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SCH-EVAL 98
VISA 243
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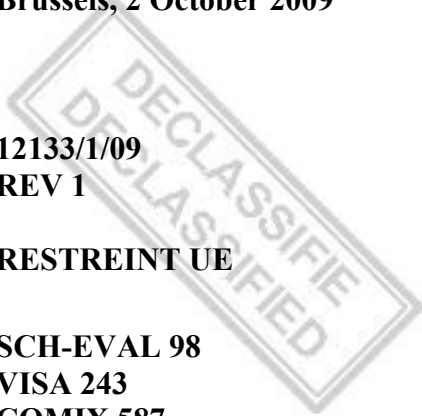The text of this document is identical to the previous version.

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COUNCIL OF THE EUROPEAN UNION	Brussels, 2 October 2009
	12133/1/09 **REV 1**
	RESTREINT UE
	SCH-EVAL 98 **VISA 243** **COMIX 587**

REPORT

from :	Evaluation Committee
to :	Schengen Evaluation Working Party
Subject :	Draft report on the Evaluation Committee's mission to the **Visa section of the Embassy of Romania in Chisinau** in the context of Romania's preparations for the full implementation of the Schengen acquis (Time of visit: June 2009)

Delegations will find attached the draft report of the Schengen Evaluation mission to the Visa section of the Embassy of Romania in Chisinau, drafted by the Evaluation Committee (hereinafter EvalCom). It is presented to the Sch-Eval Working Party for discussion and adoption, allowing for its eventual submission to the Council.

The comments of the Romanian authorities are set out in footnotes.

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RESTREINT UE

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Introduction

Based on the mandate of the Schengen Evaluation Group (SCH/Com-ex (98) 26 def), the Schengen Evaluation Programme 2008-2013 (doc. 6949/3/08 REV3), the Provisional list and indicative calendar of evaluations for 2009 (doc.11602/1/08 REV 1) and the Overview of programmes, participants, technical details for the Schengen evaluations in 2009 (doc. 5160/1/09 REV 1 and subsequent REV's), experts carried out a Schengen evaluation of the Visa section of the Embassy of Romania in Chisinau in June 2009.

The Romanian Embassy's jurisdiction covers the Republic of Moldova.

General context

The Republic of Moldova is located between Romania and the Ukraine and has a population of approx. 4,1 mio, about 1/5-1/4 of which works outside the country. It is the 2nd smallest of the former Soviet republics. Agriculture and industry account for resp. 35 and 15 % of the labor force. With a GDP of US$ 4 billion (p/capita of US$ 1,300, 2007 figures) it is one of the poorest countries in Europe. The EU and Moldova agreed on an Action Plan including a roadmap of reforms and closer cooperation on a range of issues.

There are strong historical ties between Romania and Moldavia (incl. the fact that they share the same language).

One of the main problems facing the Schengen States' visa services in Chisinau is trafficking in persons, which is a very serious problem as Moldova is considered a major source- and to a lesser extent, transit country.

1. ACCESS TO THE VISA SECTION

1.1 Location and opening hours

The Romanian Embassy in Chisinau is located in the central area of the city and is accessible by public transport.
The visa section is open to the public on working days from 8.00 - 16.00 (individual applicants on Monday, Wednesday and Friday, companies and tour operators on Tuesday and Thursday).

1.2 Information

Information can be obtained by telephone and by answering machine. Information can also be obtained at the information desk outside, and from the notice boards inside and outside the building as well as in the waiting room. Examples of filled in application forms are displayed both inside and outside in Romanian, English and Russian.

Information is also available at the website of MFA (http://chisinau.mae.ro) in Romanian, English and Russian. The website of the Embassy of Romania in Chisinau can be accessed through the website of the MFA.

1.3 Application forms

The (4 page) application forms in Romanian, English and Russian are available at the main entrance outside, in the courtyard-waiting area and on the website of the Embassy of Romania in Chisinau and of the Ministry of Foreign Affairs (in Romanian and in English). Application forms are also available at the tour-operators, the Association of Business Investors and the International Association of Road Transporters.

EvalCom comments and recommendations
EvalCom reminds Romania that when applying the Schengen acquis in full, the harmonized application form set out in Annex 16 of the CCI should be used.

1.4 Access management

The visa section occupies a 4-storey building. The public accesses the building via the main entrance, Consular and local staff accesses the premises through two different entrances at the back of the building.

In order to avoid crowds outside the entrance, there is a mobile protection fence of around 60 cm height on the sidewalk. Two Moldovan soldiers limit the access to the applicants' entrance. Applicants then pass through a gate, present their travel document to a (Romanian) guard for registration (by scanning the MRZ of the travel document - viz "Visa tracking web" program below), receive a ticket with a number, pass through a metal detector arch guarded by another Romanian guard, and enter the inner courtyard where notice boards, benches and rain-covers are available. During colder days, portable heaters are placed.
A member of the Consular staff provides assistance and checks whether the supporting documents are present.

The "Visa tracking web" program manages the flow of applicants inside the building; access is limited to a maximum of 30 applicants at a time.
A staircase leads from the courtyard waiting area to the counter area on the 1st floor (access to which is controlled by a Romanian guard) which is also equipped with benches, tables and notice boards. The *Visa tracking web* numbers are displayed on LCD screens.
There are 15 counters and one separate, closed-off interviewing counter.

2. SECURITY FEATURES OF THE PREMISES INCLUDING SECURITY CHECKS

2.1 Outside (physical protection, guards, alarm system)

The building is surrounded by a metal fence of 2-2,5m. High. Moldovan soldiers outside the building work (24/24) in a daily rotation system. The number of soldiers depends on the number of applicants waiting outside and is assessed by the Moldovan Police.

