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**NOTE**

From :	General Secretariat of the Council
To :	Delegations
Subject :	EU-Republic of Moldova Visa Dialogue - Action Plan on Visa Liberalisation

Delegations will find attached the EU- Republic of Moldova Visa Dialogue - Action Plan on Visa Liberalisation reflecting the outcome of the discussions in the Working Party on "Eastern Europe and Central Asia".

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## EU-REPUBLIC OF MOLDOVA VISA DIALOGUE

### ACTION PLAN ON VISA LIBERALISATION

#### 1. GENERAL FRAMEWORK

##### 1. 1. Background

The Justice and Home Affairs section of the EU-Republic of Moldova ENP Action Plan, in place since 2005, provides the overall framework for EU-Republic of Moldova cooperation in the area of Freedom, Security and Justice (JLS) and its priorities are regularly monitored through EU-Republic of Moldova JLS Subcommittee meetings.

As a first gradual step towards the long-term perspective of visa-free travel, EU-Republic of Moldova visa facilitation and readmission agreements entered into force on 1 January 2008. A wider EU-Republic of Moldova Mobility Partnership was signed on 5 June 2008 with the purpose of facilitating legal migration, establishing cooperation on migration and development, and preventing and combating irregular immigration and trafficking in and smuggling of human beings, as well as promoting an effective readmission and return policy. Since then, the Mobility Partnership Platform meets regularly guiding the overall implementation of the Partnership and ensuring coordination of projects.

The Prague Eastern Partnership Summit on 7 May 2009 reaffirmed the EU's long-term goal of full visa liberalisation for individual partner countries on a case-by-case basis provided that conditions for well-managed and secure mobility are in place.

At the EU-Republic of Moldova Cooperation Council on 21 December 2009 in Brussels, the parties decided *"to strive to set up in 2010 a dialogue examining the relevant conditions for visa-free travel of Moldovan citizens to the EU as a long-term goal, taking into account the EU Global Approach to Migration and keeping in mind that gradual steps towards full visa liberalisation would be taken provided that conditions for well-managed and secure mobility were in place"*.

Following exploratory talks on 2 March 2010 in Chisinau, which allowed for initial fact-finding, the EU-Republic of Moldova visa dialogue examining the conditions for visa-free travel of Moldovan citizens to the EU as a long-term goal was duly opened on 15 June 2010. The Republic of Moldova already exempts EU citizens from the visa obligation.

On the basis of the exploratory phase of the dialogue, the Council on 25 October 2010 invited the Commission to prepare a draft Action Plan setting out all the conditions to be met by the Republic of Moldova before the possible establishment of a visa-free travel regime, with a view to the visa dialogue entering a fully operational phase as soon as appropriate.

## **1.2. Initial impact assessment of possible future visa liberalisation**

The exploratory phase of the EU-Republic of Moldova visa dialogue, opened in June 2010, allowed for an initial assessment of the relevant factors for the long-term goal of visa liberalisation. During the month of September 2010, expert on-site evaluations were carried out, leading to a detailed assessment (“gap analysis”) of the situation on each of the four blocks of relevant factors identified in the Terms of Reference of the dialogue: document security, including biometrics; irregular immigration, including readmission; public order and security; and external relations. The “gap analysis” allowed for specific recommendations to be made, in view of developing the relevant conditions for the long-term goal of visa-free travel for Moldovan citizens to the EU.

The findings of the exploratory phase of the visa dialogue confirm that a sustainable visa-free regime for Moldovan citizens can only be established once the relevant conditions are put in place. In particular, visa liberalisation is conditional upon: significant improvements in the level of document security, including biometrics; strengthening of border and migration management and asylum policy; reforms and cooperation in the area of public order and security (including the fight against trafficking in human beings); addressing external relations issues (including human rights and fundamental freedoms) linked to the movement of persons. These reforms and improvements, as well as the reforms of relevant authorities, including police forces, should result in a high level of effectiveness corresponding to relevant European and international standards.

In addition, the full and effective implementation of the EU-Republic of Moldova readmission agreement (regularly monitored by the relevant Joint Committee) remains an underlying condition for the continuation of the visa dialogue and is of paramount importance for the establishment of a sustainable visa-free regime. The EU-Republic of Moldova Joint Readmission Committee has met three times, most recently in May 2010, and has found the implementation of the agreement to be satisfactory to date.

In terms of initial impact assessment of possible future visa liberalisation, it should further be noted that the visa refusal rate in the Republic of Moldova has been relatively constant but significant in the past two years at around 10%, while the number of Moldovan citizens refused entry at the EU’s external border decreased from about 5,750 persons in 2008 to fewer than 3,000 persons in 2009. Moreover, the number of Moldovan citizens apprehended illegally residing in the EU has steadily decreased in recent years from about 11,250 in 2006 to fewer than 5,750 in 2009 and the number of return decisions decreased from 6,710 to 5,275 in the past two years (Eurostat data).

