economic rights.

A **permanent residence permit** can be issued to a TCN, after he/she has been living in the country on the basis of a temporary residence permit for at least one year. The residence permit is issued for a period of up to five years and may be renewed an unlimited number of times.

The TCN must submit an application to the relevant FMS territorial office at least six months before the expiry of the temporary residence permit. The application must be accompanied by an extensive set of documents similar to those required for a temporary residence permit. The **grounds for refusal** to issue a permanent residence permit are similar to those for temporary residence permits.

The legal status of a foreign citizen in possession of a permanent residence permit is very close to that of a Russian citizen, including exemption from quota and work permit obligations.

Foreign nationals can perform labour activity only on the basis of a **work permit**, unless they fall under one of the exceptions that are listed in the Federal Law No 115-FZ of 2001.

In order to get a work permit, the TCN has to apply to the territorial department of the FMS at the place of stay and submit the application form and the requested supporting documents. The work permit is issued within 10 working days after receipt of the application. If the work permit is to be granted within 30 days, the TCN has to submit medical documents (including confirmation of being HIV negative, drug addiction free and not affected by serious infectious diseases), under the threat of termination of the work contract. The medical tests are to be undertaken only in designated (and a limited number of) places, which sometimes creates practical difficulties.

The number of work permits that may be issued to TCNs annually is **limited by a quota** that is established by the Ministry of Labour and Social Protection in cooperation with the MFA and other institutions. The whole process is quite complex, time-consuming and inflexible.

Quotas are set for each region in advance for the coming year on the basis of forecasts gathered from employers. This approach might cause problems and delays and its efficiency is doubtful. Russian authorities seem aware of this as they are considering a revision of the quota rules.

In parallel to the quota and work permits system, there is a **'patent' system** which is reserved for foreign citizens coming to Russia under a visa-free regime and in particular from CIS countries (with the exception of Turkmenistan). A patent is issued within 10 working days, upon a request made by a (hosting) Russia citizen. It authorises the labour activity for personal, domestic or other similar needs of an individual, on the basis of a labour agreement or civil contract (for nannies, domestic help, etc.). A patent may be provided for a period of one to three months and extended up to one year. After that period a new patent may be issued. The number of issued patents is not limited.

Initially, Russia had no **integration policy** for migrants. More recently however, after a strong inflow of TCNs (in particular from CIS countries), this became a need which was also recognised by the Migration Policy Concept (see below). Some measures are being implemented including teaching of the Russian language, history and cultural traditions; pre-departure courses organised in countries of origin for prospective migrant workers going to Russia; vocational training and lessons on Russian migration laws and language. Two pilot projects in this field have been implemented in Tajikistan and Kyrgyzstan. In addition, the FMS has reportedly established a special unit dealing with integration. A comprehensive integration strategy is still not fully in place.

All **visa**-related procedures are regulated by Government Regulations which are also in conformity with the provisions of the EU-Russia VFA.

In order to get any type of visa, a foreign citizen should apply to the diplomatic mission or consular office of Russia and submit the necessary (clearly specified and rather standard) documents including an invitation. Some additional documents might be necessary for long-stay visas. On that basis, a visa will be issued according to the purpose of visit. The visa may be **refused** by the MFA on the basis of reasons specified by law. There is no obligation to give justification for such refusal.

Non-conformity of the claimed purpose for entry with the actual one is considered a violation of the entry or residence regime and punishable (fine, expulsion and/or re-entry ban).

Visa holders are obliged to leave Russian territory upon expiry of the authorised **period of stay** stated in the visa. The total duration of stay of a foreign citizen in Russia on the basis of a multiple-entry short-stay (business) visa cannot exceed 90 days within each period of 180 days. Long-stay visas are issued specifically for the length of the purpose of stay in Russia.

The visa policy of Russia relies very much on specific bilateral agreements. Russia has concluded more than a hundred agreements either on visa-free short-term travel (most significantly with Israel and Turkey) or on visa facilitation (e.g. with the EU or the United States). Moreover, visa-free regimes apply to almost all CIS countries (apart from Turkmenistan). According to the information provided by the Russian side, other visa-free agreements might be signed with Japan, South Korea and India.

- **Exchange information, including within the Russia-EU Dialogue on Migration, on a legal framework, as well as on administrative structures, including their respective competences and working methods, and on infrastructure (including detention centres) for effective general migration management, in particular for effective elaboration of methodology on inland detection and expulsion of illegal migrants, as well as the current**

**flows, statistics and risk analysis of illegal migration and closely cooperate in the fight against crimes, connected to the illegal migration, and addressing possible deficiencies.**

The new **Migration Policy Concept** (Concept) for the period 2012-2025 was elaborated by the FMS and adopted by the President of the Russian Federation in June 2012. It is the main policy document on migration in Russia. The Concept aims to promote migration to Russia for some groups of TCNs, in particular HQSs and large investors, students, compatriots and qualified workers (namely from CIS countries), according to market needs. In this regard, it defines measures for promoting migration, such as creating the conditions for family reunification, gradually simplified procedures of entry and stay for business, labour (improvement of the quota systems) and educational/scientific purposes, procedures in respect of residential registration and medical care, development of circular migration, etc. The Concept focuses on the positive effects of regular migration, which is presented as a necessary response to demographic decline. Implementing laws are being developed at the federal level. At the same time the Concept puts emphasis on respect of the migration rules by TCNs in Russia and on curbing irregular migration.

Most migration-related competences in Russia belong to the **FMS**. Since 2012, the FMS is subordinated directly to the Russian Government and its head has been recently raised to the rank of a federal minister. The FMS is a leading federal executive body comprising regional offices, inter-regional structures and contact points located abroad. The FMS is responsible for drawing up and implementing the federal migration policy and for the management of activities on both regular and irregular migration.

Another actor involved in migration management is the **BGS**, which is responsible for border checks and border surveillance. Other ministries and agencies are also involved in migration control and management according to their competences (Ministry of Education and Science, Ministry of Labour and Social Protection, MFA, etc.).

According to the Russian authorities, although the FMS does not carry out controls in the border area, it **cooperates with the BGS** on the basis of an Annual Cooperation Plan and regional plans. Despite that information, the EU experts during their mission could not confirm the FMS operational cooperation with the BGS. The FMS is not present at the BCPs even if the communication channels between the BGS and the regional FMS office are established.

Russia's **international cooperation** on migration matters involves mainly contacts between the FMS and migration agencies from CIS countries on the basis of the 1992 Agreement, which includes exchange of liaison officers. The activities focus on the fight against irregular migration. Operative-preventive measures and special operations against irregular migration and trafficking in human beings are conducted reportedly also in the framework of the Collective Security Treaty Organisation, and, on the Russian side, they involve the FMS, MoI, FSB and Rosfinmonitoring.

Further cooperation takes place in the readmission area on the basis of bilateral agreements. In addition to the EU, Russia has concluded such agreements inter alia with Denmark, Iceland, Norway, Switzerland, China, Turkey, Ukraine, Armenia, Kazakhstan, Kirgizstan, Uzbekistan, Moldova, Belarus and Vietnam. Readmission negotiations are carried out inter alia with Azerbaijan, Turkmenistan, Tajikistan, India, Belarus, Montenegro, Macedonia and Bosnia-Herzegovina. The Russian side has indicated that all agreements in force work in a satisfactory manner.

The **EU-Russia Migration Dialogue** was launched in 2011 and several sessions on both irregular and legal migration have taken place. In particular, two sessions on irregular migration and one on legal migration were organised in Bratislava, Kaliningrad and Budapest (both sides exchanged in the field of legal migration statistics on labour shortages, quotas and visas, as well as best practices on integration policies; with regard to irregular migration, statistics on returns were exchanged.). The Migration Dialogue provides a useful platform for discussion and exchange of best practices on the respective migration policies.

The **State Union between Russia and Belarus** and the lack of border controls between the countries require reinforced contacts and cooperation between the relevant agencies. The two countries do not have a common visa policy and entry to Russia does not mean authorisation to enter Belarus and vice versa.

Both the Russian BGS and the FMS reportedly cooperate with the Belarusian migration authorities in their border area. Having said this, no tangible tools (databases, information exchanges) of that cooperation seem to exist (apart from the mutual recognition of migration cards).

The FMS has quite extensive and detailed **statistics** on entries and stays of regular migrants in Russia (in particular thanks to the established entry/exit database). Some of the most significant figures show that annually 13-14 million TCNs enter Russia. The majority (70%) come mainly from CIS countries and only 10% from the EU. Less than 5% of those who enter come to reside on a long-term basis.

The FMS is aware of the composition of **irregular migration flows** to Russia but more detailed statistics were not really provided. According to the available information, irregular migration (evaluated at around 4 million persons) originates mainly from CIS countries (80%) and concerns originally regular migrants, who then remain in Russian territory beyond the validity period of their permit. There seem to be no common statistics on irregular migration between the FMS and BGS and each agency collects its own data (the FMS on inland situation and the BGS on apprehensions at the border). This does not contribute to comprehensive knowledge on the irregular migration flows in Russia. Consequently, no comprehensive and structured risk assessment is prepared by either agency or at least was not provided to the EU experts during their mission.

**Irregular migration rules** which are clearly laid down in law have, according to the information provided by the FMS, been evaluated and aim at increasing sanctions for the organisation of irregular migration. Liability of carriers for bringing travellers without the necessary authorisation to enter Russia is provided for in the Code of Administrative Offences. The FMS further cooperates with railway carriers by giving them access to the personal data database in order to detect people named on the re-entry-ban list.

The FMS, being responsible for detection of irregular migration within Russia but not being an enforcement agency, conducts the checks in cooperation with police and other agencies if necessary. The FMS clearly focuses on controls at workplaces. The regular controls require prior planning (one year ahead) and publication. The unexpected controls require prosecutor's authorisation.

An **entry/exit database** was established by the FMS in cooperation with the BGS. It gathers data about the entry, exit and stay of TCNs in Russia. Another system is being also developed as a pilot exercise aiming at electronic filling of migration cards which need to be submitted by each TCN entering Russia (apart from Belarusian nationals). The system already functions at the Moscow

airports and it should be extended to all BCPs in the future (no specific dates have been provided though).

A person apprehended while irregularly staying in Russia may be administratively **fin**ed and/or issued with a removal order. In addition, a re-entry ban may be imposed on the person, which for those who commit violations of migration rules several times may be of unlimited duration. Information about persons with entry bans is introduced into a special database.

If the person is apprehended for the first time, the sole penalty seems to be in most cases an administrative fine (with no removal order). This however leaves the person in an ambiguous situation as regards his/her status in Russia. The persons apprehended are also fingerprinted and their data are stored in a database.

Two types of **return procedure** are in place: expulsion and deportation. The legal framework and the procedure for both are regulated by the Federal Law No 115 FZ and an order by the MoI.

**Administrative expulsion** may be voluntary or involuntary and is ordered by a court. It is carried out by the **Federal Bailiff Service**, or by the **Police**. **Deportation** concerns a foreign citizen who has not left Russian territory as required by the migration rules (e.g. termination or cancellation of a permit or of validity of the visa, refusal of asylum application, etc.). The decision on the deportation is made by the head of the FMS territorial unit or by the head of the FMS. The right to appeal against both types of decisions can be filed by the person concerned within ten days.

For actual return, the person will be subject to **readmission** if Russia has a readmission procedure with the country of origin.

Two types of detention centres exist: for persons subject to expulsion or deportation; or for persons whose return to the country of origin is covered by a readmission agreement. The latter are administered by the FMS. The former are administered by the MoI but as of 2014 will also be managed by the FMS. The persons may be put in detention on the basis of a court ruling, which can be appealed against within 10 days. The Code on Administrative Offences does not stipulate a maximum detention period.

Some of the centres for migrants awaiting readmission have been built with the support of the EU project AENEAS following the conclusion of the EU-Russia readmission agreement. The centres for irregular migrants awaiting readmission that have been visited by the EU experts (Moscow region, Rostov-on-Don and Pskov) have been found to be in line with the general EU standards.

## 2.2 Asylum issues

- **Establish clear and transparent asylum procedures effectively accessible for persons seeking asylum.**
- **Ensure proper status, including rights and duties, for persons recognized to be in need of international protection in accordance with the Parties' obligations under international law, including under the 1951 Convention relating to the status of refugees and the 1967 Protocol relating to the status of refugees.**

Russia acceded to both the **1951 Convention** on the Status of Refugees and the 1967 Protocol in 1993, when the first law on refugees was also adopted. The law extends to so-called temporary asylum

(subsidiary protection). The legislation has since been extensively amended. Moreover, an entirely new law on refugees is under preparation, which should address many outstanding issues.

In principle, any **asylum application** should be lodged at a BCP when entering Russian territory. In practice however, such a request can also be initiated when the person concerned has already entered Russian territory, either legally or irregularly. Asylum applications are examined by the territorial offices of the FMS.

In this context, it should be noted that the FMS is not present at the BCPs. This situation requires strong cooperation between the BGS and FMS as well as adequate training of border guards on international protection. The information on the relevant procedures should be also available at BCPs.

During the visits at the BCPs by the EU experts, very little information about international protection and procedures was available for potential asylum seekers. The BGS pointed out that the standard training of its border guards covers also international protection. The FMS reported also that it organises some trainings for the BGS on that topic. In practice, the cooperation between the BGS and FMS seems to be on an ad hoc basis. This might lead in some situations to refusal of entry for a person claiming asylum at a BCP. One of the aims of the new draft law on asylum is indeed to revise border procedures.

Once submitted, the **admissibility** of the application needs to be verified within five days. During that time however, no document is issued to the applicant, which may lead to risk of *refoulement* in some cases. According to the FMS, the admissibility is refused solely if the applicant is subject to a criminal procedure, in which case the asylum application may be only examined after that procedure is finalised. Reportedly, only 1-2 % of cases are declared inadmissible. The decision on inadmissibility may be contested at a court.

After a case is declared admissible, a **substantial review of the application** is made by the officers of the FMS territorial offices, who conduct interviews with the applicants (the latter need to also fill in special questionnaires). Free of charge interpretation is normally provided, although some problems might occur with less common languages.

While assessing asylum applications, the FMS uses various sources including its own and the MFA's. Reportedly, information is also gathered through requests that are regularly addressed to the UNHCR and from NGOs specialised in human rights. However, the FMS does not seem to have a tangible and structured Country of Origin Information (COI) system which could contribute to a more systematic approach in the evaluation of each case.

The decision on an application should be issued within three months (the period may be extended by an additional three months).