Applicants at the main entrance pass through a barred gate which is opened by the security guard from inside after which they pass through a metal detector arch and are additionally checked by the (Romanian) security guard with a manual metal detector. They may proceed after passing through the inner courtyard/waiting area to the waiting room/counter area on the first floor, where another security guard is posted.

EvalCom was informed that the courtyard, parking area and the area where passports are returned are entirely surveyed by 10 cameras. Images are displayed on 5 monitors, situated: on the secretary's desk, in the server room, in the office of the head of the visa section, in the expatriate security guard's booth at the main entrance and in his apartment on the premises. Recorded images of all cameras are saved up to 2 months.

Permanent monitoring of the images is done by the secretary although she cannot switch between cameras; switching can be done only in the server room and in the security booth at the main entrance.

EvalCom observed that the security guard does not have a direct view of the images since the screen is behind him.

The area where passports are returned is separated from the courtyard by a fence.

Evalcom observed that although the area is said to be surveyed by a camera, not the whole area is covered. Applicants have direct access from the street to this area where passports are returned at 2 counters. There is an additional counter for information and oral requests for the motivation of refusals. Windows at these counters are covered by security antireflection foil. A metal door leads from this area to the interior part of the visa section. Although the door is closed, it can be opened by key rather than by electronic access control cards.

EvalCom noticed that there is a window on the ground floor without any security locks, which people waiting in the inner courtyard can easily reach; EvalCom was told this was an emergency exit.

Staff working at the visa section has a separate entrance to the building via the parking area. The parking area of the consular staff is accessed through an automatically controlled gate.

A 24/7 alarm system is available which is not connected to the local police but warns the expatriate security guard.
The windows on the ground floor are fitted with anti-theft foil; windows on the upper floors are not protected in any way.

EvalCom comments and recommendations [1]
EvalCom recommends that the secretary be enabled to switch between cameras and that the screen in the security guard's booth is placed in such a way that he has a proper view.

EvalCom recommends that the door to the area where passports are returned, be replaced by a security door that cannot be opened from outside and that a camera be placed to survey this entire area.

EvalCom recommends that the emergency exit window in the inner courtyard be appropriately secured to prevent unauthorized access and that windows on the upper floors also be secured.

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[1] **RO**: Based on the EvalCom recommendation, presently the secretary can see all the cameras at the same time through the "split screen" application. The screen from the security guard's booth was already placed in such way as to permit a proper view of the images.
The emergency exit window towards the inner courtyard is covered by security anti-break-in foil. In the next future a protection grid will also be installed.

2.2   Inside (waiting room, visa counters, interview facilities)

The waiting room / counters are situated on the first floor but there is a separate counter for disabled persons on the ground floor in case of need. The ground floor and the staircase are surveyed by 3 cameras. All counters have fixed panic buttons which activate the alarm system and there are 3 phones to contact the security officers in case of need. Motion detection sensors are installed in the waiting room. Bullet-resistant windows separate the applicants from the visa officers and documents can be submitted through sliding drawers at each counter. All communication between staff and applicants is performed through microphones. There are 3 cameras in the waiting room, 3 above the counters on the inside and one in the separate interview room. The interview room is accessed through a metal door that can only be opened from inside. A discretion zone is clearly marked on the floor in front of each counter. There is no connecting door between the waiting room and the visa section, although there is a gap covered by foil at the end of the wall separating these areas.

All doors in the back office can be opened only by electronic access control cards, according to staff's individual competencies. EvalCom nevertheless noticed that the separation between the counter area and the back office is not watertight, as there is a gap in the wall by the windows through which objects can be handed and through which even a person could pass from one area to the other.

Upstairs are the offices of the secretary, the head of the visa section and a secure room where visa applications and passports with affixed visas are stored overnight and whose windows are protected by security foil. There is a balcony which is accessible from the office of the head of the visa section and from the secure room. The doors to the balcony are fitted with removable metal bars (see also 10.2).

EvalCom comments and recommendations [1]
EvalCom recommends that the wall between the waiting area and the (inner) counter area, as well as the wall between the (inner) counter area and the back office be strengthened in order to ensure an effective separation.
It is recommended to permanently lock (i.e. make it impossible to open) the metal bars of the balcony doors to the secure room or use another room for storing documents and applications, which does not have windows or a balcony (see also 10.2).

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[1]   **RO**: Romania took note of the EvalCom recommendation and hereby informs that the wall between the (inner) counter area and the back office and the wall between the counter area and the back office have already been fully secured in order to ensure an effective separation. Following the EvalCom recommendation, the metal bars on the balcony doors will be permanently locked.

3. SUBMISSION OF APPLICATIONS

3.1 Description of the procedure

Personal appearance
Evalcom was informed that most applicants must appear in person. However, no statistics were presented on the number of exemptions from this rule. Exemptions are made for well known, "bona fide" applicants and/ or applicants living far away *("200- 400 km from Chisinau");* their representatives must present a written power of attorney. Accredited travel agencies may submit applications on behalf of bona fide applicants going on organized trips. The "bona fide" criteria are based on applicants' travel history.

Reception of applications and interviews
Applicants submit their applications according to their ticket number. Local staff, under the supervision of consuls, checks the application form, travel document and supporting documents. The identity of the applicant is checked and passports are screened in the UV-light machine available at each counter. Applicants are asked key questions concerning their application and a consul is consulted in case of doubt or if a more thorough interview is needed. Such interviews are mostly conducted at the counter, but may take place in the separate interview room if more privacy is needed.