## **1.3. Methodology**

Having in mind the wide range of issues relevant for the visa liberalisation dialogue and the importance of establishing a secure environment for visa-free travel, the objective of this Action Plan is to identify all the measures to be adopted and implemented by the Republic of Moldova and set up clear requirements to be achieved. The Action Plan is tailor-made to the Republic of Moldova's current progress in the visa dialogue, taking into account the “gap analysis” produced during the exploratory phase of the visa dialogue and detailed information provided by the Republic of Moldova covering the four blocks of issues within the dialogue. In case of substantial change of the current situation, the Commission could propose a review and re-adaptation of the Action Plan.

To promote sustainable and well-planned reforms, the Action Plan contains two tiers of benchmarks: preliminary benchmarks concerning the policy framework (legislation and planning), which would pave the way for meeting more specific benchmarks (effective and sustainable implementation of relevant measures). The Council will be kept informed through Commission reports on the fulfilment of the first set of benchmarks, in view of taking a decision to initiate an assessment of the second set of benchmarks. The latter will be assessed through on-site evaluations involving experts from EU Member States. To that end, the Commission expects the Republic of Moldova to provide detailed information (including relevant statistical data and financial plans to support the implementation of the Action Plan in a sustainable way) allowing for an evaluation of concrete results on the ground, including with regard to the specific situation of the Transnistrian region, in particular possible security and migration challenges, without prejudice to the “5+2” negotiating process.

The speed of movement towards visa liberalisation will depend on progress made by the Republic of Moldova in fulfilling the conditions set. Therefore, there will be no automaticity and progress in the fulfilment of each set of benchmarks will be closely examined and decided upon by the Commission and the Council. The complete fulfilment of the first set of benchmarks will be closely examined and verified by the Commission and the Council before a decision is taken to initiate the assessment of the second set of benchmarks.

Moreover the full and effective implementation of the EU-Republic of Moldova Joint Readmission Agreement will continue to be monitored in the relevant Joint Committee. As regards the implementation of the EU-Republic of Moldova Visa Facilitation Agreement (monitored by its respective Joint Committee) particular importance will be attached to tackling risks of supporting document fraud.

In order to provide for a full impact assessment of visa liberalisation, the Commission will also continuously monitor *inter alia* the visa refusal rate in the Republic of Moldova, the number of Moldovan citizens refused entry at the EU's external border or apprehended illegally residing in the EU, the number of return decisions, and the number of returns to the Republic of Moldova etc.

The Commission will regularly report on the Republic of Moldova's implementation of this Action Plan to the European Parliament and to the Council, for the first time in mid-2011. The Commission will also provide a wider assessment of possible migratory and security impacts of future visa liberalisation for Moldovan citizens travelling to the EU, before a decision is taken by the Commission and the Council to initiate the assessment of the second phase of benchmarks.

Fulfilment of all benchmarks will allow the Commission, taking into account the overall relations between the EU and the Republic of Moldova, to make a proposal to the European Parliament and to the Council for the lifting of the short-stay visa obligation for Moldovan citizens, through an amendment of Regulation 539/2001 (such amendment should be limited to the holders of biometric passports issued in accordance with ICAO standards). In view of such a proposal, the Commission services will also take into account possible impacts of visa liberalisation on the basis of trends in *inter alia* the visa refusal rate, the number of Moldovan citizens refused entry at the EU's external border or apprehended illegally residing in the EU, the number of return decisions etc.

Following the ordinary legislative procedure laid down in the Treaty on the Functioning of the European Union for these matters, on the basis of the Commission's proposal, the European Parliament and the Council will take a decision.

## **2. ELEMENTS OF THE ACTION PLAN**

### **2.1. Block 1: Document security, including biometrics**

*1st phase (legislative and policy framework):*

- Consolidation of the legal framework for the issuing of machine readable biometric passports in full compliance with highest ICAO standards on the basis of secure identity management (civil registry and breeder documents) and taking into account adequate protection of personal data;
- Adoption of an Action Plan containing a timeframe for the complete roll-out of ICAO-compliant biometric passports, including at Moldovan consulates abroad, and the complete phasing out of non-ICAO compliant passports;
- Establishment of training programmes and adoption of ethical codes on anti-corruption targeting the officials of any public authority that deals with passports, as well as identity cards and other breeder documents.