Any **refusal** of an asylum application can be appealed at a court within one month. The appeal suspends the return procedure. There is no designated board of appeal or court specialised in asylum cases. The appeals are handled by the regular court system. The FMS stated that it organises regular training for judges on international protection. Having said this, it was not possible to ascertain the efficiency of that training and the percentage of successful appeals as the relevant authorities refused to meet the EU experts. According to non-governmental sources, the number of court decisions quashing administrative decisions in such appeals is close to zero. The person whose application has been refused is obliged to leave Russian territory within three days of the notification on the decision.



The persons recognised as **refugees** receive their status for an indefinite period. This results from a change in 2013; earlier, the status was granted for three years renewable upon another application and evaluation. The Russian legislation protects recognised refugees against *refoulement*. Persons recognised as refugees are issued with biometric IDs (as of July 2013). They have the same socio-economic rights as Russian citizens (including freedom of movement, work, education, healthcare). However, the possibility to exercise those rights depends heavily in practice on whether or not the person concerned has valid registration at an address in Russia, which for some (especially those staying outside the reception centres) may constitute an obstacle. Access to rights can be even more complicated for recognised beneficiaries of so-called temporary asylum (a form of subsidiary protection), since their status is less privileged than that of refugees (the rights are the same as those of asylum seekers and the status is granted for one year). The new draft law on international protection equalises the status of refugees and beneficiaries of temporary asylum, which is welcome.

Regarding the **reception conditions** for asylum applicants, the FMS operates a number of reception centres for asylum seekers, where they are allowed, but not obliged, to stay. Apart from these centres, and if asylum seekers do not wish to stay there, no further assistance such as pocket-money or food coupons is provided to them.

Asylum seekers during the procedure are protected from *refoulement*. They are entitled to work and have access to healthcare and education. The access to those rights is dependent however on registration which may be difficult to obtain for those who do not live in a reception centre. With regard to the **statistics**, the recognition rate for asylum applicants appears to be relatively low. In the period 2006-2011, out of some 13 000 applicants, only 7% (9% in 2011) were recognised as refugees. However, 40% of the applicants were granted temporary asylum. Applicants originated mainly from Afghanistan, Georgia and more recently Syria.

- **Closely cooperate, within the Russia-EU Dialogue on Migration, on the asylum related issues.**

On 14 December 2011, an extended thematic session on international protection was held in the framework of the EU-Russia Migration Dialogue in Moscow. During this session, the Parties exchanged information, statistical data and experience on all aspects of granting asylum, including international and national law, and addressed opportunities for further development of cooperation between Russia and the EU in this area. The next specialised sessions on international protection should be organised under the Migration Dialogue in December 2013 in Stockholm and 2014.

Furthermore, within the Prague Process Targeted Initiative and its pilot project as well as within the UNHCR Quality Initiative Eastern Europe Project — both supported by the European Asylum Support Office (EASO) and funded by the EU — several EASO training modules have been translated into Russian (Inclusion, COI, Interview Techniques, and Drafting and Decision-making). Russia was invited to participate in both projects.

- **Exchange information on respective administrative structures competent for treatment of asylum cases, including on reception facilities for asylum seekers, and addressing possible deficiencies.**

The FMS is the body responsible for receiving and considering claims for international protection. According to the information provided by the Russian side, the FMS territorial offices have separate refugee departments dealing with asylum seekers, who receive ad hoc training several times a year from the FMS and UNHCR experts.

The FMS cooperates regularly with UNHCR in the field of asylum. A number of NGOs are active in this field and work together with the FMS and UNHCR as well.

The EU experts visited two **reception centres** for asylum seekers in Ochyor and Vishnyi Volochek, and assessed them positively even if they were located in rather remote areas. Neither was running at full capacity.

The two **reception centres** visited had a 'health point' with at least two trained nurses on duty. One centre also had a psychologist amongst its staff. The centres did not have interpreters amongst their staff. If necessary, third party interpreting can be hired.

There seems to be no particular **training** for the centres' staff for dealing with the specific needs of asylum seekers or refugees, or vulnerable persons in particular. The authorities in both centres stated to prefer applying an individual approach, whereby every resident receives the care and attention he/she requires.

- **Develop a comprehensive exchange of information on their respective policies towards integration and adaptation of recognized refugees and persons granted international protection, and addressing possible deficiencies.**

There seems to be no special policy addressing the question of integration and adaptation of persons granted international protection into Russian society. In practice, however, there are some initiatives similar to those offered to other migrants. Most of them are offered to refugees who choose to stay in one of the state-operated accommodation centres. There are no specific integration programmes or assistance offered to those who live outside the centres.

A certain level of integration is ensured by the rights guaranteed to refugees including education or the possibility to acquire Russian citizenship. Refugees formally have the right to 'invite' also their family members. The latter however need to go through the same recognition procedure.

### **2.3 Border management issues**

- **Optimise the appropriate working mechanism for closer cooperation and more intensive contacts and information exchange between the Russian and EU Member States' border services, in particular at state border crossing points and effectively implement the working arrangement between the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU ("FRONTEX") and the Border Guards Service of the Federal Security Service of the Russian Federation.**

The BGS established cooperation with Frontex in 2006 when a working arrangement was signed. Since then, several action plans have been agreed for the gradual development of the cooperation, and the last one, for the period 2013-2015, was agreed in October 2013. This cooperation covers the whole spectrum of activities of Frontex with particular attention to operations and risk analysis. Some positive steps have been achieved. In the area of exchange of information and analytical activities, however, there is still room for improvement not only for the agreed, defined and regular exchange of statistical data but also in the area of joint analysis, which could contribute to a better understanding of the situation regarding irregular migration in the region.

The cooperation between the BGS and the border agencies of EU Member States bordering Russia is satisfactory and established at central, regional and local levels. This cooperation covers also the

deployment of border delegates for direct contacts on a daily basis. Furthermore, best practices are exchanged and common trainings organised. Having said this, there is still limited information exchange in particular about violation of green borders, false documents detected at BCPs and queues at BCPs.

- **Undertake necessary steps in order to develop cooperation between the Federal Agency for the Development of the State Border Facilities of the Russian Federation (Rosgranitsa) and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU ("FRONTEX").**

Rosgranitsa is involved in several multilateral international forums for cooperation. The agency has also developed cooperation (within its competences) with the neighbouring EU Member States and cooperation protocols to that effect exist with Latvian and Estonian authorities.

During the experts' mission, Rosgranitsa repeated its offer from 2010 to develop and sign a joint memorandum/arrangement with Frontex in order to cooperate in the development of BCPs, especially through the exchange of best practices. In the meantime Rosgranitsa has participated in several events organised by Frontex, in particular in the area of research and development linked to automatic border control systems of the future.

- **Deploy appropriate staff, resources, technical equipment and infrastructure at the relevant parts of the state border, as well as effectively implement border control procedures and best practices at their common state border crossing points to ensure secure environment for the movement across the borders between the EU and the Russian Federation, while fighting cross-border crime, improve efficiency of controls of that movement and make common border crossing less strenuous and reduce the waiting time.**

The EU experts' Block 2 mission visited many BCPs at various parts of the Russian border i.e. the border with Kazakhstan (Karaozek-Kotyayevka), Ukraine (Matveyev Kurgan, Kuibyshev, Krasnodon, Belgorod, Naumovka, Nehotyeyevka and Troebortnoe), Belarus (due to the lack of border controls no BCPs are there), Latvia (Terehova-Burachki and Zilupe-Sebeza) and Estonia (Narva-Ivangorod and Kunichina-Gora) as well as various airports (Domodedovo, Sheremetyevo, Vnukovo, Rostov-an-Don and Astrakhan) and seaports (St Petersburg and Astrakhan).

**Rosgranitsa** is the Russian agency in charge of purchasing equipment and developing the infrastructure for BCPs. The agency owns the basic equipment and infrastructure in the existing 372 international and 259 local BCPs along the whole Russian border. It is also responsible for the development of those existing BCPs. A special financial programme is devoted to the development of facilities and infrastructure at BCPs in Russia managed by Rosgranitsa. The priorities of those improvements for the moment are: Sochi area, sea borders and international train connections. It is recommended that the EU-Russia border be part of those priorities.

The improvements and changes of infrastructure at any BCP are agreed by special Coordination Boards established for that purpose. They bring together the main actors at any BCP: Rosgranitsa, BGS and FCS.

It is clear that many efforts are devoted to **improving the existing BCPs**. Some of the visited BCPs were very recent. At the same time, the old (still working) BCPs in those places were very outdated — no real access to those facilities was granted to the EU experts. Some of the new BCPs already

provided the facilities necessary to carry out joint border checks (e.g. at the border with Ukraine and Kazakhstan).

Efforts are also being made to limit the **waiting time** at the most crowded BCPs (in particular with the EU). Rosgranitsa is well aware of the problem. Some terminals (e.g. at BCPs with Latvia) were built in order to accelerate the lorry controls and several other projects aim at boosting the capacity of other BCPs between Russia and the EU Member States. Also some facilitating measures like websites with web cameras providing information in real time at the BCPs are being implemented. Here, some procedural improvements might be envisaged in particular concerning the current strict division of tasks between the FCS (controlling only goods) and the BGS (controlling only persons) and a very formalistic approach to those procedures by each agency. On 12 September 2013, FCS classified consignments of goods coming from one EU Member State into the highest risk profile, leading to 100% physical controls for lorries loaded in that Member State. The lengthy controls involved the unloading of the entire vehicle, a very costly and disruptive process. Neither the Commission nor that Member State were notified in advance. This practice increased substantially the waiting time at the relevant BCPs. The practice at those BCPs has been restored to normal. The situation will continue to be closely monitored.

The **legislation and practices** with regard to border checks are of applicable standards. The procedures are quite unified across the country. The main concern seems to be the approach to the border checking of persons. It seems that those checks are primarily focused on checking the identity of the person. Virtually no attention is paid to the purpose of the visit even if the law fully allows the border guards to interview the travellers and refuse entry if there is doubt about the good faith of a traveller. No profiling of travellers is used in the person's checks including at the big airports, where the design of booths renders it impossible even to screen persons visually before their appearance in front of the border guard.

The **equipment in BCPs** is rather standard. Officers at the first-line checks have a passport reader, a computer with access to at least the entry ban and wanted persons database and a basic set of tools to check the authenticity of documents. This may be considered sufficient. Second lines of document control were not shown to the EU experts apart from Sheremetyevo airport and St Petersburg seaport. Those second-line checks which were shown were of sufficient quality. For the other places, one should assume that those second lines do not exist. This situation seems to be confirmed by a practice according to which at the BCPs with the EU Member States, the second-line checks are done by the EU border guards. The above, combined with the fact that no database on forged documents exists, nor is any other information on such documents accessible at the BCPs, might limit the efficiency of border controls.

At some airports, the preparation for the fully automatic checks (so-called ABC) has been done and some gates are already installed (although not yet operational). The border checks done in trains or on ships are undertaken with the use of mobile equipment guaranteeing the same quality control as at the stationary BCPs.

The equipment for control of goods at BCPs was also present (x-rays, sensors, etc.) but the EU experts were refused to closely evaluate it. Obviously, due to the Customs Union the BCPs with Kazakhstan are designed only to focus on the control of persons.

Due to the **State Union with Belarus** and the absence of border controls, no BCPs exist there. This requires reinforced cooperation between the authorities which was not really seen during the EU mission.

Another particularity is the **access of CIS nationals** to Russia on the basis of only their internal passports (IDs). This issue seems to have now been addressed with the recent requirement for CIS nationals to hold an international passport when entering Russia, which should come into force in 2015.

**Visas are not delivered at the border** apart from very exceptional situations. Having said this, border guards are entitled to prolong the visa for up to three days on exit from Russia — this happens mostly if someone has overstayed in Russia the validity of his/her visa by up to three days.

With regard to the **green and blue borders surveillance**, the EU experts were informed that appropriate resources and equipment were in place. However, more detailed information was refused by the Russian authorities. It is therefore not possible to make any conclusions on that point.

- **Exchange information on their appropriate border-related administrative structures, maintain cooperation between their border services, law enforcement and other competent agencies and address possible deficiencies.**

The BGS is the authority responsible for border surveillance of all the land and maritime external borders of Russia and for the border controls at all BCPs. The agency's activity is carried out at federal, regional and local/BCP level. The BGS has been an integral part of the FSB since 2003, but it has its own budget. Another agency involved in border management is Rosgraniitsa, which is in charge of the purchase and administration of the equipment for BCPs. Customs are also present at each BCP for controls on goods.

The authorities concerned affirmed that the **operational cooperation between Russian law enforcement agencies**, i.e. BGS, FMS, Police/MoI, FCS, is working well. The interinstitutional agreements are reportedly in place and meetings at central, regional and local level are being held. This assessment could not be verified by the EU experts, since they could not consult any written cooperation agreement or protocol. The strict distinction of tasks and followed practice between the BGS and FCS does not really confirm the cooperation between those two agencies.

- **Develop a data gathering and analysing system allowing to carry out regular risk analysis for border management.**

The BGS (and FMS) has **specialised units and personnel for gathering comprehensive border-related information**, statistics and risk analysis at central and regional levels. Some doubts were however raised with regard to the distribution of the gathered information within the BGS (from headquarters to BCPs and vice versa). Moreover, the exchange of information between the analytical units of different law enforcement authorities should be enhanced. For the moment each of those agencies develops their own statistics according to its own needs and indicators — this results for example in lack of harmonised statistics for irregular migration. On top of that, the statistical office (Rosstat) does not have competence to gather irregular migration statistics.

Various databases are developed both by the BGS and FMS which cover major needs. The interconnectivity of some databases however could also be improved as some of them may be consulted only through the respective regional branches of the agencies or by official administrative requests (e.g. entry/exit system managed by the FMS).

Furthermore, the quality and methodology of **risk analysis** was impossible to evaluate. The EU experts could not see any sample of risk analysis which reportedly is prepared regularly on a monthly, quarterly and yearly basis.

The **cooperation** with the neighbouring EU Member States for the collection and analysis of data is in place. The information exchange under the working arrangement between the BGS and Frontex has been described above.

Russia aims at **gathering data on passengers** arriving to, departing from and transiting through its territory by any means of transport (air, sea or land). The legislation is being implemented gradually as of 1 December 2013 and obliges transport operators to provide Advanced Passenger Information. The purpose of the measure seems to be security rather than irregular migration. The Russian side has confirmed that the scope of the legislation is limited to Advanced Passenger Information. The relevant legislation has been amended. The intended collection of data for overflights remains a significant concern for the EU. The situation will be closely monitored.

- **Pursue set of measures for prevention and suppression of the document fraud and their use for the border crossing, inter alia by training of law-enforcement, border and customs agencies staff.**

All the **BCPs visited** were equipped with the basic material for detecting forged documents. The personnel is trained to use the equipment through training courses, seminars and workshops.