When the counter staff has completed the pre-check and decided whether the application is complete or not, its status is recorded in the *Visa tracking web*.
The name of the applicant appears automatically in the system through communication with the ticket from the security booth at the entrance; the date of birth of the applicant, type of visa applied for, details of the inviting person, name of authorised notary (if applicable) and the expected date for the decision is also registered in the system.
EvalCom was informed that these data are recorded for staff monitoring-purposes and to compile statistics, although it was unclear what purpose these statistics serve.

"Application stamp"
Applicants' passports are stamped, indicating the date and the type of visa applied for. The new Moldovan passports are stamped on pages with even numbers only; the old Moldovan passports are stamped on pages with uneven numbers. Usually both originals and copies of supporting documents are presented by applicants. The copies are then stamped with a "certified copy" stamp.

Incomplete files
If the application filed is deemed incomplete at the counter, the entire file and the travel document is returned to the applicant who is asked to return with a complete application. This is registered in the *Visa tracking web* system as an "incomplete file".

Black list
A black list of approximately 40 persons is available to staff at every counter. The list contains the name, passport number and birth date of every applicant, but there is no date indicating when this list was established and/or updated.

EvalCom was unable to assess what criteria are used to decide on blacklisting a person and it established that in some cases the circumstances of an alert could not be verified because it is not possible to trace the file of these applicants in the IT systems. EvalCom was also informed that once listed, a person is not removed from the list. EvalCom observed that a name had been added manually in some of the lists at the counters but that this amendment had not been made in the lists available in the back office.

EvalCom was informed that this information is transmitted to the other EU diplomatic missions and consular posts in Chisinau.

EvalCom comments and recommendations [1]
EvalCom reminds the Romanian authorities of the general rule of personal appearance as set out in the CCI, Part III, point 4. Given the size/surface of the Republic of Moldova, the 200-400 km distance criteria for exempting a person from personal appearance seem excessive and should be reconsidered.

Although recognising that the added value of using the "application stamp" is somewhat relative in a country that allows its nationals to hold up to 3 passports, EvalCom recalls the provisions on the use of the stamp indicating that an application has been submitted (CCI, Part VIII, Section 2 and Council Conclusions on LCC adopted in 2001[2]).

EvalCom expresses doubts concerning the practice of "non-acceptance" of incomplete files at the counter; when Romania will apply the Schengen Acquis in full, such a practice could lead to visa shopping.

EvalCom finally recommends that the blacklist be regularly revised and that data are included on the reasons for an alert and the date of revision. These data will also be necessary when an applicant requests motivation of a refusal (see point 7.) All staff members should have the same version of the blacklist, which should preferably be integrated in the IT system.

3.2   Nationality of applicants

The vast majority of applicants are Moldovan nationals. The share of other nationalities is less than 1% (mainly Ukrainian, Russian and Turkish nationals).

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[1]   **RO**: - According to the EvalCom recommendation, the distance criteria were reconsidered and are no longer a reason for exception in the case of the Romanian consulate in Chisinau.
- Instructions were sent to all the diplomatic missions and consular posts of Romania, in view of implementing the provisions of the CCI, Part VIII, Section 2 and Council Conclusions on LCC adopted in 2001, referring to the use of the stamp.
- Instructions concerning the submission of all visa applications were transmitted to the diplomatic missions and consular posts of Romania, as well as the obligation of implementing all registered visa applications into the system.

[2]   Doc. 7819/1/01 REV 1 VISA 47 COMIX 257

3.3 Applications from non-residents

As a general rule only applications from residents are accepted. However, in special cases (humanitarian reasons etc), if the stay in Moldova is deemed as legal, applications from non-residents are accepted. If these applications contain documents which are not known by the visa section, the Romanian Embassy in the applicant's country of origin is contacted.

3.4 Possibility of future representation cf CCI, Part II, section 1.2

EvalCom was informed that currently Romanian national law does not allow Romania to be represented by other States for issuing visas and Romania cannot represent any other State for that same purpose.

EvalCom comments and recommendations [1]
EvalCom recommends the Romanian authorities to take the necessary measures to provide for the possibility of either representing or being represented by another Schengen Member State for the purpose of issuing visas.

3.5 Processing of applications from 3rd country citizens holding a non-recognized travel document

A list of travel documents recognised by the Romanian authorities is on display on the notice board in the waiting room; the list is also available to staff.

According to the legislation in force, visa stickers for applicants holding travel documents that are not recognized by Romania, are affixed to the uniform format of the separate sheet as established by Council Regulation (EC) 333/2002.

EvalCom comments and recommendations
When applying the Schengen acquis in full, Romania should be aware of the rules applying when other Member States do not recognise a given travel document (i.e. issuance of LTV visas).

3.6 Administrative fee

Currently visas are issued free of charge to Moldovan citizens.
In the case of third-country nationals, the applicable visa fees are charged at the moment of submission of the visa application.

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[1] **RO**: Romania has already launched the procedure of amending its national legislation in this respect.

EvalCom comments and recommendations [1]
In relation to the collection of the administrative fee, EvalCom recommends adapting the present organisation and work flow in due time before Romania starts to apply the Schengen acquis in full, as a large number of applicants will have to pay the fee.
In this respect, EvalCom reminds the Romanian authorities of Decision 2006/440/EC, i.e. CCI Annex 12, establishing that the administrative fee is either the flat rate of €60 or that the fee may be waived for certain categories of persons or in individual cases.
Upon implementation of the Schengen acquis in full, administrative fees should be in accordance with Annex 12 of the CCI and the existing (EC-Moldova) Visa Facilitation Agreement (VFA).

