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

**Fourth Report on the implementation by the Republic of Moldova of the Action Plan on
Visa Liberalisation**

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1. INTRODUCTION

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

The Commission has regularly reported to the European Parliament and to the Council on the implementation of the VLAP. The **First Progress Report** on the implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation was presented on 16 September 2011³. A Senior Officials Meeting took place on 7 October 2011, during which the First Progress Report was presented and the next steps in the process were discussed.

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

The **Second Progress Report** on the implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation was issued on 9 February 2012⁴. A Senior Officials Meeting took place on 27 February 2012 during which the Second Progress Report was presented and the next steps in the process were discussed.

The **Third Progress Report** on the implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation was issued on 22 June 2012⁵. It was the third and final progress report on first phase of the VLAP and it presented a consolidated assessment by the Commission of the progress made by the Republic of Moldova in meeting the first phase benchmarks of the VLAP related to the establishment of the legislative, policy and institutional framework.

¹ Council document 18078/10.

² (i) document security, including biometrics; (ii) irregular migration, including readmission; (iii) public order and security; and (iv) external relations and fundamental rights.

³ SEC (2011) 1075 final.

⁴ SWD (2012)12 final.

⁵ COM (2012) 348 final.

The **assessment of possible migratory and security impacts of future visa liberalisation for Moldovan citizens travelling to the EU** was issued on 3 August 2012⁶ by the Commission involving relevant EU agencies and stakeholders.

Building on these reports, the Council adopted Conclusions on 19 November 2012 in which it agreed with the Commission that the Republic of Moldova **has fulfilled all the benchmarks under the first phase** of the Action Plan on Visa Liberalisation. Subsequently, the assessment of the benchmarks set out under the second phase was launched.

The next steps of the second phase as well as the preparation of the evaluation missions were discussed during a Senior Officials Meeting which took place on 28 January 2013. A new series of **evaluation missions** on all four Blocks of the VLAP was organised from 18 February to 15 March 2013. The evaluation missions were unparalleled in terms of scope and details of the assessment – four weeks involving 12 experts from EU Member States accompanied by officials of the Commission and of the EEAS.

The missions of the experts had the purpose to assess both the fulfilment status of the second phase benchmarks of the VLAP and the extent of implementation of the legislative, policy and institutional framework, in compliance with European and international standards. Particular attention was paid to areas such as anti-discrimination and integration of minorities and trafficking in human beings, some of them equally mentioned in the Council Conclusions of 19 November 2012.

The **expert reports** were finalised in May 2013. The Republic of Moldova has committed to address the recommendations contained in these reports through the updated National Action Plan drafted at the end of May 2013.

The Visa liberalisation Action Plan has proven to be an important incentive for reforms and has helped the Republic of Moldova to maintain a sustained pace of structural reforms since 2010. The legislative and policy framework have been put in place as recognised by the conclusion of the first phase of the VLAP in November 2012.

The aim of this report is to present the **state of the implementation of the legislative and institutional framework, the functioning of the institutions and the level of inter-agency coordination**. The Commission has prepared this progress report on the basis of the **comprehensive evaluation missions of February-March 2013**, including the reports drafted in that context by Member States experts, as well as additional information received during the EU-Republic of Moldova Joint Sub-Committee n°3⁷ and the EU-Republic of Moldova Human Rights Dialogue both held in April 2013. Special attention was paid to the **sustainability** of the reforms and the results achieved, including through meaningful **staffing and funding**. The report also includes an assessment on the state of the **fulfilment of the recommendations** addressed to the Republic of Moldova contained in the **Assessment of Impacts** report⁸ of August 2012.

2. ASSESSMENT OF IMPLEMENTATION OF THE FOUR BLOCKS OF THE VISA LIBERALISATION ACTION PLAN

BLOCK 1: DOCUMENT SECURITY, INCLUDING BIOMETRICS

(a) VLAP benchmarks

⁶ COM(2012) 443 final.

⁷ Sub-Committee N° 3: Customs, cross-border cooperation, money laundering, drugs, irregular migration.

⁸ COM(2012) 443 final..

- **Gradual roll-out of biometric passports in compliance with ICAO standards, including at Moldovan consulates abroad, and phase-out of non-ICAO compliant passports**

Since January 2011, the Republic of Moldova is issuing exclusively biometric passports (Ordinary passports, Diplomatic passports, Official passports and passports for stateless persons) with the "one Passport, one Document" principle being implemented.