All **first-line** border guards are trained on document security in one of the BGS training centres. In addition, they have qualification-raising courses once every five years. Heads of BCPs are responsible for additional training on the spot. The BCP staff have to pass a test once a year. Refresher courses are usually provided on an ad hoc basis.

Suspect documents are investigated more thoroughly at **second-line controls** (if present at particular BCPs — see also above for remarks on second-line document checks). The officers for second lines do not have particular training but they are recruited from the more experienced staff.

No **database** on forged documents exists nor is any particular material with examples of forged documents accessible at BCPs. The most common materials available at BCPs are the specimens of international travel documents with description of their most important security features. The novelties with regard to forgeries are disseminated in an ad hoc way (e.g. at the beginning of the shift).

- **Conduct training programmes and implement anti-corruption measures, including ethical norms, specifically targeting officials of state border-related structures, and addressing possible deficiencies.**

The EU experts visited the BGS **academy** and one of the institutes for the training of officers. The officers' training system was positively assessed and is reportedly in line with the Bologna process. Academic approach and scientific research are integral parts of training. Measures against corruption and ethics belong to the basic education of every officer.

The institute organises also updating courses for BGS officers. These courses are mandatory for each officer once every five years and they are of one or two months' duration. However, the training programmes of border guards and warrant officers were not presented to the mission team.

**Anti-corruption measures and ethical norms** are reportedly included in the basic training of the BGS officers. The EU experts were told that neither the FMS nor BGS provides additional courses on combating corruption. The EU experts were not allowed to see the anti-corruption code of the BGS. It was explained that different types of internal and external controls including questionnaires addressed to travellers, hotlines and cameras are available at the BCPs to detect and prevent attempts at corruption.

**Issues of concern and actions recommended to be followed up under Block 2:**

**On the basis of the above findings the Commission identified the following issues of concern requiring further discussion with the Russian authorities:**

- The conditions of stay under a temporary residence permit and/or work permit in particular with regard to length of business trips, registration procedure, quota system, renewals procedure and linked health tests appear to be unnecessarily complicated;
- A comprehensive integration strategy including for persons under international protection is not fully in place, which limits the ability to effectively manage the legal migration flows;
- The decisions on granting international protection status do not seem to be based on a coherent country of origin information system which could provide a solid basis for authorities with regard to the real situation in the countries of origin of applicants. This might impact on the consistency of those decisions;
- The absence of border checks between Russia and Belarus allows free circulation between the two countries (including possible secondary movements of irregularly staying persons). In order to prevent possible abuses in an efficient manner, tangible and structural cooperation between the FMS/BGS and the relevant authorities in Belarus needs to be established;
- Effective migration management requires good cooperation between the authorities controlling the border (i.e. BGS) and authorities tackling the situation inland (FMS) e.g. through possible interconnection of databases, presence of FMS officers at some BCPs and dissemination of information on asylum procedures. This guarantees not only a good overview of the situation (e.g. statistics on apprehensions of irregular migrants both inland and at the border) but also proper access to international protection mechanisms at the border;
- In some cases, the apprehended persons irregularly staying in Russia are not issued with a removal order but are only administratively fined. This might create legal limbos where the person is not entitled to stay in Russia but not obliged to leave either;
- Many BCPs at the border with the EU do not have sufficient capacity to cope effectively with the flow of persons, thus contributing to a long waiting time. Furthermore, the infrastructure of some of the BCPs at the border with CIS countries is outdated. This could be addressed both by the development of the relevant BCPs and by improvement of procedures for checks at BCPs by various authorities. In this context, one should also note that the authorities virtually use no profiling or risk analysis during checks on persons at the BCPs — doing this could further improve the efficiency of those checks.

**The following actions are recommended with a view to further improving the implementation of the relevant Common Steps:**

- Render fully operational the accelerated procedure under the EU-Russia readmission agreement by informing and training the border guards about their tasks in this context;
- Adopt the new draft law on asylum including covering the procedure at the border; bringing the rights of persons under subsidiary protection closer to those of refugees; access to rights

regardless of registration; issuance of proper documentation to asylum seekers also under the admissibility procedure;

- Given the important number of asylum seekers in the EU originating from Russia, organise information campaigns in mostly concerned regions about the rights and obligations of persons under international protection or those applying for it in the EU;
- Improve the exchange of relevant, harmonised, indicator-based and regular statistical information and the joint analytical work with Frontex under the working arrangement concluded by BGS;
- Establish second-line document checks at least at the busiest BCPs and provide the BCPs with appropriate materials on possible forgery techniques so that they are better equipped to detect falsified documents.

**Given the lack of sufficient information, the Commission was unable to fully evaluate the progress with regard to the following issues relevant for Block 2:**

- Green and blue border surveillance strategy (equipment, techniques etc.);
- Training content and ethical code of border guards;
- Efficiency of judicial appeal system for asylum (statistics, trainings, etc.);
- The possible risk analysis reports on irregular migration and border management;
- The content of inter-institutional agreements between the BGS and other law enforcement agencies on cooperation on border management.

### **Block 3: Public order, security and judicial cooperation**

#### **General assessment**

With its fully-fledged administrative structure and capacity of **law enforcement** agencies, Russia has been active in the past years in tackling **transnational crime, terrorism and corruption**. The multitude of agencies however has the disadvantage of a potential overlapping of competences. The interconnection of the relevant databases could also help in the contacts between the respective agencies. Furthermore, although Russia is open to international cooperation and has established various channels to that end in those areas, in practice the process is very centralised and mainstreamed through the headquarters of the relevant agencies. This results in long delays in the handling of third countries' requests. This cooperation could be further enhanced by the conclusion of the operational agreement with Europol. The police reform implemented over several years should be further improved as some of its initial goals were apparently not reached.

Russia has developed a comprehensive anti-money laundering/counter-financing of terrorism (AML/CFT) system. The shortcomings identified by the Financial Action Task Force on Money Laundering (FATF) are being addressed by upcoming legislative amendments. The Russian authorities are also pursuing a global **anti-drug** strategy, aiming to suppress both supply and demand. On **trafficking in human beings** (THB), Russia itself acknowledges that its data do not capture the extent of the problem. Although the actions are undertaken in order to fight against the criminal aspects of THB, a clear framework for comprehensive treatment (including shelters) for victims is lacking. Russia also has a comprehensive **counter-terrorism** strategy, in line with international practice, with a clear focus on the threat originating from the Northern Caucasus region. Little effort, however, has been made in the above areas in order to prepare **risk analysis** linked to the establishment of the Customs Union (with Kazakhstan and Belarus) and a possible visa free regime with the EU.



Russia has recently undertaken many strategic and legislative efforts against **corruption**. It has now ratified all major international conventions including those of the UN, OECD and Council of Europe (CoE) and is consequently subject to their monitoring mechanisms. Russia seems open to implementing the recommendations formulated during those monitoring activities. There are undoubtedly still several concerns here, including with regard to cooperation with civil society, independence of the judiciary and public procurement.

For **judicial cooperation**, Russia has ratified the two Hague Conventions relating to Child Abduction and Child Protection. The implementation of the former (with some minor possible improvements) is ready although the issue of the acceptance of Russia's accession by all EU Member States on behalf of the EU is still pending. The latter Convention entered into force very recently and although the Central Authority has been appointed, the implementing legislation is still being prepared. On criminal matters, Russia is a party to the main CoE Conventions providing the basis for efficient cooperation. Judicial cooperation in criminal matters is however (similarly to the law enforcement area) extremely centralised, which delays the responses to various requests. Furthermore, some EU Member States encounter problems with their requests where replies are not given within six months or not at all.

On **data protection**, Russia has ratified the 1981 CoE Convention and it is implemented by means of several federal laws and other implementing acts. The ratification of the additional Protocol however is still pending and the Commission does not consider the designated supervisory body (Roskomnadzor) to be independent.

## Detailed comments

### 3.1 Fight against transnational organised crime, terrorism and corruption

- **Follow relevant international standards in the fight against money laundering and terrorism financing, in particular effectively fulfill relevant Financial Action Task Force on Money Laundering (FATF) recommendations.**

Russia has developed a comprehensive AML/CFT system since the adoption of its first legislation in 2001. The main legal basis in this area is the Federal Law No 115-FZ. Some provisions of the Criminal Code and the Code on Administrative Violations are also applicable in this context. This legal framework has been amended several times, mostly due to the necessity of aligning it with the international standards.

The core agency in this respect is the Federal Service for Financial Monitoring (**Rosfinmonitoring**) which plays the role of Russian Financial Intelligence Unit (FIU). It was placed under the direct authority of the President in May 2012. Rosfinmonitoring is a professional, well-equipped and sufficiently staffed agency (at its headquarters and regional offices).

Rosfinmonitoring leads the national coordination mechanism against money laundering and takes part in the national anti-terrorism mechanism. Furthermore, the agency was ordered in June 2013 to outline a National Strategy on AML and on 5 July 2013 presented an action plan to enhance transparency and prevent misuse of companies and other legal entities. In 2014, Rosfinmonitoring will produce the first ever National Threat Assessment in the AML/CFT area as well. Rosfinmonitoring also runs an **International Training and Methodology Centre**, which carries out relevant trainings for 3000 participants a year. Online courses are also available for self-training. Criminal investigation of **AML cases** reported by Rosfinmonitoring is carried out by several law enforcement agencies, while **CFT cases** are investigated by the FSB following the report by Rosfinmonitoring.

Rosfinmonitoring carries out active **international cooperation**, in particular by providing the secretariat of the Eurasian Group (EAG) and taking over the chairmanship of FATF in July 2013. In 2011, there were 1 200 exchanges of information with foreign FIUs.

The Russian system against money laundering and terrorism financing has been thoroughly evaluated by international actors (**FATF and CoE/Moneyval**) in recent years. In order to respond to the recommendations formulated by FATF in its most recent report, which was published in 2012, a bill containing a number of amendments to the national legislation is pending in the State Duma. Once the bill has entered into force, the main remaining issue should be the **criminal liability of legal entities**, which is still absent under Russian law.

The mission found substantial progress in line with other international actors' evaluations. According to the EU experts, the Russian institutional and legal framework is mostly in line with the international standards. The **statistics** on activity provided during the EU mission are included in the 'Second Third Round Written Progress Report' submitted to Moneyval.

With regard to **terrorist financing**, the Russian authorities have reported an increasing interconnection between terrorism and organised crime, as well as the fact that the proceeds of extortion, thefts and robberies are used to finance terrorist activities. The authorities are well aware of the risks in this field.

**Inter-agency cooperation** between Rosfinmonitoring and FSB seems to be well-established and functioning.

- **Further enhance exchange of information and cooperation between relevant agencies of both Parties to effectively combat trafficking in illicit narcotic drugs, psychotropic substances and their precursors, and effectively implement the working arrangement between the European Monitoring Center for Drugs and Drug Addiction (EMCDDA) and relevant agencies of the Russian Federation.**

The **Strategy of the State Anti-Drug Policy** elaborated by the Federal Drug Control Service (FDCS) of Russia was adopted in 2010 and is valid until 2020. Its focal points are: reduction of demand, reduction of offer and international cooperation.

The main agency responsible for combating drug-related crime, including the implementation of the strategy, is the **FDCS**. In 2007, a central Anti-Narcotic Committee was established, with regional committees across Russia to coordinate the work and actions in this area. The committee is headed by the FDCS and reportedly involves other law enforcement agencies.

As regards **reduction of demand**, the emphasis is on young people who have not yet abused drugs. Treatment and rehabilitation are offered, and cooperation exists with schools, parents and NGOs. Investments are being made for the establishment of treatment centres though they do not currently match the needs (e.g. lack of places for HIV treatment). Treatment programmes seem to focus only on one disease per programme, which does not allow for the holistic and comprehensive treatment of persons.

**Work on the supply side** is carried out by many law enforcement agencies. The central position is held by the FDCS. Criminal investigations however may be carried out by Police, FDCS, FSB and Investigative Committee (depending on the circumstances and facts of the case). The number of law enforcement agencies (including the FCS for border checks) as well as their competences calls for

clarification and clearer division. This situation also has an impact on the efficiency of international cooperation. Furthermore, the designer drug problem and, in particular, the slowness in putting new drug combinations on the list of banned substances is seen as a shared concern.

**Statistics** about the narcotics situation are being produced with data collected from the districts, while the national committee is responsible for the overall implementation and reports to the President. However, no analysis exists concerning the potential risks for drug smuggling following the establishment of the Customs Union with Kazakhstan and Belarus as well as the possible visa free regime with the EU.

Key partners in **international cooperation** include the Central Asian countries. Other important partners are Pakistan, Afghanistan, the USA and EU Member States (including on the basis of international agreements). Russia is also active in international and regional forums such as the Pompidou Group or the Council of Baltic Sea States (CBSS). The main cooperation flow is centralised and requires contacts between the headquarters for any cooperation request. This results in long delays in getting responses. Although some mechanisms of direct cooperation in the field were pointed out by the Russian authorities, the current practice should be reinforced.

**Cooperation between the FDCCS and the EMCDDA** is in place on the basis of the Memorandum of Understanding signed on 26 October 2007. In this context, the EMCDDA and the FDCCS have established a stable and permanent communication channel allowing them to exchange information on different topics of mutual interest. The FDCCS and the EMCDDA have also exchanged invitations for technical meetings and invitations to expert meetings. The EMCDDA receives regular requests for information on national and EU drug-related legislation.

The **EU-Russia agreement on the control of drug precursors** was signed during the June 2013 Summit. The agreement should enter into force once ratification procedures are completed on both sides.

- **Exchange information on respective strategies and laws to fight trafficking in human beings including to protect its victims, in accordance with the Parties' obligations under the UN Convention against Transnational Organized Crime and its Protocol on Trafficking in Human Beings and addressing possible deficiencies.**

Penalties for THB in Russia were stipulated for the first time by the Federal **Law No 162-FZ of 2003** amending the Russian Criminal Code. Russia also ratified both the UN Convention against Transnational Organized Crime and its Protocol on THB in 2004.

Russia is a country of origin, transit and destination of THB. The main aims are sexual and labour exploitation. Although the official (rather basic) statistics indicate that human trafficking offences constitute only 0.1% of all offences, even the authorities themselves say that the real number is much higher (ca. 8%). The main regions of origin of the victims are Central Asia and the South Caucasus States. No specific statistics on THB victims were available.