3.7   Cooperation with and accreditation of travel agencies

The Embassy receives verbal notes from the Moldovan authorities with information concerning officially licensed travel agencies. To be accredited, travel agencies are required to provide information on their activities (licence, commercial register of the chamber of commerce, official signatures, tourism statistics, contracts with Romanian counterparts and information of the personnel). The travel agencies must designate one or two persons as couriers. These persons must present identification card with a photograph when submitting applications. In 2008, the accreditation of one travel agency was revoked because of visa holders not returning to Moldova. There are currently 45 accredited travel agencies on the Embassy's list. The agencies are required to renew relevant information regularly, with a frequency of 6-12 months.

EvalCom comments and recommendations

EvalCom considers the procedures for accreditation of travel agencies and the further monitoring established by the Romanian consular section is satisfactory.

4.   PROCESSING OF THE APPLICATION

4.1   Examination of the application

Incomplete applications are considered non admissible. Once an application has been considered admissible and the travel document stamped by one of the members of the local staff, it is examined by one of the seven consuls. The consul examines the travel document, the visa application and the supporting documents at the counter. If need be, the consul may interview the applicant at the counter. EvalCom was informed that consuls talk directly to between 30 and 50% of the applicants when they submit their applications (at the counters or, in sensitive cases, in the separate interview room). Afterwards, the Consul takes one of the following decisions which is indicated by means of a stamp on the application form (with the identification number of every Consul):

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[1]   **RO**: The MFA has instructed all the diplomatic missions and consular posts of Romania abroad to each open a bank account which will be used by applicants to pay the visa fee and to adapt their workflow in order to be fully operational by the date of lifting the internal border controls.

- A positive decision (blue stamp) is taken when the Consul considers that the purpose of the trip is justified and the supporting documents are acceptable (e.g. invitations, bank statements, etc.). The Consul writes the type of visa to be issued, the number of entries, the length of stay and the period of validity in the visa application form.
- A "to be verified" decision (black stamp) is taken when the Consul considers that additional checks of the documents are required.
- A negative decision (red stamp) is taken when the Consul considers that the applicant does not meet the entry conditions. The Consul indicates the reasons for refusal on the visa application form.

Once this decision has been taken at the counter, files are stored in a secure room upstairs until the following day, when they are distributed among the expatriate administrative staff and, if necessary, the department dealing with verifications and checks.

In case of a positive decision, a member of the expatriate administrative staff superficially checks the entire file once more, introduces the data in the VOL (since this application is not linked to the Visa tracking web system, all data must be entered manually) and checks on-line if there is an alert preventing issuance of the visa. Alerts are introduced in the system by the Romanian Immigration Office of the Ministry of Administration and Interior (RIO-MAI). If there is no alert, the visa can be issued. Otherwise, the member of the administrative staff informs the consul in order for the initial decision to be modified accordingly.

In case of a "to be verified" decision, the department that deals with verifications and checks, checks all documents. EvalCom was informed that only few false travel documents are presented whereas many false supporting documents (specially invitations and "labour books") are presented. The staff member from the border guard checks the documents with special equipment and calls the notaries that authorised the submitted documents, the employers of the applicants etc.. Specimen of documents issued by the Moldovan authorities available. The consul who examined the application initially is informed of the result of this process. If some of the documents submitted are forged, the visa is refused and the documents are not returned to the applicant. Otherwise, a positive decision is taken and the process described in the previous paragraph is followed.
EvalCom noted with interest that it can be seen in the VOL that a given person applied for a visa earlier on the basis of another passport.

In case of a negative decision, a member of the expatriate administrative staff introduces the data in the VOL and he/she writes the reasons of the refusal in the field "Observations" of the IT system.

EvalCom was informed that the back office staff member in all cases indicates to the consul who took the initial "decision", that the file should be re-examined.

EvalCom comments and recommendations
EvalCom observed that —both in the front and in the back office— proper attention is paid to the completeness of applications, especially as far as supporting documents is concerned, and it appreciated that it appears clearly from the comments made on the application form, who is involved in each different step of the examination.

Nevertheless, EvalCom considers that the conditions, in which the examination of applications by the Consuls takes place, i.e. at the counter, in a noisy atmosphere and with constant interruptions, are not optimal. Moreover, applications are checked twice by the Consuls and by the expatriate staff, but without focusing on the social and professional status of applicants. EvalCom therefore recommends that a systematic check thereof be carried out.

Once Romania starts to apply the Schengen acquis in full, the assessment of the risks of overstay/illegal immigration should improve and account will have to be taken of the results of consultation of all databases (incl. SIS) and other Schengen Member States, as required by legislation, before a final decision can be taken on a visa application.
As a consequence, EvalCom recommends a re-organisation / rationalisation of the examination and decision-taking process, with some Consuls focussing on assisting the local staff at the counter and others concentrating on the in-depth examination of the files in the back office. In future, decisions should therefore only be taken when the compulsory consultations have been carried out.

4.2 *Consultation of central authorities*

The nationals of 36 third countries and one entity are subject to prior authorisation of the central authorities; this authorisation can be obtained by means of an invitation issued by a company or a natural person, stating that the hosts will bear the repatriation expenses should the third country national fail to leave Romania after the expiry of his/her visa (for the following purposes of travel: visit, tourism and business). The company or natural person issuing the invitation must submit two copies thereof to the RIO-MAI for approval. The approval procedure is concluded 60 days following submission of the invitation. In case of approval, one copy of the invitation is returned to the host company or the natural person, who must subsequently send it to the invited person who must then submit it together with his application to the Romanian Embassy within 30 days.