*2nd phase (benchmarks for effective implementation):*

- Gradual roll-out of biometric passports in compliance with ICAO standards, including at Moldovan consulates abroad, and phase-out of non-ICAO compliant passports;
- High level of integrity and security of the application, personalisation and distribution process for passports, as well as identity cards and other breeder documents;
- Prompt and systematic reporting to Interpol/LASP data base on lost and stolen passports;
- Regular exchange of passport specimens and cooperation on document security with the EU.

### **2.2. Block 2: Irregular immigration, including readmission<sup>1</sup>**

#### **2.2.1. Border management**

*1st phase (legislative and policy framework):*

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

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<sup>1</sup> The full and effective implementation of the EU-Republic of Moldova readmission agreement remains an underlying condition for the continuation of the visa dialogue and is of paramount importance for the establishment of a sustainable visa-free regime.

- Adoption of an Action Plan for the effective implementation of the National Integrated Border Management Strategy, containing a timeframe and specific objectives for the further development of legislation, organisation, infrastructure, equipment, as well as sufficient financial and human resources in the area of border management;
- Establishment of training programmes, and adoption of ethical codes on anti-corruption specifically targeting border guards, customs and any other officials involved in border management.

*2nd phase (benchmarks for effective implementation):*

Effective implementation of legislation on border control through adequate border checks and border surveillance, procedures and operational effectiveness, situational picture at national and local level, including implementation of risk analysis, intelligence and data-flow management as well as direct access and consultation of relevant national and international databases;

- Provision of adequate infrastructure, technical equipment, IT systems, financial and human resources in accordance with the IBM Strategy and Action Plan to be adopted, and effective implementation of training programmes and anticorruption measures;
- Improvement of inter-agency cooperation (including exchange of data between the Border Guard Service and law enforcement agencies) international cooperation, including cooperation with neighbouring countries and implementation of working arrangement with FRONTEX to a high level of effectiveness.

### 2.2.2. Migration management

*1st phase (legislative and policy framework):*

- Consolidation of the legal framework for migration policy, including measures for the reintegration of Moldovan citizens (returning voluntarily or under the EU-Republic of Moldova readmission agreement) and the fight against irregular migration (including efforts to conclude readmission agreements with main countries of origin and inland detection of irregular migrants);
- Adoption of a National Migration Management Strategy for effective implementation of the legal framework for migration policy and an Action Plan, containing a timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources;
- Establishment of a mechanism for the monitoring of migration stocks and flows, defining a regularly updated migration profile for the Republic of Moldova, with data both on irregular and legal migration, and establishing bodies responsible for collection and analysis of data on migration stocks and flows.

*2nd phase (benchmarks for effective implementation):*

- Continued effective implementation of the EU-Republic of Moldova readmission agreement and measures for the reintegration of Moldovan citizens (returning voluntarily or readmitted);
- Effective implementation of legal framework for migration management, including provision of administrative structures with adequate human resources with clear and relevant competences for all aspects of migration management, as well as effective cooperation between relevant agencies;
- Migration profile established and regularly updated and effective analysis of data on migration stocks and flows;
- Consistent implementation of an effective methodology on inland detection of irregular migration, risk analysis (including the reporting of relevant agencies and analysis on each administrative level e.g. local, central), and investigation of cases of organised facilitated irregular migration, including effective cooperation between relevant agencies;
- Provision of adequate infrastructure (including detention centres) and strengthening of responsible bodies to ensure effective expulsion of illegally residing and/or transiting third country nationals from the territory of the Republic of Moldova.

2.2.3. Asylum policy

*1st phase (legislative and policy framework):*

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

*2nd phase (benchmarks for effective implementation):*

- Effective implementation of asylum legislation, including provision of adequate infrastructure and strengthening of responsible bodies (staff, funding), in particular in the area of asylum procedures, reception of asylum seekers and protection of their rights, as well as integration of refugees; ensuring that beneficiaries of international protection have access to travel documents foreseen by the legislation.

**2.3. Block 3: Public order and security**

2.3.1. Preventing and fighting organised crime, terrorism and corruption

*1st phase (legislative and policy framework):*

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

- Consolidation of the legal framework on preventing and fighting trafficking in human beings and regular updating of the respective National Plan, including a timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources;
- Adoption of legislation on preventing and fighting corruption and consolidation of the anti-corruption function of the Centre for Combating Economic Crime and Corruption; strengthening coordination and information exchange between authorities responsible for the fight against corruption;
- Consolidation of the legal framework for the prevention and fighting of money laundering and financing of terrorism in line with international standards set by the Financial Action Task Force on Money Laundering and Terrorist Financing (FATF); regular updating of the respective national strategy; establishment of an independent Financial Intelligence Unit;
- Adoption of a National Anti-drug Strategy and its related action plan; establishing cooperation with EMCDDA;
- Adoption of relevant UN and Council of Europe conventions in the areas listed above and on fight against terrorism.