The **authority** with the main responsibility for investigation of THB is the MoI, which has a dedicated department for these issues. The FSB handles criminal offences involving a national threat and large-scale organised activities through irregular immigration. The Investigative Committee, on the other hand, conducts criminal investigations in cases involving minors or officials. Although the FMS is not competent to investigate those cases, it is responsible for the situation of any irregular migrant and will at least interact with the THB victims. Similarly to other areas, the overlapping competences may still

cause problems in this field. The Government does not have a body to monitor its anti-trafficking activities and make periodic assessments measuring its performance. The MoI issued a roadmap for its reform, which included the formation of an Interagency Anti-Trafficking Commission with representation of the General Prosecutor's Office (GPO), the MFA, the FMS, the FSB, the Investigative Committee, and other agencies.

Russia does not have a dedicated **action plan** against THB addressing the phenomenon coherently. THB is still tackled mainly from the crime angle, i.e. fighting against networks organising it. From that perspective no particular comments are required except for the issue of overlapping competences mentioned above. Having said this, no specific legislation on the protection of victims of THB exists and the only applicable rules seem to be the ones on the protection programme for victims and witnesses of any offences. This approach should be improved given the particular situation of THB victims which might not be covered by general schemes. **Shelters for victims** are usually managed by NGOs or international organisations, e.g. the International Organization for Migration (IOM), the Red Cross or churches. Some funding/support is provided by the state (the FMS) or municipalities on an ad hoc basis. The IOM plays an important role in assisting victims, and cooperation with such actors as the MoI and FMS is established. The IOM is also providing a shelter in St Petersburg and carries out regional programmes in the Republic of Karelia and other regions. The shelter visited in the Moscow region arranged by the Church hosted several Vietnamese THB victims awaiting return. They had access to the basic needs including health care. Having said this, clearly the centre was arranged on a very provisory basis. More structural solutions should be aimed for.

On the basis of available information, there have been no nationwide campaigns to raise awareness of THB in Russia. In 2012 the MoI published and distributed an informational brochure warning of the dangers of becoming a victim of trafficking. In some parts of the country, the MoI teamed up with community councils to distribute the pamphlets in public places, such as educational centres. The MoI conducted regular training in 2012 designed to guide its officers in handling trafficking cases.

**International cooperation** was evaluated as effective in practice by the Russian authorities, with joint operations with Ukraine, Spain, Finland and Uzbekistan.

- **Ensure exchange of information and cooperation between relevant agencies of both Parties to effectively combat terrorism and trafficking in firearms and other serious transnational crimes, in accordance with applicable international law and legislation of the Parties.**

Russia has a rather comprehensive **counter-terrorism (CT) system**, based upon the Federal Law No 35-FZ of 2006 and its subsequent amendments. Russia is also a party to all major UN and CoE conventions related to CT, ratification of which has required also additional legislative changes.

The **leading agency** in this respect is the FSB, while policy measures are dealt with by the National Anti-Terrorism Committee (NATC) and its regional branches. The NATC is an interministerial body, which is chaired and supported by the FSB.

The Russian CT **policy** is comprehensive and in line with relevant international practice (e.g. the UN Global CT Strategy), also covering issues of countering radicalisation and dealing with the victims of terrorism. Legislation and practical arrangements seem to be under constant development, e.g. a three-level national alert system, a new CT inter-agency intelligence database. A national mechanism to freeze terrorist assets by court order is in place.

The Russian authorities clearly consider the threat posed by terrorism originating from the Northern Caucasus region to be a priority.

The Russian authorities claim that terrorist threats other than those posed by religious extremism, albeit present in their country, are kept under control and so far they have not reached the level that could result in actual acts of terrorism.

As regards **inter-agency cooperation** in the prosecution of terrorism, the FSB is both a security service and a law enforcement agency which has a mandate to carry out CT-related criminal investigations as well. The Investigative Committee pointed out however that most of the criminal investigations in terrorism-related cases are carried out by them, following preparatory work by the FSB. The MoI has also a department for the fight against extremism. Finally, specialized and trained CT units exist both at central and territorial level of the GPO. The competences as regards the fight against terrorism and extremism seem to be legally regulated. Nevertheless, the EU experts had the impression that the practical work of the MoI on extremism is overlapping with the CT work done by the FSB within its exclusive competence.

CT aspects are dealt with both in the general and specific **training** for law enforcement personnel. The visit to the Academy of Management of the MoI in Domodedovo demonstrated that Russia has satisfactory capacities in this respect.

The Russian authorities are very well aware of the significance of **international cooperation** as regards the prevention of and fight against terrorism. Russia is an active partner playing a key role within many international forums, including the Global Counterterrorism Forum, and cooperates with the EU Counter-terrorism Coordinator.

With regard to **trafficking of firearms**, the EU experts had the impression that the phenomenon was not being sufficiently tackled by the majority of the visited agencies. The rules for legal possession of guns are reportedly very strict in Russia. The EU experts however assessed the need for increased knowledge about current trends in trafficking of firearms (including so-called piece-by-piece smuggling) by the competent Russian agencies (including the FCS). Similarly to the anti-drugs area, no risk assessment is prepared analysing the impact on firearms trafficking of a possible visa free regime between the EU and Russia as well as the Customs Union.

- **Exchange information on respective strategies and laws to fight and to prevent corruption, including within the public sector, and address possible deficiencies.**

In terms of policy and legislation, Russia has recently undertaken many efforts. The main piece of legislation is the **Federal Law ‘On Countering Corruption’**. It is further complemented by many provisions in other acts including Criminal Code and Administrative Offences Code. Further provisions are also laid down in numerous decrees. The main basis for the anti-corruption policy in Russia is the 2010 National Anti-Corruption Strategy, complemented by National Anti-Corruption Plans (currently for 2012-2013). This framework (covering inter alia relevant administrative framework, definition of corruption, access to information, conflict of interest, rules for declaration of assets, etc.) provides a comprehensive structure for the fight against corruption in Russia. Further improvements are however needed and various legislative initiatives are also ongoing (e.g. the most recent introduction of whistleblowers’ protection into Russian law).

Russia has further ratified all major **international conventions** in the area, including the ones of UN, OECD and CoE. Following those ratifications, Russia is also subject to the **monitoring mechanisms** that are provided for in those instruments. In this context, Phase 1 evaluation by OECD as well as three evaluation rounds by GRECO were undertaken by March 2012. One UNCAC evaluation also took place at the beginning of 2013. All those processes resulted in recommendations, which should now be fully implemented. Russia also endeavours to follow relevant recommendations of FATF, of which it assumed the chairmanship in summer 2013.

The two main **authorities** responsible for the implementation of anti-corruption policies in Russia are the **Presidential Administration (policy side)** and the **GPO (operational and incriminations side)**.

A supreme body at the political (but also partially at executive) level is the **Presidential Anti-Corruption Council (PACC)** chaired by the President and bringing together the heads of relevant agencies and ministries. It coordinates activities, formulates proposals to the President and monitors the implementation of anti-corruption legislation, according to the National Anti-Corruption Plan. A **Presidium** acting under the PACC and chaired by the Head of the Presidential Administration is in charge of more operational tasks in cooperation with the specialised department within the Presidential Administration. In particular, the Presidium checks the declarations of assets submitted by the senior officials of all agencies and deals with cases of conflict of interest concerning the said senior officials as well.

The **GPO** coordinates all the executive agencies in the implementation of the anti-corruption laws and strategy. The GPO has a specialised unit at the central and regional levels recruited with specially trained prosecutors aiming at managing the anti-corruption cases.

The investigations by the GPO rely on operational support from the **FSB** and the **MoI**. Certain investigative competences in corruption cases belong also to the **Investigative Committee**. The EU experts were informed that specialised units for anti-corruption cases exist also in those agencies at least at the central level while at the regional level particular officials are specialised in such cases. Similarly to the law enforcement remarks, the division of competences among those authorities is unclear. Cooperation between agencies seems to exist but the rules and standards underpinning it do not seem to be very well defined.

On top of the above framework, the law requires that all federal agencies establish special **committees** for internal investigations on the conduct of the agency's officials and on conflicts of interest. Also, all those agencies have to establish a **separate unit** (within their human resources department) for conducting in particular checks on the declarations of assets of the agency's officials.

In similar vein, a **model Code of Ethics** for state officials was prepared and approved by the Presidium of the PACC. The model contains references to the most relevant legal provisions as well as to the ethical norms of conduct to be followed by each official. On that basis each agency in Russia should develop its own internal code of conduct. Unfortunately, none of this code was shared with the EU experts.

With regard to **training** of the most relevant agencies fighting against corruption, the GPO has developed a specialised programme both for its own officials and for other agencies. Furthermore, the prosecutors of the specialised anti-corruption units undergo further training focused on their work. Other agencies provided only very general information on anti-corruption training of their officers. It

seems that this training is just a part of their regular training programmes. No more specific information on the content of that training was provided.

According to the information provided by the GPO during the EU mission, the **number of registered corruption crimes** reached 49 513 in 2012, which is 22.5% more than the number of crimes registered in 2011 (40 407). Charges were brought against more than 13 500 people. According to public official information, around 9.5 thousand corrupt officials of different levels have already been convicted in Russia. The greatest number of corruption crimes involve fraud, embezzlement and the illegal use of property and funds. According to the same information, corruption is widespread in the field of budgetary appropriations for state contracts, transactions involving federal and municipal property and business activity control.

In recent years, the rules on **declarations of assets** were revised and improved several times. The scope of persons concerned was extended — a larger group of senior officials as well as family members are now subject to the declarations (including managers of state owned companies). No property or other financial assets may be held abroad by those persons. The declarations need to cover both income and expenditures. Failure to provide the declaration and its wrong completion bear the consequence of dismissal from office.

The **procedures for checks on asset declarations** submitted are laid down in legislation and very detailed. As for the practical **methodology**, very little information was provided. The agencies met by the EU experts informed only that all declarations are checked and may be further cross examined with the help of banks and tax authorities. The EU experts were denied a meeting with the officials carrying out checks in the agencies' specialised units.

Little information was provided to the EU experts on **risk assessment** prepared in the context of asset disclosures and evaluation. Only the GPO prepares such a risk assessment, which focuses on legal provisions and posts in the public administration that are particularly vulnerable to corruption. No more detailed or focused analysis is prepared and other agencies do not seem to prepare such documents at all. This should be improved.

In parallel, the rules on **confiscation of assets** were developed. Most recently the applicability of those rules was extended in order to cover also the abuse of official competences.

While providing **statistics on asset disclosures**, Russian authorities informed that in 2012, 211 000 declarations from the 1.3 million submitted were checked by the relevant bodies. Overall around the country, the checks revealed 16 000 cases of violations in submitting information, and the sanctions applied against civil servants, due to the frauds discovered after checks on the asset declarations, resulted in the dismissal of 322 civil servants in 2012.

The most recent change in the legislation concerns the **protection of whistleblowers**. Under the provisions, such a person cannot be the subject of any disciplinary sanctions unless it is decided by a special commission established in the agency in question. Furthermore, the person in question is provided with legal advice free of charge. The provisions were signed by the President in April 2013 and their practical use should be closely monitored.

Some efforts are being made to **cooperate with civil society**. In 2012, the Ministry of Justice (MoJ) finalised the draft of the Master Plan for cooperation between public authorities, local governments and social institutions in combating corruption, which should be implemented by 2014. Currently

however, this cooperation still needs to be improved. Above all, the current overall environment of the NGOs functioning in Russia (in particular the so-called ‘foreign agents law’) does not contribute to stable and independent functioning of any NGOs. Furthermore, in the anti-corruption area, more structured cooperation against corruption is limited to the business organisations. For other NGOs and civil society, despite the openness for all possible contacts with citizens declared by all agencies, structured cooperation is very limited and done on an ad hoc basis.

Horizontal and detailed rules regulating **access to information** on the activities of the public authorities are laid down. Each agency is obliged to set up its own website and publish regularly specific information on anti-corruption activities. The Ministry of Labour and Social Protection as well as prosecutors are charged with the monitoring and control of the proper implementation of that law. Non-compliance may trigger administrative and disciplinary sanctions.

The **reform of the judiciary** is crucial in the field of anti-corruption policy. There are nevertheless concerns as to the independence of the judiciary in Russia that are affecting the overall credibility of anti-corruption efforts (including a strong position of each court’s president especially with regard to the assignment of cases). Some steps are being taken to publish judgments. Although, reportedly, virtually all courts have established their official websites, all commercial courts’ judgments are available online while the general jurisdiction judgments are still only partially available there.

The rules governing **public procurement** are still being revised. It seems that many efforts have been made in order to render the bidding process as transparent as possible. However, some lack of transparency both for the pre-bidding phase and the implementation of the contract itself might be of concern.

- **Cooperate under the 1994 EU-Russia Partnership and Cooperation Agreement on the prevention of corruption.**

In the framework of the EU-Russia Partnership and Cooperation Agreement and EU-Russia Partnership for Modernisation, several EU-funded rule of law projects aim to support anti-corruption activities. Furthermore TAIEX seminars, study visits and expert seminars concerning police cooperation have been organised for various law enforcement agencies.

The Commission, in cooperation with the EEAS, attempts to engage in a structured dialogue on combating corruption with the Russian authorities. However, only one meeting has been organised so far (in December 2011) in Moscow. It is expected that the next one will take place in Brussels by the end of 2013 with the participation of civil society.

- **Follow relevant recommendations of Group of States Against Corruption (GRECO).**

Russia ratified the CoE Criminal Law Convention on Corruption in 2006. Russia signed the Additional Protocol to that Convention in 2007 but no ratification has taken place yet. Russia joined GRECO in 2007 and is subject to its standard evaluation mechanism since that time. The first and second evaluation rounds’ reports were published in 2008. The most recent, **third Evaluation Round’s Report of GRECO**, was published in March 2012. Russia appears to attach a lot of importance to meeting its international commitments in this regard, while indicating however that on some issues it does not share the point of view of evaluators.

The GRECO evaluation team formulated recommendations concerning **incrimination of corruption** including on certain features of bribery in the public sector, in particular regarding the offer, promise



and acceptance of an advantage; other, non-material advantages should be included in a larger concept of 'bribe'; the range of persons subject to incrimination should also be extended. On the Russian side, the EU experts were informed about the preparation of draft amendments to the Criminal Code that are aimed at broadening the scope of its bribery provisions to ensure that they cover clearly any form of (undue) advantage, including any non-material advantages. The Investigative Committee has provided information about a draft amendment to the Criminal Code introducing criminal responsibility for legal entities. The EU experts were informed that in order to increase the **transparency of party funding**, the MoJ had put forward some draft amendments to the Federal Law 'On Political Parties'. No information about timing of the adoption of those changes was provided.

The GPO stated that, following some previous GRECO recommendations, the criteria for recruitment of its own personnel had been improved. They cover now the conditions of higher education of the candidates and a selection procedure for them, including fair competition, transparency and avoidance of conflicts of interest.