A national from one of the countries listed on this *prior authorisation list* who does not have an invitation, may submit an application directly at the diplomatic mission, but the decision can only be taken after consultation of the central authorities.

4.3 *Supporting documents*

Depending on the purpose of travel, different supporting documents are required. Applicants invited by a resident in Romania or by a legal entity must submit an invitation. The details of the inviting person or legal entity are registered in the VOL system. Applicants have to prove that they have sufficient means of subsistence by submitting bank account statements which, according to national legislation, must be edited max. 2 days before the application is submitted. EvalCom observed that the majority of bank statements reflected only the current balance and not the movements of the last months.
Not all applicants submit proof of their social and professional status.

In relation to the categories covered by the Visa Facilitation Agreement, EvalCom observed that the documents required were in line with the content of the Agreement.

EvalCom comments and recommendations
EvalCom recommends paying more attention to the examination of the financial status of the applicant, according to Article 5.1 c) of the Schengen Borders Code: "*Applicants must have sufficient means of subsistence both for the duration of the intended stay and for the return to their country of origin or transit to a third country into which they are certain to be admitted, or are in position to acquire such means lawfully*". To this end, bank statements submitted should show movements over a certain period.
Although bank statements should be recent, EvalCom questions the "2-day deadline", as it is not in line with the Schengen acquis, does not seem to have any added value (an application may be submitted 3 months before the planned trip), and could cause practical problems for applicants.

4.4 Travel Medical Insurance (TMI)

Applicants must present proof of a travel medical insurance upon submission of the application and a copy of the insurance is kept in the file. The nature of the coverage is similar to the Schengen requirements (cf Council Decision 2004/17/EC). The required coverage for "C"-type visas is €30,000 and for "B"- type visas €5000.

A list of 29 insurance companies certified by the Moldovan authorities is available, 5 of which, EvalCom was told, are regularly used.
EvalCom was informed that in case a multiple entry visa is issued, the applicant is informed that for every further entry into Romania, he must hold a valid TMI. EvalCom observed however that this information was not given on return of the travel document.
EvalCom observed that TMI submitted in support of a request for a visa allowing for a stay of 90 days, covered a period of only 31 days. EvalCom was informed that the applicant would be informed upon collecting the visa, that he would have to modify the validity of the TMI (EvalCom was unable to verify this) and that in any case this would be verified upon entry at the border.

EvalCom comments and recommendations [1]
EvalCom recalls that the provisions on TMI (Council Decision 2004/17/EC) and the relevant Guidelines thereon [2] should be observed when Romania starts to apply the Schengen acquis in full. Attention is drawn to the fact that TMI is not required for transit visas under the current rules.
EvalCom recommends taking measures to ensure that the proof of TMI provided upon submission of the application matches the period of stay for which a visa is requested and that holders of multiple entry visas are informed of the need to subscribe TMI for each individual trip.
EvalCom recalls that possession of TMI is not an entry condition to be verified at the border: it is the responsibility of the visa issuing authority to verify the adequacy of the TMI before issuing the visa.

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[1] **RO**: The procedures for implementing Decision 17/2004 into national legislation have already been launched.
[2] Doc. 9654/06 VISA 137 COMIX482

5. TYPES OF VISAS ISSUED

The following types of visas are issued: airport transit visas; transit visas and short-stay visas.

6. THE VISA STICKER

6.1 Printing and affixing
The visa sticker is printed by the Consular officer who processed the application.
Inside the visa section's vault, the expatriate administrative assistant (see below) affixes the sticker to the travel document on the page bearing the application stamp in such a way that the machine readable zone can be read.

6.2 Use of the stamp of the issuing authority
Visa stickers are stamped by the expatriate administrative assistant on the right side of the affixed sticker, half on the sticker and half on the page of the travel document.
EvalCom noticed that the stamp is placed in such a way that it prevents proper reading of the data contained in the MRZ. Visa stickers are not signed.

EvalCom comments and recommendations
EvalCom recalls that the Visa section stamp should be placed cf. CCI, Part VI, section 5.5 and Annex 10.

6.3 Return of the travel document
Although EvalCom was informed that on return of the travel documents, a sheet indicating the entry conditions is handed out to the applicant, it observed that this is not done systematically and that it contained a reference to a possible alert in the SIS of the person concerned.

EvalCom comments and recommendations [1]
Whilst recognizing that the systematic provision of information on entry conditions when returning travel documents constitutes a good practice, EvalCom strongly recommends that the Romanian authorities delete the reference to the SIS, given that Romania is not yet connected to the SIS.

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[1] **RO**: The reference to the SIS was already deleted from the information leaflet. Until Romania will be connected to the SIS, Romanian authorities will take the necessary recommended measures in order to delete all references to the SIS, in the information provided to the visa applicants

7. REFUSAL OF A VISA

Notification and motivation of refusal

As a general rule, refusals of C- type visas are not motivated and there is no right of appeal. Applicants may request motivation of a refusal, which, if submitted in writing, will also be answered in writing.
The visa section receives a relatively large number of written requests to this end.

Refusal Rates

It was not possible for EvalCom to establish the actual percentage / rate of refusal; the information given by the visa section did however indicate indicates a low refusal rate.

EvalCom comments and recommendations [1]
EvalCom recalls the procedural safeguards enjoyed by family members of EU-citizens under Directive 2004/38/EC, on the notification of refusals and the right of appeal.

EvalCom considers that, compared to the average of the local visa issuing Schengen consulates, the Romanian visa section's refusal rate is very low. Awareness of the risk of illegal immigration and other forms of misuse of visas should increase as this will become a key issue when Romania starts to issue Schengen visa.