*2nd phase (benchmarks for effective implementation):*

- Implementation of the Strategy and Action Plan on preventing and fighting organised crime including effective coordination between the relevant authorities, as well as conducting effective investigation, prosecution and confiscations of proceeds of crime;
- Implementation of legislation on preventing trafficking in human beings and the respective National Plan, including effective coordination between state agencies and effective protection of victims of trafficking, in particular children;
- Implementation of legislation on preventing and fighting corruption, ensuring the efficient functioning of the independent anti-corruption agency; development of ethical codes and training on anti-corruption, especially targeting public officials involved in law enforcement and the judiciary;
- Implementation of the legislation and Strategy for the prevention of money-laundering and financing of terrorism, implementation of relevant legislation on confiscation of assets of criminals (including the provisions addressing cross-border aspects);
- Implementation of the National Anti-drug strategy and its related action plan, making the information on drug seizures and persons involved accessible at border crossing points; further developing cooperation and information exchange with relevant international bodies in the drug field;
- Implementation of relevant UN and Council of Europe Conventions, as well as GRECO recommendations in the above mentioned areas.

### 2.3.2. Judicial co-operation in criminal matters

*1st phase (legislative and policy framework):*

- Adoption of a legal framework on mutual legal assistance;
- Accession to the 2nd Protocol to the European Convention on mutual legal assistance;
- Conclusion of an agreement with Eurojust.

*2nd phase (benchmarks for effective implementation):*

- Implementation of international conventions concerning judicial cooperation in criminal matters (in particular Council of Europe Conventions);
- High level of effectiveness of judicial co-operation in criminal matters of judges and prosecutors with the EU Member States.

### 2.3.3. Law enforcement co-operation

*1st phase (legislative and policy framework):*

- Establishment of an adequate coordination mechanism between relevant national agencies and a common database guaranteeing direct access to relevant officers;
- Conclusion of an operational cooperation agreement with Europol ensuring an adequate level of data protection.

*2nd phase (benchmarks for effective implementation):*

- High level of operational and special investigative capacity of law enforcement services and its consistent and efficient use to tackle cross-border crime;
- High level of effectiveness of law enforcement co-operation among relevant national agencies - especially border guards, police, customs officers -, as well as cooperation with the judicial authorities;
- Strengthened bilateral and multilateral operational law enforcement cooperation agreements, including by sharing on time relevant information with competent law enforcement authorities of EU Member States.

#### 2.3.4. Data protection

*1st phase (legislative and policy framework):*

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

*2nd phase (benchmarks for effective implementation):*

- Implementation of the legislation on the protection of personal data and; ensuring efficient functioning of the independent data protection supervisory authority also through the allocation of the necessary financial and human resources.

### **2.4. Block 4: External relations and fundamental rights**

#### 2.4.1. Freedom of movement within the Republic of Moldova

*1st phase (legislative and policy framework):*

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

*2nd phase (benchmarks for effective implementation):*

- Ensuring that freedom of movement within the Republic of Moldova of Moldovan citizens and legally staying foreigners or stateless persons is not subject to unjustified restrictions, including measures of a discriminatory nature, based on any ground such as sex, race, colour, ethnic or social origin, genetic features, health status (including HIV/AIDS), language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation;

#### 2.4.2. Conditions and procedures for the issue of identity documents

*2nd phase (benchmarks for effective implementation):*

- Full, effective access to travel and identity documents for all Moldovan citizens including women, children, people with disabilities, people belonging to minorities and other vulnerable groups.

### 2.4.3. Citizens' rights including protection of minorities

#### *1st phase (legislative and policy framework):*

- Adoption of comprehensive anti-discrimination legislation, as recommended by UN and Council of Europe monitoring bodies, to ensure effective protection against discrimination;
- Adoption of a comprehensive National Human Rights Action Plan; actively pursue in the respective National Human Rights Action Plan the specific recommendations of UN bodies, OSCE/ODIHR, the Council of Europe/ECRI and international human rights organisations notably in implementing anti-discrimination policies, protecting minorities and private life and ensuring the freedom of religion;
- Ratification of relevant UN and Council of Europe instruments in the fight against discrimination;
- Specify conditions and circumstances for the acquisition of the citizenship of the Republic of Moldova.

#### *2nd phase (benchmarks for effective implementation):*

- Effective implementation of legislation and policies on anti-discrimination, implementation of relevant UN and Council of Europe instruments;
- Effective implementation of the National Human Rights Action Plan measures on fight against discrimination (including allocation of adequate resources); general awareness raising campaigns against racism, xenophobia, anti-Semitism and other forms of discrimination; strengthening the responsible bodies for anti-discrimination policy and combating racism, xenophobia and anti-Semitism.