As is the standard practice, after the third evaluation round's report, the **compliance report** is due in October 2013. The EU experts were informed that it would be delivered by Russia on time.

### **3.2 Law-enforcement cooperation**

- **Undertake necessary steps for the conclusion and effective implementation of a strategic and operational cooperation agreement between Europol and the Russian Federation.**

Following four rounds of negotiations (as well as the experts' meetings), the draft agreement was finalised by the parties. The text was submitted to the Management Board of Europol in May 2013, which transmitted it to the Joint Supervisory Body (JSB) for its opinion. After the JSB has expressed its opinion, the Management Board will decide whether the agreement can be forwarded to Council with a view to authorising the Director to sign the agreement.

- **Exchange information on relevant reforms of the law enforcement agencies to ensure their high level of capacity in, and enhance cooperation of the Parties aimed at, prevention, detection, suppression and solution of crimes, including in fight against transnational organized crime, and address possible deficiencies.**

The most important law enforcement agencies in Russia include the **MoI (police)**, the **FSB**, the **FDCS**, the **Investigative Committee** and the **FCS**. The duties of these actors in combating crimes are defined in the criminal procedure law, and while effective in principle, they overlap to some extent, which can sometimes cause operational problems.

As regards **cooperation and division of tasks during investigations**, criminal investigations are preceded by so-called operative investigations that are carried out by agents of the same investigative body. Operative investigations are subject to specific legislation and their purpose is to collect documents and evidence in order to initiate the actual criminal investigation. On the basis of the collected evidence, the criminal investigator, together with the Prosecutor, estimates if there are sufficient grounds for initiating a criminal investigation or whether the case should be referred back to operative investigation.

The **investigating agency** is determined pursuant to Article 151 of the Criminal Code. In principle it is for the GPO to settle any conflicts of competences between the agencies at that stage by taking a case from one agency and assigning it to another. It is also for the Prosecutor to coordinate investigations

where more than one agency is involved. There are however exceptions to that rule: the Investigative Committee is authorised to bring to a conclusion a criminal case which was initiated by the Committee.

The FDCS is not competent to proceed to operative or criminal investigations; it focuses on the administrative ones. If the results of an administrative investigation point to a criminal offence, the case is referred to a different authority through the Prosecutor.

Some of the Russian authorities hinted that the problems caused by overlapping competencies among the law enforcement agencies might be improved by a planned new law which would increase considerably the responsibility of the Investigative Committee with regard to criminal investigations. No further details were provided on that draft law however.

On 7 February 2011, the **reform of the police force** was launched through the adoption and amendment of several laws, the Criminal Code and the Criminal Procedure Code. As a result of that reform, the Russian police was made a federal agency funded exclusively through the federal budget. The number of police officers was reduced by 20% by 2012. Having said this, most of these cuts came in the ranks of policemen on the ground, while the administrative staff, especially in the regions, has been left virtually untouched. These measures have been judged as ineffective by many experts. In response, more reforms will reportedly be carried out in the future.

The police manage the most extensive **data systems**, through which other authorities can request information. The database does not seem to be interconnected with other databases administered by other law enforcement agencies.

- **Strengthen bilateral and multilateral operational cooperation between law enforcement agencies and judicial authorities of EU Member States and Russia in order to fight transnational organized crime.**
- **Conduct joint operations and use other operational means and methods of cross-border law enforcement cooperation between Russia, EU and its relevant agencies and interested Member States for relevant cases.**

International cooperation and exchanges of information for Russian law enforcement agencies take place mainly through Interpol, through regional international agreements or bilaterally. On that basis, liaison officers are posted abroad. The agreement with Europol, once concluded, will further improve cooperation and exchange of information with the EU, especially regarding monitoring and combating of transnational organised crime.

The law enforcement agencies in Russia have experience of cooperation and carried out various joint operations including with EU Member States. The results of this cooperation have been judged satisfactory by the parties concerned.

The **FCS** also plays an important role in combating transnational crime at border crossing points and it engages in quite extensive international cooperation. A key role in this respect is played by cooperation within the World Customs Organisation (WCO). The FCS has also signed bilateral agreements on customs cooperation, including combating of crime, with 48 countries. Russia also works together with the EU within the framework of the Regional Intelligence Liaison Offices (RILO).

The **Investigative Committee**'s representatives reported that they are engaged in positive and effective cooperation with their neighbouring countries and Interpol. Among the EU countries, the Investigative Committee has bilateral cooperation agreements with Finland, France and Germany. Other agreements have been concluded with the United States, Israel, Norway and Kazakhstan.

The MoI is the central point for Russia with regard to Interpol cooperation. It has also reportedly signed Memoranda of Understanding with almost all of the neighbouring countries and CIS countries. The BGS (under the FSB) cooperates also with third countries' agencies for border management purposes (see more under Block 2).

The Russian law enforcement authorities (MoI, FDCS, FCS, FSB) also engage in cross-border partnerships within the framework of the **CBSS**.

During the meetings with the EU experts, Russian agencies underlined that cooperation in its current form is considered effective and adequate. Having said this, it is clear that international cooperation with Russian agencies is very often channelled through the headquarters. Few contacts at regional level are possible. This results in unnecessary delays in exchanging information.

### **3.3 Judicial cooperation**

- **Undertake necessary steps for the conclusion and effective implementation of a cooperation agreement between Eurojust and the Russian Federation.**

Negotiations were launched between Eurojust and Russia in October 2006. The latest round took place in March 2011. There were further contacts in December 2012 and also after Eurojust had been informed about Russia's ratification of the 1981 CoE Data Protection Convention. Following Eurojust's suggestion, the Eurojust Data Protection Officer visited Russia in September 2013 and received extensive information from the Russian Data Protection Authority, though some issues remained to be clarified and discussed. The visit was one of the conditions for the continuation of the negotiations. The next round of negotiations is still pending the fulfilment of some formal steps as agreed between the parties.

- **Accede to and implement the 1980 Convention on Civil Aspects of International Child Abduction and the 1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibilities and Measures for the Protection of Children.**

Russia has ratified the 1980 **Hague Convention on Civil Aspects of International Child Abduction**, which entered into force on 1 October 2011 for Russia. However, the accession only has effect in relation to an 'old' Contracting State once that State has accepted the accession of Russia. For the EU, acceptance of Russia's accession is also a matter of internal division of competence between the EU and the EU Member States, upon which clarification by the Court of Justice of the European Union is still pending.

The Ministry of Education and Science has been designated as the **Central Authority** for that Convention. The relevant unit of the Ministry is currently being reorganised. It seems that one person has been assigned full-time to handle the incoming applications. The Central Authority has received 16 cases so far and there have been no return applications that would clearly fall under the scope of the Convention. Nonetheless, Russia is reportedly ready to apply the Convention on an administrative

basis. It might be helpful for the Central Authority to have its relevant competence regulated by a federal law, given the duty to coordinate other authorities, which is usually a challenge in Russia.

Regarding the **implementation** of the Convention, the Central Authority will be responsible for examining applications, assignment of the competent court and advising the applicant to start proceedings. Two other agencies playing an important role (apart from the Central Authority itself) are the MoI and the Federal Bailiffs Service. Both authorities will be responsible for the search for the child. The relevant amendments to the federal law have been prepared and should be adopted soon. There are no plans to regulate the application and return procedure in more detail even if some clearer provisions about the return procedure or on the definition of the competent courts might be advisable (the latter is done merely by the 1996 Resolution of the Supreme Court).

Russia has also ratified the 1996 **Hague Convention on Protection of Children**. It entered into force on 1 June 2013. The Ministry of Education and Science was appointed as the **Central Authority**. The practical work for implementing the Convention is still ongoing. The relevant legislative amendments are being prepared and should be adopted in 2014.

Given the possible increase in cases after the visa free regime is introduced between the EU and Russia, the EU experts also discussed **two other Hague conventions** that might be of relevance for judicial cooperation (although not explicitly included in the list of Common Steps) namely the Hague Convention on Service of Documents (1965) and the Hague Convention on the Taking of Evidence (1970). As regards the former, the current substantial workload is already recognised. The long delays in the procedure could only be shortened by withdrawing Russia's objection to Article 10(a), thus allowing for direct postal delivery of the request to the addressee. As for the latter, the designation of the Russian Central Authority was recommended (and is long awaited, given that Russia acceded to the Convention in 2001) in order to avoid the need to use diplomatic channels for all exchanges, which causes delays.

- **Exchange relevant information on implementation and effectiveness of extradition procedures, mutual legal assistance requests, execution of foreign courts decisions, transfer of sentenced persons, including statistics, strengthen cooperation and address possible deficiencies.**

Besides bilateral and regional (e.g. CIS) treaties as well as inter-departmental programmes of cooperation, Russia is party to several CoE conventions in the field of judicial cooperation in criminal matters: Convention on Extradition (1957); Convention on Mutual Assistance in Criminal Matters (1959) and Convention on the Transfer of Sentenced Persons (1983).

Despite the fact that at the time of its accession to the **Convention on Mutual Assistance in Criminal Matters**, Russia designated several authorities for communication with other Contracting Parties, in practice all cases involving legal assistance are forwarded to the GPO for examination and further follow-up. Only in urgent cases may requests be addressed by the judicial authorities of the requesting State directly to the judicial authorities of Russia. This causes delays and backlogs in the treatment of cases.

In general, the GPO is the Central Authority for the majority of judicial cooperation cases. For mutual legal assistance at pre-trial phase and in extradition cases, all requests are sent via and received by the GPO. The MoJ, however, is the Central Authority for transfers of sentenced persons. The centralised system of handling requests and their execution is quite slow.

According to the statistics provided by the GPO, about 3000 requests for judicial assistance are received every year. About 1000 of them come from the EU Member States. On average, it usually takes from 2-3 up to 6 months to execute a request, depending on its type and scope. The MoJ informed that it receives about 30 000 requests annually for legal assistance but relatively few concerning criminal cases. The Ministry aims at executing requests within four months. Having said this, some EU Member States experience regular difficulties in their judicial cooperation in criminal matters with Russia, with their requests being executed beyond six months or not at all.

Decentralised cooperation, organised directly between local or regional levels could accelerate that process and render it more efficient. Russia is also encouraged to sign and ratify the Second Additional Protocol (2001) to the European Convention on Mutual Assistance in Criminal Matters.

Another issue in the field of judicial cooperation in criminal matters concerns the refusal by the Russian side to provide for **hearings of Russian citizens as suspects**, once they are in Russia after having committed a crime abroad. Instead, the Russian authorities propose that the requesting state transfer the case to Russia, which is often impossible for practical reasons. This approach delays or obstructs some cases from being pursued.

The GPO's Academy provides **training** in all fields of prosecution. A handbook about judicial assistance was published in 2012. The **Academy of Judges** organises comprehensive training programmes for judges. International issues form part of the programmes but are not specifically highlighted.

### 3.4 Personal Data

- **Accede to and implement the 1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention No. 108) and its 2001 Additional Protocol regarding supervisory authorities and transborder data flows.**

Russia ratified the 1981 CoE Convention on Personal Data on 15 May 2013. The Convention entered into force in Russia on 1 September 2013 and is implemented by means of several federal laws and other implementing acts.

There are certain pending issues that need to be addressed, notably the independence of the data protection authority and the application of data protection rights to 'state secret data'. One of the main issues is the extent to which the federal data protection law is applicable to state secret data (the relevant reservation was made during the ratification of the Convention). It seems that most of the law enforcement and state security area files and databases are covered by the exception without being justified on the grounds of proportionality and necessity. Having said this, the data processed during border controls reportedly falls under the standard data protection rules.

Although no clear indication was given concerning Russia's intentions towards its accession to the **Additional Protocol** to the Convention, Russian authorities insisted in their explanations that the current legislation and the position of the Russian Supervisory Body is in full conformity with that Protocol.

The **Supervisory Body** (within the meaning of the Protocol), which is in charge of control and supervision over the compliance of personal data processing with the requirements of the Russian legislation, is Roskomnadzor — an agency which falls under the responsibility of the Ministry of

Communications and Mass Media. The status of the agency, its composition and appointing rules of its head and deputies are spelled out in the 2009 Government Ordinance No 228. The mere fact of the oversight by the Ministry and the status of the head and the deputies of Roskomnadzor, who are appointed and dismissed by the Minister is a proof of the lack of independence. In addition, Roskomnadzor's status as the Supervisory Body is not confirmed in the federal law, where there is only a generic mention to such a body. The Russian side stated that this solution was common in Russia for similar agencies and no change of Roskomnadzor's competences could be achieved without scrutiny of the Duma.

Information on the financial and human resources as well as the administrative structure of Roskomnadzor was provided and described as sufficient by the Russian side.

Roskomnadzor is mainly **competent** to monitor the substance of personal data processing, including complaints, registry of controllers, investigations, etc. Unlike other federal services, it also has competence to develop policy and make legislative proposals relating to data protection. Having said this, Roskomnadzor does not have the competence to control the information security aspects of personal data processing. For the public sector, this control is done by the FSB (mainly encryption systems) and Federal Service for Technical Export Control (agency under the Ministry of Defence with wider competences in that field, the extent of which however was not clarified by the Russian side). There seems to be no control of information security for private data controllers.

The relevant **training** and dedicated seminars were organised for Roskomnadzor staff. The agency organised also several **awareness-raising** campaigns.

<p><b>Issues of concern and actions recommended to be followed up under Block 3:</b></p>
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**On the basis of the above findings the Commission identified the following issues of concern requiring further discussion with the Russian authorities:**

- It seems that no comprehensive analysis of the impact of a possible visa free regime with the EU as well as of the establishment of the Customs Union on the fight against organised crime, THB, smuggling of illicit goods etc. has been prepared or is planned. Such analysis might help the law enforcement agencies to cope better with new challenges of enhanced movement of persons and goods under both the Customs Union and a possible EU-Russia visa free regime.
- The competences of various law enforcement agencies seem to overlap in relevant areas. This may lead to deficiencies in investigations as well as contributes to unclear schemes of cooperation among those agencies (including lack of shared databases, etc.).
- Russia has been implementing police reforms which however render confusing results and according to many sources should be reviewed in the future. The role and efficiency of the police are crucial for many areas of the Visa Dialogue.
- The current practical cooperation between the Russian and EU Member States' law enforcement and judicial authorities remains very much centralised and requires contacts only through the respective headquarters. This contributes to delays in respective reactions of the authorities.
- The anti-corruption policy is an issue of particular horizontal importance not only for Block 3 but also for other blocks of the Visa Dialogue. One of the crucial elements here is the independence of judiciary, which remains a concern in Russia. In this context one should note that not all court judgments are published. Furthermore, there seem to be very limited channels

of cooperation with and participation of civil society in design and implementation of the anti-corruption policy. This, coupled with the overall unfavourable climate of civil society functioning, may lead to anti-corruption policy which does not address the core roots of the phenomenon. The transparency of the public procurement process (including in the post-bid phase) is also unclear and might lead to abuses.