8. INVALIDATION OF VISA STICKERS

In case an error is discovered before the visa sticker has been affixed in the travel document, the kinegram is destroyed and a stamp of annulment is placed on the sticker. If the error is detected after the sticker has been affixed to the passport, the kinegram is scratched, the a stamp of annulment is placed and a copy of the passport with the invalidated visa sticker is made. Subsequently, a new visa sticker is issued.
Invalidated visa stickers are registered in a book and in the VOL system. Invalidated stickers are kept in a file which is stored in the safe outside working hours. Invalidated visa stickers are destroyed on the spot on a regular basis. Protocols made on the invalidation, indicate the number of the stickers and the date of invalidation; they are sent to the MFA on a regular basis.

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[1] **RO**: The diplomatic missions and consular posts of Romania abroad were instructed that in case of refusal of a visa, applicants must be informed about the reasons of the visa refusal.

9. FILING AND ARCHIVING

Files of issued visas are kept for 1 year and refused ones for 5 years.
The archives are located on the ground floor, in two rooms, equipped with a motion sensor system, a video surveillance system and a fire-alarm (smoke sensor). The (several) archive doors have an access-control system. One designated expatriate is in charge of the archives.

EvalCom comments and recommendations
EvalCom considers that filing and archiving meet the required standards.

10. SECURITY OF STAFF AND MATERIAL

(N.B. security aspects of premises: see 2)

10.1 Staff

The staff of the visa section consists of:
- 7 Consuls
- 14 expatriate administrative staff
- 4 expatriates (for the verification of documents)
- 17 local administrative staff (working at the counters only)

Local staff in the visa section is periodically switched from receiving applications to returning travel documents. Local staff is also switched every 4-6 months between the visa section and the national consular section of the Embassy.

EvalCom comments and recommendations
EvalCom appreciated the clear division of tasks and the rotation schemes in place.

10.2 Sensitive documents and information

Transport, storage, access (keys), stock-monitoring

Visa stickers (approx. 10 000/month) are sent to the Embassy by diplomatic courier. The head of the visa section, accompanied by a member of the security staff and a driver, takes the stickers to the visa section and hands them to the (expatriate) administrative assistant (book-keeper).

Visa stickers are kept in a safe in a secure/locked room. Access to this room is restricted to the head of the visa section and the 2 expatriate administrative assistants, only one of whom has, together with the head of the visa section, access to the safe.

The expatriate visa officers are given the precise required stock (approximately 30 visa stickers) for daily processing; a protocol is signed by the (expatriate) administrative assistant and the visa officer on receipt of the stickers.

Visa numbers are registered electronically in the VOL by one of the expatriate administrative assistants as well as manually in a visa register. The VOL contains records on all visa stickers available, issued, invalidated and/or destroyed. The visa register contains the personal data of applicants, the number of the visa sticker, the date of issuance, information on invalidation (if any) and the visa fee. There is a separate visa register for visas issued free of charge and for visa issued subject to a visa fee. Monthly reports are made according to the database of the visa register on the number of issued/ invalidated visas, the number of visa stickers and the amount of the visa fee. The expatriate administrative assistant is the only person entitled to handle the visa fee.

Visa applications and travel documents are stored in another secure room (upstairs) until visas are issued. The key to this door is kept in the safe in the office of the head of the visa section outside office hours. This room also has a balcony door furnished with metal bars. EvalCom noted that both doors of the secure room, which were said to be locked at all times, were open outside office hours.

Separate sheets are stored in the safe in the office of the head of the visa section. Although it is possible to register separate sheets in the VOL, this has not yet happened because the uniform format was introduced only this year (2009) and has not yet been used.

EvalCom comments and recommendations [1]

EvalCom recommends that the windows of the visa section's secure room upstairs containing the safe where the visa stickers are kept, be barred and equipped with security locks.

Regarding the secure room upstairs, see 2.2.

10.3 IT

User access and passwords
The Visa Online system (VOL) is administrated centrally by the RIO (Ministry of Interior). Local staff has no access to the VOL and only consular staff is authorized to store data.

It is not possible to control at (or from) the visa section, operations carried out by its staff. If such information is necessary, a Consul must launch a request to the NVC.
An IT specialist, employee of the MFA, works on the premises of the consular post.

Access rights to the database and to the functionalities of the VOL are granted according to the category of users. Verification of access rights is done using a security mechanism implemented in the system and in the database. Passwords must consist of a minimum of 8 characters and the number of unsuccessful log-in attempts is 3, after which the access is blocked for 15 minutes.

There are 6 user categories in the VOL system:
-      At consular posts, users can enter, approve or send visa applications directly to the National Visa Center (NVC) or the Romanian Immigration Office (RIO) for validation, followed by the NVC for final approval -depending on the type of visa- and they can update the system with information on a visa sticker and print the sticker.

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[1]   **RO**: The window of the visa section's secure room upstairs containing the safe has already been equipped with security locks.

- Users from the National Visa Center (NVC) can see in the system who entered an application and when, the alerts introduced and the flow of an application, when it was approved/rejected and by whom, as well as the visa sticker number assigned to the application. These users may take the final decision on an application (issuance or refusal). These users may also enter an application for/on behalf of a consular post which is not connected to the server.
- The administrators of the Romanian Immigration Office's IT department can create new users, delete accounts of users no longer using the system and send usernames and passwords to NVC users (which are subsequently changed by NVC users). The users at the Consulates receive, from the NVC, the username created by the RIO and the password.
- The Admission Service can see all visa applications and all visas issued but they can update only those applications which require validation by this office (long stay visa – D and some types of short stay visa). They can also propose to refuse issuance, implying that the NVC user must refuse also.
- Other services may also view applications and visas issued in order to verify the validity of a visa of a person already in Romania.
- Romanian Border Police users may issue a visa at the border and verify the validity of a visa presented upon entry.