- The lack of an independent data protection authority is a concern and should be addressed. The relevance of the new data protection law needs to be clarified with regard to the law enforcement and state security area.

**The following actions are recommended with a view to further improving the implementation of the relevant Common Steps:**

- Introduce the criminal liability of legal entities into the Russian AML/CFT and anti-corruption systems in order to reinforce the efficiency of actions with regard to legal entities and not only physical persons.
- Adopt the draft law addressing the concerns from the 2012 FATF review in order to bring internal legislation closer to the international standards.
- Both Russia and the EU are committed to the fight against THB. It is however impossible to do so effectively without comprehensive rules tackling all aspects of that phenomenon. It is therefore recommended to adopt a comprehensive legal and political framework to tackle comprehensively THB including with regard to the protection of victims of THB.
- In order to bring the internal policy and law closer to international standards in the anti-corruption area, implement recommendations formulated in the evaluation process undertaken by GRECO, OECD and UNCAC (including a more inclusive definition of bribery, covering by legislation the offers and promises of bribes as well as cases of non-pecuniary benefits).
- After having ratified both the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention, it is crucial for their proper practical functioning to adopt the necessary implementation legislation (including clarification of the return of the child and competences of the respective Central Authorities).
- Efficient and swift legal assistance between the EU and Russian authorities is crucial in order to face the enhanced flows of persons under a possible visa free regime and all resulting consequences. It is therefore necessary to improve cooperation with EU Member States by timely replying to legal assistance requests, including with regard to providing for hearings of Russian citizens as suspects for offences committed in the EU Member States and making appropriate amendments to the relevant laws where necessary. In this context, ratification of the Second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters (1959) could also be considered.
- Given the horizontal importance of the respect of data protection rules, ratify the Additional Protocol to the 1980 CoE Convention on Personal Data and in this context ensure the independence of the Data Protection authority. This should inter alia lead to a possible swift conclusion of the cooperation agreement with Eurojust, provided that data protection concerns are met.

**Given the lack of sufficient information, the Commission was unable to fully evaluate the progress with regard to the following issues relevant for Block 3:**

- Practical methodology of checks on assets declarations, anti-corruption risk assessment elaborated by the relevant agencies, the content of anti-corruption ethical codes of the most important law enforcement agencies (FSB, FCS, Police, Investigative Committee), content of anti-corruption training and its methods in the relevant agencies;

- The extent to which the data protection legislation is applicable to personal data processed in the law enforcement area, in particular with regard to classified information.

#### **Block 4: External relations**

##### **General assessment**

Russia has developed an extensive **regulatory framework governing the freedom of movement** of both Russian nationals and foreign citizens. Serious efforts are undertaken in order to provide a legal basis and ensure legitimacy of actions by law enforcement agencies in relation to person's rights to enter, leave and move freely within the territory of Russia. Difficulties with practical implementation of those regulations can lead to situations where the legislation is not being applied in a uniform way, especially due to big differences of conditions in different parts of Russia.

A number of **restrictions to freedom of movement** exist and are regulated by specific legislation aiming to control access to particular areas where restricted access exists both for Russian nationals and foreign nationals due to considerations of national security or public safety. **Access to identity and travel documents**, including for particular groups, such as internally displaced persons, refugees, non-citizens and stateless persons, and persons belonging to minorities, is well controlled although proper issuance of certain documents and **residence registration** remains problematic for certain groups. Some positive steps have been taken to facilitate access to citizenship and hence – proper documents - of persons in irregular situation (former USSR citizens) in line with recommendations by the relevant international bodies. Policies to increase transparency and accessibility of public services related to delivery of identity and travel documents, and accountability of law enforcement agencies, including those involved in regulating and monitoring freedom of movement, have been put in place. However it remains to be seen how effective they are in terms of reducing any eventual discriminatory practices, including towards persons belonging to minorities or certain ethnic background. Some sources such as European Committee against Racism and Intolerance (ECRI) in its 2013 report continue to highlight persistent problems with residence registration procedure for some groups.

As regards **training programmes for law enforcement officials, prosecutors and judges and other practitioners in the areas covered by Block 4**, the Russian authorities stated that the system of public service included a strong component to control professional qualifications and there was also obligatory training to update professional skills. Such training programmes do contain elements of human rights, although it was not possible to ascertain the proportion of specific and targeted training dedicated to human rights pertinent to the context of freedom of movement. Russian authorities are well aware of **relevant recommendations** by UN bodies, OSCE and Council of Europe **in the area of freedom of movement** and facilitation of people to people contacts, and are ready to discuss the need for further efforts of cooperation in the above areas. Authorities assert that they dedicate serious attention to **specific recommendations** of UN bodies, OSCE, the Council of Europe and international human rights organisations in implementing **anti-discrimination policies, protecting persons belonging to minorities and combating hate crimes**, as many of these areas are sensitive and present serious difficulties due to their complexity.

As regards **fight against discrimination and hate crimes**, relevant Russian agencies/line ministries are aware of the complexity of issues related to phenomena of ethnic and religious intolerance, and deploy efforts to put in place inter-agency coordination and consultations. However, discrimination on the grounds of sexual orientation is not recognised as a problematic issue. At expert level, genuine interest in tackling negative phenomena and finding solutions to ensure effective functioning of law



enforcement can be noted. In practice, deficiencies can occur both with implementation of relevant regulations and legislative acts, with efficiency of inter-agency cooperation and with the cooperation with NGOs who have in the recent past in particular experienced difficulties in carrying out their work as a result of the anti-extremism law and the law on foreign agents. In general, on-going efforts to ensure transparency of law enforcement agencies are considered by the Russian authorities as a sufficient anti-discriminatory measure. Efforts are being undertaken to ensure that detention and deportation of irregular migrants or persons having violated the regulations on entry and residence in Russia would correspond to international standards. While legislative developments and general approach of FMS go into the direction of stricter controls, better compliance with international standards and higher efficiency, in practice, there have been reports on cases of massive and targeted detentions of persons from specific ethnic backgrounds, or on detention conditions that do not correspond to the standards required by the relevant legislation.

The main bodies dedicated to addressing human rights issues and to serving as instruments of remedy – Ombudsman’s Office and Presidential Council for Development of Civil Society and Human Rights – take a dynamic and pro-active approach, but seem to function with limited resources and strive to achieve significant or visible results which often are delivered on ad hoc basis, due to personal intervention of either Ombudsman or the Chair of the above Presidential Council. However, even on that level there is little acknowledgment by authorities of the fact that discriminatory or xenophobic practices may exist. Mostly, cases that contain elements of a discriminatory or xenophobic character are perceived as having occurred on social, economic or criminal grounds (for instance, the incidents in Pugachyov town in summer 2013 and in Biryulovo in October 2013 linked to alleged corrupt practices by and inefficiency of police). Nevertheless, awareness among relevant Russian authorities of a particularly sensitive situation in relation to a high concentration of migrants, legal or irregular, in urban areas, and most notably in Moscow, is high, and they acknowledge that this issue needs to be followed closely. Political sensitivity (management of migration flows in Moscow was one of the main topic of municipal elections, and remains high on political agenda) and sporadic incidents against persons originating from Caucasus or Central Asia that occur from time to time prove that further efforts based on a comprehensive approach going beyond the question of technical management of migration are necessary. In this context the lack of authorities’ monitoring of hate speech by politicians and public discourse is a concern.

As regards **prevention of ill-treatment by law enforcement agencies**, the internal mechanisms to tackle such cases are set up, and some high profile cases (e.g., highly mediatised case of mistreatment of detainees by police officers in 2012 in Kazan) have been followed up. Russian authorities tend to deny existence of any problems or deficiencies with law enforcement or freedom of movement in the North Caucasus, even if this is contradictory to reporting from other sources (e.g. report of the 2011 Committee on Prevention of Torture (CPT) visit to the region) and reality on the ground (for instance, Ombudsman’s report for 2012 notes difficulties in investigating cases of ill-treatment and torture by law enforcement in the North Caucasus; and an EU expert visit to Chechnya witnessed the presence of checkpoints blocking roads in Chechnya). As regards the **implementation of the judgments by the European Court of Human Rights (ECtHR) in the areas covered by Block 4**, relevant Russian authorities display commitment to enforcing judgments, however, in a number of particular cases related to freedom of movement, response action was limited to addressing a particular case or issuing instructions to improve procedural or general court practice, without addressing the issue at systemic level.

#### **Detailed comments**

- **Ensure that all Russian and EU citizens and legally residing persons (regardless of the length of their authorised stay) can travel on equal basis with the Parties' own citizens within their respective territories, subject to their internal rules and regulations concerning national security.**

According to the Russian Constitution every citizen enjoys the right to freedom of movement, the right to choice of place of stay and residence within Russia. Rights and liberties of an individual and a citizen can be limited by the federal law only to the extent necessary for protection of the foundations of the constitutional system, morality, wellbeing, rights and legitimate interests of other individuals, national defence and state security. Further regulations are established by further federal laws and regulations according to which a Russian citizen can stay at a place different from their registered place of stay up to 90 days without registration.

Legislation on **legal status of foreign nationals** is regulated by the Federal Law No 115-FZ of 25 July 2002 and other federal laws. Foreign nationals have the rights and responsibilities equal to those of Russian citizens, except for the cases provided for by the federal law.

There are **complaints mechanisms**: the applicant may turn to the supervisor of the official in charge of issuing the relevant document, or to the head of the (local) authority. The authority has ten days to reply to a complaint. A complaint can also be sent to the Federal Office of FMS, which has to reply within a month's time. A special department of the FMS is dedicated to such complaints. Launching a complaint is cost free. As a non-administrative way the court, the prosecutor or the ombudsman can be approached as well.

The list of grounds for possible **restrictions to the freedom of movement**, the choice of a place of stay or residence within Russia is defined in the Federal Law 5242-1 and is exhaustive. It relates to the border areas, closed military cantonments, closed administrative-territorial formations (ZATOs) as well as zones of special regimes declared due to various emergency circumstances. The legislation currently in force gives no other grounds for restricting the freedom of citizens' movement (not counting the procedure of registration itself).

**Access to zones with restricted access** is regulated by a Government decree and lists 11 types of closed areas. The list of other areas in Russia restricted to visit by foreign citizens (only) is published and accessible in a public network, [visalink-russia.com](http://visalink-russia.com).

The legislation does not require that in principle the areas with restricted access should have an official geographical name and be properly marked on maps. Foreigners require a special entry permit for certain territories; the Federal Security Bureau is responsible for delivery of such permits. The rules for access to the ZATOs differ according to the category of ZATO and in principle are the same for Russians and foreign nationals; however, it is not possible for foreigners to become residents of ZATOs.

As regards **cases/difficulties with specific groups** (e.g. legally residing foreigners, refugees, stateless persons), both in their written report and during the EU expert mission hardly any difficulties nor problems in relation to their freedom of movement were reported by the Russian authorities. This refers also to cases of discrimination with regard to people of any specific ethnic origin, including Roma. It was mentioned that Roma population was not keen on registering in general, reportedly because of traditional lifestyle. In January 2013, a Roma Action Plan was developed to improve the integration of Roma persons in Russia. While this Action Plan is quite recent and its implementation is foreseen in 2013-14, no experience regarding the implementation is yet available. The European

Commission against Racism and Intolerance (ECRI), in its report of 20 June 2013, recommends that the authorities establish simplified and accessible procedures for Roma to regularise their legal status.

- **Ensure full-fledged and effective issuance of travel and identity documents, including with regard to their price and deadlines of procedures, to all categories of persons for example to all citizens, internally displaced persons, refugees, non-citizens and stateless persons including to persons belonging to minorities.**

Currently, Russia differentiates two categories of forcibly displaced persons: ‘internally displaced persons’ and ‘forced migrants.’ The term ‘internally displaced persons’ is used exclusively with reference to Russian citizens who temporarily abandoned (for the duration of the crisis) their permanent residence in the Chechen Republic, are located at a temporary residence on the territory of Russia and plan (generally) to return to their former residence. According to the FMS, as of 1 April 2009 all citizens who had been forced to leave their permanent residence in the Chechen Republic and had been registered under the designated procedure at the territorial bodies of the FMS, were deregistered on the basis of the expression of their will to return to their former permanent residence. In this way, as of 1 April 2009 there are no citizens registered as ‘internally displaced persons’. On 1 July 2013, 7 894 persons were registered as forced migrants (being Russian citizens). According to the FMS, only a few foreign nationals were registered as forced migrants.

Administrative expulsion or deportation might occur if a foreign citizen or a stateless person is staying illegally in Russia. On the issue of **deportation and appeal mechanisms**, the Ombudsman (Moscow) stated that there are no further legislative acts necessary but the practice has to be improved. The FMS also admitted that sometimes (especially with regard to persons from Central Asia) the period of examining cases of deportation is longer than provided by the law, due to difficulty to ascertain the citizenship of the person in question, due to lack of ID documents, or due to absence of timely reaction/confirmation by the state that the person is expected to be deported to. There are cases when, due to practical reasons or lack of facilities, legislation is not being enforced, even if authorities are aware of legal requirements and regret the situation. During the EU expert mission to Kazan, the local Ombudsman’s Office and Ministry of Interior (MoI) admitted that due to lack of facilities, persons under deportation procedure were kept in MoI facilities together with persons detained for administrative violations, rather than specialised detention centres, in contradiction to the relevant legislation. It was noted that this situation is being addressed by construction of a new specialised detention centre.

During the EU expert mission, concerns were raised by the NGOs that their activities related to assisting citizens – and more precisely vulnerable groups – in accessing documents and passports, monitoring of detention centres or providing legal assistance, may be hindered by the new Law on NGOs, so called ‘foreign agents’ law, as many of such NGOs receive foreign funds.

As regards **efforts to ratify relevant international instruments on statelessness** (e.g. UN Convention relating to status of stateless persons, UN Convention on the reduction of statelessness), Russian authorities consider that the problem of statelessness is being effectively resolved in the frames of existing laws. Therefore, Russia is not aiming at ratifying the abovementioned international instruments on statelessness. Despite the lack of efforts of ratification, other programs to reduce statelessness are being carried out, such as adoption on 12 November 2012 of the Federal Law No 182-FZ on changes to the Federal Law on the citizenship. The modifications enabled stateless persons with the right to acquire the citizenship via a simplified procedure or obtain a residence permit. It is

expected that this law will be instrumental in addressing the problem of hundreds of thousands former USSR citizens who had been living in Russia in an irregular situation.