Evalcom observed that passwords must be changed once p/month; the system pre-announces the expiry date. It also provides the option of storing the password, which was used by most users. When logging in, everyone used the user name "USER", although this was claimed to be a unique user name for an individual working station. It was explained to EvalCom that the "USER" name is attached only to the computer used by a specific person.

The *Visa tracking web system*, which provides much useful information about the time of submission of the application, if and by whom it was accepted and information about supporting documents, was presented and explained to EvalCom; it seemed a useful support tool as well as allowing for the monitoring of staff activity.[1]

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[1] Described in more detail in the visa processing chapter.

EvalCom comments and recommendations [1]

EvalCom recommends preventing user passwords from being read by other staff members working with the VOL; also, passwords should not be stored in the VOL. Furthermore, it is recommended that the system provide for a better distinction between users and user-rights which corresponds to their tasks.
Since the IT system does not provide for or allow any kind of control at local level (in the framework of preventing misuse or corruption), EvalCom recommends introducing such a functionality (possibility).
Finally, EvalCom strongly recommends disabling the "print" icon to prevent unauthorized printing of personal data in the system.

Encryption
VPN channel encryption: AES 265.

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[1]   RO: The IT Department of the Romanian MFA has already taken measures in the sense of modifying the communication ensured via the Outlook Express E-mail service. For the purpose of protection of individual user access to the VOL system, as well as of the protection of personal data, Outlook Express accounts have been created for each individual user of the VOL system, with individual access through specific usernames and personal passwords, in order to ensure that only the beneficiary of a specific password has access to it and can visualize it. Therefore, the communication of passwords between the National Visa Center and the diplomatic missions and consular posts will be restricted to each user. Having regard to the present recommendation, new instructions will be sent to the diplomatic missions and consular posts, in order to prevent user passwords from being read by other staff members working with the VOL.
An administrative domain called *vizaonline.net* has been created and the implementation of all VOL stations and users into this domain has already started.
A group policy has been established at domain level which will be transmitted to all VOL users and stations from all Romanian diplomatic missions and consular offices.
Using the domain policy we ensure the MFA control over the local VOL stations and users, thus allowing the central authority to set up the user-rights, the complexity and the password length, the number of days after the password expires, block screens, preventing use of *Print Screen* button, disable the *Print* icon/command and overview the activities of the VOL users.
The process of implementing this new domain is under way. There are already 21 diplomatic missions and consular offices inserted into *vizaonline.net* domain and all visa workstations and users will be integrated into this domain till the end of August 2009
The Romanian MFA has already taken measures in the sense of making a clear distinction (in the functionalities of the VOL system), between the users and their user-rights. Hence, in the diplomatic missions and consular posts of Romania, consular employees who implement data into the system will have restricted access only to this task, while only the diplomats who take the decisions upon visa applications, will benefit from the right of implementing the final resolution into the system (approve or reject visas).

10.4 Data protection

The MFA adopted a series of technical measures in order to ensure an adequate level of protection of personal data; these can be found in the replies to the questionnaire. Evalcom was informed that national legislation provides all the specific rights of the data subject in the context of personal data processing.

The VOL does not have a time limit for the retention of data; these are stored as long as required. There is no data protection policy regarding the (locally used) Visa Tracking Web system, although it contains data which are very similar to the VOL.

Applicants requesting information on whether his/her data are stored in the VOL must address a written request to the visa section, the national personal data protection authority or a Romanian Court of Justice.

EvalCom comments and recommendations [1]
Evalcom recommends considering implementing rules on personal data protection, including a time limit for the retention of data, both in the VOL system and in the Visa Tracking Web system.

11. EQUIPMENT FOR DETECTING FALSE DOCUMENTS

Every counter is equipped with a integrated device for screening passports with built-in lighting and magnifying glasses and a glass decoder. Additionally, a video spectral differentiator is available in a separate room, which can be used with several types of lighting, (UV, transparency, infrared and lighting from different angles). It can be operated by the 3 expatriates from the Romanian National police, who also have other police related tasks at the Embassy.
EvalCom was told that few false documents are detected, although no specific statistics were available. Forged documents are not returned to applicants; the application is refused and the applicant is added to the black list.
Local staff at the counters, when asked to use the integrated device, appeared to have only very basic knowledge of its use.

EvalCom comments and recommendations [2]

EvalCom recommends that local staff be trained in the proper and regular use of the equipment available for detecting false documents. Furthermore, the integrated device should be available also to the staff in the back office.

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[1] **RO**: The level of personal data protection is appropriate and in accordance with the existing legal provisions.
At present, Romania has launched the procedure for adopting the legal instrument that regulates the National Visa Information System (N-VIS), as a national component of C-VIS. Having regard to this recommendation, Romania will consider introducing a time-frame for the retention of data in the national database.

[2] **RO:** Following the EvalCom recommendation, the local staff will receive specialized training concerning the use of equipment for detecting false documents.

12. EDUCATION AND TRAINING

Evalcom was informed that expatriate staff is trained and evaluated on a permanent basis. The MFA has set up a specialised department which sends trainers abroad to the diplomatic missions to train staff on the spot. Staff is said to receive 30 days of training prior to a secondment abroad, including both theoretical and practical training in all units of the Consular Department incl. the National Visa Center.

Training of local staff is coordinated by the head of the visa section on the spot; local staff also participate in training courses given by visiting trainers from the specialised MFA department (approx. once p/yr for at least 30 hours). Subjects include training on legislation, practical aspects of visa issuance and document security.
Recently a training course was provided on Schengen evaluation in the field of visa issuance and on Moldovan/Romanian citizenship.