- **Conduct training programs for law enforcement officials, prosecutors, judges and other practitioners in the areas covered by the present Block, and address possible deficiencies.**

There exists a system for providing regular professional training for investigators and inquiry officers, judges, prosecutors and officials of the law enforcement agencies. Mandatory core training is based on international law, including human rights, and encompasses equality and non-discrimination provisions.

The FMS is one of the primary agencies in the field of freedom of movement, responsible for immigration procedures. There is no specialised institution within the structure of the FMS dedicated for trainings but it cooperates on a regular basis with universities and international agencies like UNHCR, IOM, ILO and Red Cross, in providing trainings for its officers. Moreover, there are obligatory training programs for civil servants working within the FMS structures which are held once per 3 years. Some particular short term courses are organised for officers like e.g. 72-hour course on the granting of asylum which is mandatory for field officers who are responsible for granting documents on refugees.

Training programs, including on human rights issues, for policemen are carried out mainly in cooperation with Moscow University and other national and international institutions. During the higher education (5 years of studies) there is one-year course of administrative law which covers the issues of migration procedures and punishment for violation of migration rules. Human rights issues are included in the general studies and courses. There are no specialised trainings devoted to non-discrimination measures, protecting national minorities and hate crimes prevention.

There are several institutions responsible for trainings for judges and prosecutors which conduct special training programmes on case-law of the ECtHR, including relevant case-law on practice of Russian law enforcement agencies. Courses of studying specific judgments of the ECtHR, including on cases related to allegations of torture and other types of ill-treatment, are included into the curricula developed for different kinds of audience.

Moreover, different seminars are organised by the Academy of Justice in cooperation with the UNCHR Office in Russia, e.g. for the last three years, twice-a-year 3-day seminars were organised for judges and practitioners. Specialised trainings and improving of staff qualifications in such an area of freedom of movement like anti-discrimination issues, problems of specific groups, protection of minorities or combat against hate crimes are not singled out separately but rather are part of a general course on human rights.

Training for professional advancement of Investigative Committee personnel takes place under the auspices of an Institute of Advanced Training, which has six branches in Russia. It was reported that all courses touch on human rights issues and cases, while basic core modules are devoted to specific issues such as anti-discrimination or combating hate crimes and extremism. Investigators specialise and are trained in tackling certain types of crimes and cooperate with other agencies in these areas. Monitoring of the impact of training is built into the system, including assessment at the end of training and periodic assessment of trainees to check that they are implementing what they have learned. This is also linked to performance review and bonuses. The FMS training for civilian and

attested personnel similarly covers sensitisation on anti-discrimination, hate crimes and relevant judgments of the ECtHR.

- **Discuss and cooperate on relevant recommendations of UN bodies, OSCE, the Council of Europe and international human rights organizations in the areas of the freedom of movement and facilitation of people-to-people contacts.**

*Simplification of procedures for citizenship acquisition:* In 2013, the UN Committee on the Elimination of Racial Discrimination (CERD) welcomed the adoption of Federal Law No 182-FZ of 12 November 2012, which introduced amendments to the 2002 Federal Law on Citizenship, aimed at simplifying the process of acquiring Russian citizenship for former citizens of the USSR. In addition, in their written answers the Russian authorities reported that a package of bills is at the stage of preparations within various State Duma's Committees with the main aim of significant simplification of the Russian citizenship acquisition procedure. As of March 2013, 4500 applications have been received. Certain communities have previously been identified by monitoring bodies as vulnerable to problems acquiring citizenship due to complex legislation governing naturalisation and obstacles posed by strict residence registration requirements. In this respect, it is reported that as of February 2013, 71 500 out of 72 500 Meskhetian Turks in the North Caucasus and Southern Federal Districts are now citizens. Despite these positive developments, continued follow-up to the situation of the above mentioned groups is necessary to ensure that this new remedy is effectively used to the fullest extent possible.

*Registration infringements:* In 2013, CERD recommended that Russia ensures that the residence registration system is implemented 'in a transparent manner without bias and in ways that guarantees the rights of those seeking registration.'

According to the Russian authorities, registration is declaratory and available to all. Under current regulations the onus is on the owner of the property in which an individual is staying to ensure compliance with registration procedures. In this respect, NGOs have reported pressure on those who register individuals from the Caucasus region, making it difficult for the latter to find accommodation. In January 2013, new legislation was proposed which would forbid someone who does not intend living in a property from registering themselves there, and also banning the registration of more residents in a property than permitted under housing regulations. Such amendments would address the phenomenon whereby hundreds of individuals (often migrants) may be registered at a single address but not actually live there. The law would allow for a five year prison sentence or fine of up to 500 000 roubles for those in breach. There are concerns that criminalising failure to comply with procedures would effectively mean a return to the 'propiska' system that existed in Soviet times. Some civil society actors have also raised concerns that new laws would increase the influence of law enforcement officials, including possibly contribute to increased corruption, and could potentially be used as a tool to target migrants and other vulnerable groups found in breach of registration procedures (even though responsibility for compliance lies with the property owner).

*The right of migrant workers and their families to protection and assistance:* In November 2008, Russia signed the CIS Convention on Legal Status of Migrant Workers and their family members, which outlines cooperation in the field of labour migration and protection of migrant workers' rights. Russia has not ratified the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

The rights of migrant workers are protected by law, but are reportedly sometimes violated by exploitative employers. Migrants can also experience problems in accessing services. In this connection the UN Committee on Economic Social and Cultural Rights (CESCR) has recommended that Russia increases the flexibility of access of migrant workers to the system of social benefits of the State party. In Tatarstan, the Ombudsman reported on amendments to laws to improve the situation of migrants. For example, while in the past some migrants have experienced problems with respect to health protection, housing and accessing education, the right to send their children to school is apparently now guaranteed. According to NGOs in Kazan the whole system of access to services is imperfect, but this problem is not limited to migrants or foreigners. NGOs also reported on problems faced by HIV positive migrants who have come to live and have Russian families but cannot access citizenship because of their condition. Without citizenship, access to the medical care needed is also impeded.

In 2013, the UN CESCR remained concerned that irregular labour migration was widespread, which meant that a large number of people work without legal and social protection. The Committee encouraged Russia to continue its efforts to protect the Covenant rights of workers in the informal labour market and to regularise the situation of irregular immigrants and reduce the number of workers outside the formal economy, in order to limit the gaps in the protection accorded to them.

*Protection of the rights of irregular migrants:* It was acknowledged by a number of interlocutors during the EU expert mission, including the Ombudsman Office, that irregular migrants and other groups without personal identity documents such as Roma tend not wish to draw attention to themselves because of their status. Consequently, they are often reluctant to address authorities with claims of mistreatment at the hands of State agents or private parties. It was acknowledged by the Russian authorities that irregular migrants can sometimes experience problems in accessing services for themselves and their families. In Kazan, for example, irregular migrants have received the help of the Ombudsman's Office in ensuring they are able to access services while also being supported in the process of acquiring documentation.

*Prevention and sanction of abuse or power:* Provisions of Russian legislation expressly forbid torture, violence and other types of severe or humiliating treatment, including in case of detention, and are aimed at ensuring legal safeguards for consolidation of legality in police activity. A series of general measures have also been undertaken by the Russian authorities aimed at changing the existing state of affairs and preventing further convention violations detected by the ECtHR in judgments on the Mikheyev group of cases. A series of amendments were introduced into the Criminal Code and the Criminal Procedural Code. The Prosecutor General's Office, the Investigative Committee, the MoI, and the Federal Penitentiary Service (FSIN) issued new and updated existing departmental instructions, orders and guidelines regulating procedures for the restraint of deprivation of freedom for persons that have committed administrative violations or offences, providing guarantees, and exercising control over compliance. In terms of institutional competence, the MoI's Department of State Security monitors application of the law by the police and special significance is reportedly now attached to individuals' complaints, which are reviewed within 1-2 months. A special division of the Investigative Committee is devoted to investigating such crimes, while the Prosecutor's Office provides oversight of legitimacy within law enforcement agencies. Inter-ministerial cooperation is on-going with the UN CAT on a bi-annual basis, including with regard to the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

There are challenges with respect to Public Oversight Commissions (POCs) to ensure public control over observance of human rights at detention facilities. Recommendations for improving the legal framework, efficiency and performance of POCs developed further to a special meeting of the Presidential Council for Human Rights held on 13 February 2012 have been ‘studied carefully by internal affairs bodies of Russia and are presently taken into account in practical activity.’ It is also reported that territorial bodies of the MoI show a positive tendency towards expanding forms of cooperation with POCs in terms of observance of human rights. Meetings of the collegium, joint conferences, and workshops are held together with the members of regional POCs in order to work out measures aimed at tightening control over observance of rights of citizens kept at detention facilities of internal affairs bodies. However, as observed by the Chair of the Presidential Council for Human Rights, implementation throughout the penitentiary system is variable and support is required to allow the POCs to operate as intended. A draft law on the Foundation for Public Oversight currently under development by the Presidential Council for Human Rights would, if adopted apparently create quite a different atmosphere with civil society by strengthening its role with regard to the above-mentioned issues (notably the public control over observance of human rights at detention facilities).

As regards the North Caucasus: In 2012 the CAT was concerned about ‘numerous, ongoing and consistent reports of serious human rights abuses inflicted by or at the instigation or with the consent or acquiescence of public officials or other persons acting in official capacities in the northern Caucasus, including the Chechen Republic, including torture and ill-treatment, abductions, enforced disappearances and extrajudicial killings.’ The Committee was further concerned at the State party’s failure to investigate and punish the perpetrators of such abuses, despite the establishment of Agency No 2 of the Chechen Republic investigation department for particularly important cases. The Russian authorities have provided extensive written information concerning measures aimed at elimination and further prevention of violations with regard to the judgments of the ECtHR in the Khashiyev group of cases concerning investigations into and sanctions for human rights abuses in the North Caucasus region. Efforts to carry out effective investigations reportedly continue in the face of acknowledged obstacles including in accessing archive documents related to the investigation of remote events. However, EU experts were informed by the Investigative Committee and MoI in Grozny that there are currently no cases of torture or other abuse of power by law enforcement officers under investigation. This contradicts also to various reports from the ground (e.g. Joint Mobile Group composed of representatives of various Russian human rights NGOs working in Chechnya). Also, Ombudsman’s report on 2012 does mention difficulties in obtaining information or lack of cooperation by relevant local agencies in cases related to alleged ill-treatment and killings by persons acting in official capacity in the North Caucasus region.

- **Discuss and cooperate on specific recommendations of UN bodies, OSCE, the Council of Europe and international human rights organizations in implementing anti-discrimination policies, protecting persons belonging to minorities and combating hate crimes.**

Russian law prohibits restrictions of any kind on citizens’ rights on grounds of social, racial, sexual, ethnic, linguistic, religious or any other affiliation. According to the Russian authorities ‘it is thus impossible for a policy of discrimination against individual groups of citizens to emerge. There are administrative and criminal penalties for discrimination.’ However, there appears to be no general anti-discrimination law and most of the guarantees come from the Constitution.

However, in 2013 CERD expressed concern that **equality guarantees** in a number of federal and regional legislative acts covers only limited spheres of life, and may apply to citizens only.

Furthermore, CERD and other treaty bodies, as well as NGOs, have recommended strengthening of the legislative framework in the area of non-discrimination with special attention to gender, ethnic minorities, indigenous peoples and migrants, specifically by: adopting comprehensive anti-discrimination legislation covering all spheres of life; and adopting a clear and comprehensive definition of direct and indirect forms of racial discrimination, including multiple forms of discrimination, that covers all fields of law, private and public life. Monitoring bodies and NGOs also recommend establishment of an independent and specialised body dealing solely with the issue of discrimination to conduct monitoring of the situation in the area of discrimination and to raise awareness of discrimination-related problems in society. The view of Russian authorities, echoed by the Ombudsman, is that such a new office is not needed as relevant functions and competences are already covered by other institutions.

As noted by some interlocutors during the EU expert mission (including the Ombudsman), there is a discrepancy between the principles and provisions of the Constitution and legislation, on the one hand, and their implementation in practice, on the other. Implementation can be more effective in the regions where the issue of anti-discrimination is less politicised. This gap is apparent with respect to some of the issues discussed in this report e.g. concerning delays or prevention of registration (discussed below).

According to the FMS, **anti-discrimination legislation** is in place and there is no discrimination in registration in practice. The FMS has established a functional complaints mechanism. If the official review finds a criminal act has taken place, then a criminal case is conducted. No complaints of discrimination have been received. However, because there is no breakdown of complaints by ethnicity, it is not possible to determine whether persons belonging to some groups bring more complaints than others. It was suggested that instances of checks and fines being imposed on those without documents (including minorities and migrants) are more likely to be due to corruption than discrimination. In Kazan, for example, problems have reportedly occasionally arisen with FMS officers demanding bribes, but this is not racially motivated.

All relevant authorities reported on the legal basis, mechanisms and processes for the sanction, including immediate dismissal and prosecution of personnel who violate the principles of protection of the fundamental rights and freedoms. The practice of **ethnic/racial profiling** by law enforcement officers was not acknowledged. The authorities reported that there have been no cases of detention of visible minorities wishing to register. However, international monitoring bodies (CERD, CoE, AC-FC) have raised concerns with this regard.

As to the situation of **nomadic groups facing specific difficulties in registering**, a federal law establishes the registration procedure at the place of living of Russian citizens belonging to indigenous peoples leading a nomadic or semi-nomadic life and not having a place where they permanently or predominantly live. Written answers to additional EU questions state that this law ‘applies only to small indigenous groups of the Far North, the Gypsies do not fall into the category’. However, as stated in the 2010 report of the UN Special Rapporteur on indigenous peoples, the rights of ethnically distinct indigenous groups that do not meet the legislative criteria for designation as ‘small-numbered indigenous peoples’, but that nonetheless have characteristics similar to those within this category, should also be protected. According to the Ministry of Regional Development, access to registration is not a problem for other indigenous groups not recognised as ‘small-numbered indigenous groups’ but who share similar (semi)nomadic lifestyle and lack of permanent or principal residence.