13.   GENERAL CONCLUSIONS AND RECOMMENDATIONS

At the end of its mission, EvalCom considers that on the basis of the checks carried out and the information gathered, the Romanian Embassy's visa section in Chisinau could be in a position to implement the whole of the CCI in the near future. No failings or significant or chronic errors were noted in the daily work of the visa section.
Nevertheless, EvalCom wishes to comment on certain points which merit special attention or reviewing by the Romanian authorities in order for Romania to achieve this goal :

1.   <u>Practice related to submitting and processing visa applications</u> :
EvalCom reminds the Romanian authorities of the general rule of personal appearance (CCI, Part III, point 4.).

In relation to the collection of the administrative fee, EvalCom considers that the present organization and work flow should be adapted in due time before Romania applies the Schengen acquis in full, as larger numbers of applicants will have to pay the handling fee. Upon implementation of the Schengen acquis in full, administrative fees should be in accordance with Annex 12 of the CCI and the existing (EC-Moldova) Visa Facilitation Agreement (VFA).

EvalCom expresses doubts concerning the practice of "non-acceptance" of incomplete files at the counter; when Romania will apply the Schengen Acquis in full, such a practice could lead to visa shopping.

EvalCom recommends regular revision (and integration in the IT system) of the blacklist and inclusion of data on the reasons for an alert and the date of revision (necessary when an applicant requests motivation of a refusal). All staff members should have the same version of the blacklist.

There seem to be a contradiction between the Romanian authorities' assessment of Moldova as a source country for illegal immigration on the one hand and the low number of refusals on the other. Once Romania starts to apply the Schengen acquis in full, the assessment of the risks of overstay/illegal immigration will have to improve and account will have to be taken of the results of consultation of all databases and other Schengen Member States, as required by legislation. Attention is also drawn to a possible increase of pressure on staff when Romania starts to issue Schengen visas.
EvalCom therefore recommends a re-organisation / rationalisation of the examination and decision-making process as described in the relevant comments, incl. systematically checking the financial, social and professional status of all applicants.

EvalCom recalls that the provisions on TMI (including informing holders of multiple entry visas of the need to subscribe TMI for each individual trip) should be observed when Romania starts to apply the Schengen acquis in full.

Regarding the information on entry conditions, Romanian authorities should delete the reference to the SIS, given that Romania is not yet connected to the SIS.

EvalCom recalls the procedural safeguards enjoyed by family members of EU-citizens under Directive 2004/38/EC on the notification of refusals and the right of appeal.

On IT-related matters, adaptations should be made to/in the VOL system in line with the relevant recommendations and comments (incl. protection and storage of user passwords, defined access, local control possibilities, enhanced data protection).

3. Security related aspects:

The (physical) security features both inside and outside the building should be upgraded in line with the relevant comments and recommendations (incl. camera coverage outside, securing of windows, improved monitoring of camera-images, strengthening of certain (inside) walls and securing of doors).

4. Legislative aspects:

EvalCom recommends the Romanian authorities to take the necessary measures to provide for the possibility of either representing or being represented by another Schengen Member State for the purpose of issuing visas.

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EvalCom emphasizes that the above mentioned comments and recommendations, which are based on the situation as assessed in Chisinau, can be relevant for other locations also. The Romanian Ministry of Foreign Affairs should ensure an appropriate follow up.

RESTREINT UE

VISAS ISSUED BY THE ROMANIAN EMBASSY IN KISHINEV

VISAS ISSUED BY THE ROMANIAN EMBASSY IN KISHINEV 2008								
	Visas A	Visas B	Visas C	Total Visas A+B+C	Visas D	Total Visas A+B+C+D	Visas Not Issued	Rejection Rate	Rejection Rate in %
January	0	478	7844	8322	481	8803	246		2,79
February	0	473	8400	8873	424	9297	185		1,98
March	0	550	7773	8323	351	8674	253		2,91
April	0	605	7699	8304	341	8645	181		2.09
May	0	864	7997	8861	173	9034	244		2,70
June	0	1581	8466	10047	201	10248	197		1,92
July	0	545	10131	10676	191	10867	337		3,11
August	0	87	8095	8182	376	8558	352		4,11
September	0	54	7595	7649	1198	8847	350		3,95
October	0	52	8217	8269	572	8841	239		2,70
November	0	33	7078	7111	400	7511	178		2,36
December	0	30	7658	7688	377	8065	106		1,31
Total	0	5352	96953	102305	5085	107390	2868		2,67

VISAS ISSUED BY THE ROMANIAN EMBASSY IN KISHINEV 01.01.2009-31.03.2009									
	Visas A	Visas B	Visas C	Total Visas A+B+C	Visas D	Total Visas A+B+C+D	Visas Not Issued	Rejection Rate	Rejection Rate in %
January	0	16	5232	5248	240	5488	140	0	2,55
February	0	42	5079	5121	160	5281	191	0	3,61
March	0	23	5858	5881	154	6035	223	0	3,69
April	0	0	0	0	0	0	0	0	
May	0	0	0	0	0	0	0	0	
June	0	0	0	0	0	0	0	0	
July	0	0	0	0	0	0	0	0	
August	0	0	0	0	0	0	0	0	
September	0	0	0	0	0	0	0	0	
October	0	0	0	0	0	0	0	0	
November	0	0	0	0	0	0	0	0	
December	0	0	0	0	0	0	0	0	
Total	0	81	16169	16250	554	16804	554	0	3,29

List of participants

DELETED

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