In 2012, the CoE Advisory Committee on the Framework Convention for the Protection of National Minorities (AC-FC) welcomed action to prevent **racist crime**, both at federal and regional level, notably amongst young people, as well as more resolute measures to investigate and prosecute offences committed by far-right and neo-Nazi groups. However, the Committee was concerned that the number of racially-motivated offences remains very high and persisting manifestations of hostility against persons belonging to some groups (especially those from Central Asia, the Caucasus, Africa or Asia, as well as Roma) continue to be frequently reported. Despite the higher rates of prosecution of racially-motivated crime, the Committee was informed that courts often tend to give suspended sentences in cases of racially-motivated offences, which can generate a feeling of impunity. It should be noted that **hate crimes** and extremism tend to be treated together when discussing these issues with the Russian authorities, as both fall (partially) under the broad scope of the 2002 Federal Law No 114-FZ on counteraction of extremist activities. Under this law, extremism encompasses inter alia: incitement to racial hatred with violence or calls to violence; creation of mass disturbances or vandalism for reasons of hatred or hostility to any social group; and dissemination of the idea of racial superiority. The MoI has a strong focus on combating hate crimes and anti-extremism and has worked in cooperation with the Civic Chamber of the Russian Federation and civil society organisations such as Memorial. Regular meetings are held in the regions with community leaders to try and identify and defuse potential hotspots. Such crimes are also a focus for the Investigative Committee, which has a special control and analytical group and permanent investigative operational units dealing with these kinds of cases at federal and regional levels. As noted above, combating hate crimes is also a specific area of training for the Committee.

According to annual summaries of work produced by the Investigative Committee, the trend is reportedly for an increase in hate and extremist crimes, which is related to the proliferation of racist/extremist material and its dissemination on the Internet. All criminal cases are monitored by the Committee, which allows for follow-up with the local authorities in the forms of reports and recommendations to help them address the environment within which such crimes take place. Reports are sent to the appropriate local body responsible for monitoring, which must report within one month. This is mandatory. Where experts are brought in to examine whether direct incitement to racial hatred has taken place (as prohibited under the anti-extremism law) these have to be independent.

Law enforcement bodies have also reportedly been more active since 2010. Police are part of the operational units already mentioned. According to some NGOs, however, the police do not always protect targets of racist violence and do not always act in full objectivity toward migrants.

The main competence for **preventing and combatting extremist activities** lies collectively with the National Anti-Terrorism Committee, MoI, FSB, Prosecutor General and the Investigative Committee. Recent developments in the institutional framework to counter extremism include the setting up of an inter-agency commission to counter extremism, comprising representatives of the 16 Russian agencies. In addition to law enforcement authorities (MoI, Investigative Committee, and FSB), it includes the Ministers of Culture, Education, Tourism, and Communications, as well as heads of the federal intelligence, customs, and tax services. Chaired by the MoI, the Commission is charged with the duty to propose anti-extremism policies, develop relevant concepts and strategies, evaluate current activities, review measures undertaken and legislation adopted, and prepare annual reports for the President. The Commission is unique in that it can issue directives to other Ministries and make direct proposals to the President. Standing interdepartmental counter-extremism coordination and analysis units are also operational in the Russian regions. Crime-fighting units have drawn up plans to **prevent**

**extremism and xenophobia** and are taking action to cut off sources of finance for extremism. Cooperation also takes place with the EU in combating common extremist threats.

**Safeguards against anti-extremism measures** UN treaty bodies have noted with concern that the definition of extremist activity in the Law on Counteraction of Extremist Activities is vague, allowing for arbitrariness in its application, and that amendments have made certain forms of defamation of public officials an act of extremism. Civil society organisations working on the issue have for a long time pointed out to the misuse of the law on extremism. In 2013, CERD recommended that the Russia amend the definition of extremism in the Law to ensure its clarity and precision, covering only acts of violence, incitement to such acts, and participation in organisations that promote and incite racial discrimination. The European Commission for Democracy through Law (Venice Commission) has similarly recommended amending the list of extremist activities to exclude actions that contain no element of violence or the incitement thereof. The Commission also stated that organisers of peaceful protests should not carry the burden of responsibility for extremist acts committed by individual participants. NGOs have also raised concerns that the law is increasingly used to censor religious scriptures and to target minority faiths under the pretext of ‘religious extremism’. For example, in a submission under the second Human Rights Council Universal Periodic Review (UPR), it was stated that once religious materials were included in the Federal List of Extremist Materials, the Government opened investigations, raided homes and churches, seized the works and prosecuted and convicted individuals. The position of the authorities is that the current federal law on terrorism and extremism is in keeping with the Constitution and international obligations of Russia and requires no radical review. Maintenance of lists of organisations and materials is a widely accepted international practice and such lists are compiled by a complex inter-agency process (involving the MoI, FSB, Ministry of Justice, etc.) based on court judgements. The list of extremist organisations is published on the website of the Supreme Court.

Notwithstanding the positive attention paid to integration issues (such as establishment of a Presidential Council for Interethnic Relations, development of a draft of the State Ethnic Policy Strategy, creation of an inter-departmental working group on inter-ethnic relations, adoption of ‘a comprehensive plan for the socio-economic and ethnic cultural development of gypsies over the period 2012-2013), NGOs noted that officials at high levels sometimes send mixed messages regarding integration, which is used as a political tool to mobilise public support. This observation is in line with deep concerns expressed by the CoE, AC-FC and CERD regarding increasing use of xenophobic and racist rhetoric by politicians and the role of the media in disseminating further prejudices on some minority groups, which triggers intolerance against them. Association of certain groups, including Roma and Chechens, with criminality is particularly pernicious in this respect.

It must be noted that efforts by the authorities to take a comprehensive approach are not matched with appropriate acknowledgement of the problem of intolerance and xenophobic feelings in the society. Such events as massive rallies targeting the entire Chechen population in the small town of Pugachyov (in the Saratov region) in July 2013 after a local resident was stabbed to death by a Chechen teenager or 12-13 October 2013 rallies in Biryulovo near Moscow in retaliation against fatal stabbing of a 25 year old man by a person of Caucasian origin are interpreted by authorities as expression of population anger against alleged ‘corruption and inaction of police’. However, clearly xenophobic and nationalist rhetoric of the slogans, as well as retaliatory actions targeting specific ethnic groups that sometimes accompany such incidents show that comprehensive approach is needed also in analysis of such incidents, and response to them should go beyond measures curbing migration. Response measures by law enforcement and notably using the FMS to target persons of Caucasian or Central Asian origin

(for example, raids on irregular migrants in the market places in the aftermath of incidents) do not contribute to dispel the xenophobic rhetoric.

Lack of clarity over implementation of some laws governing politically and socially sensitive issues, and non-uniform application of legal norms by courts can also encourage increase of intolerance in the society, as it can give impression that targeting of particular groups of population is excused by law. This is relevant not only in case of ethnic targeting, but also targeting of other minorities, for instance LGBT individuals. In the last week of July 2013, five Dutch citizens were expelled from Russia due to their participation at a workshop on human rights including LGBT rights in Murmansk. This case highlights the impact of the recently adopted Law against propaganda of non-traditional sexual relations on the freedom of movement of foreign citizens, and the existing discrimination of LGBT individuals or people who defend their rights. It would be useful to have a clear understanding on how this law is and will be applied so that individuals who define themselves as LGBT or who defend their rights could travel to and inside Russia while enjoying full respect of their rights.

- **Discuss and cooperate on the applicable Council of Europe conventions, including the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms, in the areas covered by the Common Steps.**

The relevant Russian authorities underlined Russia's commitment to the ECHR. In this context, MoJ explained in great detail measures taken in order to disseminate the pertinent case-law, to raise awareness by the judges of judgments by the ECtHR, to improve the efficiency of courts and to implement the said judgments. The position of Russia is that it spends considerable resources and pays great attention to implementation of the ECtHR judgments, on which it reports regularly to the CoE's Council of Ministers.

As regards individual cases related to freedom of movement, in order to implement the general measures of the ECtHR's case *Karpatchev and Karpatcheva vs. Russia* where it was found a violation of ECHR by Russian authorities, the interdepartmental working group for the preparation of amendments to the regulations on the protection of state secrets was created. However, no further information on its work and related outcomes were clarified. In its judgment '*Kiyutin vs. Russia*', the ECtHR found a violation of Article 8 and 14 of the Convention by the Russian authorities by rejecting application of Kiyutin for residence permit on the Russian territory on the account of his state of health (HIV-infected). Notwithstanding the ruling, Russia claimed that Federal Law No 115 does not rule out the possibility of allowing entry and stay in the Russian territory of foreigners who suffer from HIV disease with regard to their marital status, clinical stage of disease and other exceptional circumstances. After the Constitutional Court confirmed the above mentioned interpretation of the federal law (May 12, 2006), competent governmental bodies concluded that there was no need to update the current legislation in order to implement the mentioned ruling. Russia considered that in this case, establishing procedures of enhanced control over the executive bodies and courts was more pertinent.

The ECtHR highlighted that presently Russia is the only Convention member state which still has preserved restrictions against individuals who used to have access to data constituting state secrets and now are willing to travel abroad for private purposes (*Soltysiak vs. Russia*). The ECtHR reiterated that in order for those restrictions of rights to be in compliance with ECHR, they should be prescribed by the law, pursue one or several legitimate aims specified Protocol No 4 to the ECHR. At the same time the Court notes that in Opinion No 193 (1996) on Russia's request for membership of the CoE adopted by the Parliamentary Assembly on January 25, 1996, due consideration was given to the fact that

Russia intended to cease to restrict – with immediate effect – international travel of individuals aware of data constituting state secrets, with the exception of those restrictions which are generally accepted in CoE member states. The ECtHR ruling with respect to the Soltysiak case has not been implemented as the general measures are concerned.

**Issues of concern and actions recommended to be followed up under Block 4:**

**On the basis of the above findings the Commission identified the following issues of concern requiring further discussion with the Russian authorities:**

- Both initial and in-service training of law enforcement and other relevant agencies does not seem to address comprehensively **minority issues and inter-ethnic relations** (including anti-discrimination and hate crimes prevention). This could lead to inadequate response to the sensitivities of all communities, including minorities and migrants.
- **Discrimination, intolerance and xenophobia (including hate speech and incitement to racial and ethnic hatred)** may impact considerably the way in which the possible visa free regime will be implemented in practice. The issue however does not seem to be tackled in a proactive and comprehensive way by the authorities. Very little acknowledgement of the existence of impediments to implementation of anti-discrimination legislation and the need to address them may be heard (e.g. ‘zero tolerance policy’). Furthermore, there is no clearly defined independent body dealing with racism and discrimination and aiming to increase efficiency of anti-discrimination policy. The on-going international exchange to focus on specific challenges such as the establishment of effective mechanisms to combat dissemination of hate speech on the Internet is a positive development and its continuation will surely contribute to improvements in that area.
- Comprehensive policy with regard to irregular migration encompasses **access to justice and effective redress by irregular migrants** in cases where their rights have been violated. Further measures to encourage irregular migrants to come forward and to support them in bringing claims to courts would be helpful in this regard.
- Important element of the proper monitoring and effective antidiscrimination policy is an unimpeded activity of **civil society and NGOs**. There are several civil society groups and NGOs involved in providing legal assistance (including enhancing the access to justice and effective redress) to vulnerable/specific groups including migrants and asylum seekers. The current legal framework of functioning and funding of those organisations may create some potential for artificial limitations of their activities.
- As shown by some concrete recent examples, the lack of legal framework on protection from discrimination on grounds of sexual orientation as well as the legislation prohibiting the propaganda of **non-traditional sexual relations** may generate certain barriers to freedom of movement of LGBT individuals or persons defending their rights travelling within and to Russia.

**The following actions are recommended with a view to further improving the implementation of the relevant Common Steps:**

- Ensure effective application of regulations on **access to identity and travel documents**, with particular focus on facilitation of such access for specific groups (such as migrants, stateless persons, or minorities). In this regard, enforce specific anti-corruption measures and monitoring with regard to authorities responsible for registration and delivery of identity and travel documents. Ensure that current regulations and potential amendments to tighten **registration procedures** apply equally to all within the jurisdiction of Russia and are not

enforced to the disadvantage of specific groups (such as migrants, stateless persons, or minorities) and that effective safeguards are in place against arbitrary actions on the part of the authorities.

- Ensure that allegations of **misconduct and ill-treatment by law enforcement officials** towards members of vulnerable groups are thoroughly investigated and the perpetrators brought to justice. Continue the cooperation with the UN CAT and other monitoring bodies, as well as international human rights organisations in addressing cases of reported abuse, ill-treatment and torture by law enforcement officials, in particularly in the North Caucasus, and preventing further violations. Continue the practice of publishing CoE CPT visits reports and take follow up actions.
- Refine the **definition of discrimination in law** as the basis for potential future comprehensive anti-discrimination legislation. Consider adopting a separate piece of legislation ensuring a comprehensive approach to anti-discrimination and setting up an independent body against racism and discrimination in order to increase efficiency of anti-discrimination policy.
- Implement recommendations for legislative reform to **refine the definition of extremism**. Continue to review and update lists and ensure that a process for judicial review is available to those listed.
- Ensure appropriate resources and **strengthen the role of instruments for addressing citizens' claims on violations of their rights**, notably the Ombudsman and Presidential Council for Development of Civil Society and Human Rights. The capacity of these instruments should match the existing needs (e.g. budgetary and staffing needs corresponding to work-load, ability to take effective action within the administrative framework).
- Step up efforts on **implementation of relevant ECtHR judgments** by addressing systemic shortcomings and improving application of relevant legislation in practice, including by courts and the proactive involvement of the national parliament, which should be informed as well as be granted a supervisory function on the effectiveness of the execution of judgments. In this regard, improve dissemination of translations of the ECtHR judgments as well as ensure targeted training of judges and prosecutors.

### III. Conclusions and next steps

Following the EU-Russia Summit on 15 December 2011, the two sides have started the implementation of the Common Steps, in accordance with the provisions contained in the adopted document. Since then, an in-depth gathering of information has taken place through exchange of written reports and numerous field missions, with the participation of EU Member States' experts. Moreover, additional information exchanges and continuous monitoring have taken place in the context of the Joint Readmission and Visa Facilitation Committees as well as the EU-Russia Migration Dialogue. Information and reports from the external actors and organisations (e.g. CoE, NGOs, etc.) were also taken into account. On that basis, the Commission, in close cooperation with the European External Action Service, has carefully examined such information and made the assessments contained in the present report.

The Commission considers that Russia has made progress in the implementation of the Common Steps, many of which can be considered as fulfilled. The assessment carried out has however showed that further work is necessary to consider that all elements contained in the Common Steps have been

fully implemented. Specific issues of concern and further recommended actions have been identified and made to this end in the report.

The Commission will continue to work in close contact with the Russian authorities to swiftly and adequately address the issues of concern and actions identified above, with a view to further reporting to the European Parliament and the Council.