On 31 December 2012 there were 2 514 335 passports of citizens of the Republic of Moldova in circulation, 487 745 (or 19.3%) of which were biometric passports. The complete phasing out of non-biometric passports is planned for the end of 2020.

As of 1 January 2012, Moldovan citizens living abroad can submit applications to the Republic of Moldova diplomatic missions and consular offices for obtaining a biometric passport. All embassies and consulates of the Republic of Moldova abroad, without exceptions, have been equipped with special equipment for collecting biometric data from applicants. This new biometric passport complies with ICAO standards and contains a number of security features recommended by ICAO⁹.

As of 2 January 2013 the Centre for State Information Resources "Registru" (CSIR Registru, hereinafter "Registru") operates with its own root and public key certificates. Moldovan authorities made on 28 September 2012 an application to join ICAO Public Key Directory (hereinafter ICAO PKD). The Ministry of Information Technology and Communications (hereinafter MITC) order on payment by the Registru of the unique registration fee to join the ICAO PKD was drafted at the beginning of 2013. The signing by the Registru of a contract on procurement of booklets with an integrated chip, based on the January 2012 tender results was suspended until February 2013 due to a legal challenge, which was rejected by the Supreme Court of Justice of the Republic of Moldova. The winner of the tender and Registru are expected to sign a contract in the summer of 2013.

- **High level of integrity and security of the application, personalisation and distribution process for passports, as well as identity cards and other breeder documents**

The 'Registru' is in charge of issuing Travel and Identity documents. All offices of the Civil Status Service are computerised and linked via a secured communication channel to an Automated Information System named 'State Register of Population' (hereinafter SRP). The certificates issued relating to birth, marriage, death, divorce and change of name/surname are identically formatted and contain the same security features¹⁰.

Applications for travel documents and national identity cards are made at the 49 territorial and regional offices of the Registru. The checks executed by those offices generally concern the accuracy of the data and completeness of the application, as well as non-electronic checks in relation with the MoI in relation to violations of law, criminal cases and persons who committed crimes.

The potential for someone to use multiple identities appears to be very limited given the existence of the SRP containing a large amount of data relating to each Moldovan citizen. The inclusion of biometrics in passports "freezes" the identity of the holder and prevents that a different identity be used.

⁹ Duotone watermark, fibres fluorescent under UV light, fluorescent security thread, micro printing, passport numbering with laser perforation, as contained in point V of the Informative Appendix 1 to Section III. Security Standards for machine readable travel documents of ICAO Doc 9303, Part 1.

¹⁰ Watermark, microprints, emblem and serial number of the form presenting fluorescence under UV light.

The 'Registru' is taking serious steps to reduce as much as possible the possibility of corruption at staff level by way of, inter alia: clear separation of duties and functions of the staff members; random assignment of applicants to officials; review of the applicants' requests by a minimum of 3 different officials and payment of fees by automatic teller machine (ATM). The presence of several checks on applications makes the introduction of fraudulent applications into the system by staff very difficult.

In addition, the Civil Status Service has developed a strategy for preventing and fighting corruption at staff level. Measures include unplanned inspections, limited access to data, video surveillance, and statements on income, property and conflict of interest. In each local application office, notices with information are displayed regarding corruption.

As a consequence of these new measures, seven disciplinary sanctions were inflicted on infringements committed by Civil Status Office employees, after investigations conducted in 2012.

Applicants living in the Transnistrian¹¹ region can make an application for documents at one of the offices located near the administrative line. Since 17 July 2003, six permanent offices in the Republic of Moldova and one mobile office deal with such requests and the same practical organisation and main procedures as in the rest of the Republic of Moldova are in place. Persons who only possess documents issued by the Transnistrian 'authorities' can register their civil status documents with the Moldovan authorities by having them transcribed by the Civil Status office and included in the SRP. A document will then be issued to the individual by the Civil Status Office to enable them to obtain a Moldovan passport. A special procedure for the recognition of breeder documents issued by Transnistrian 'authorities' is foreseen by the law. Identity may be established by means of previous Republic of Moldova identity or travel documents or on the basis of family records. In many cases, the verification of the identity of the individual will be relatively simple as records up to 1992 are available. For persons born in the Transnistrian region as of 1992 onwards, establishing identity and entitlement to Republic of Moldova citizenship requires investigation of the records of the parents and siblings in order to establish the family relationship. Finally a reasonable level of certainty on the identity can be reached by cross-referencing data relating to family members' records in the SRP

- **Prompt and systematic reporting to Interpol/LASP data base on lost and stolen passports**

Processes are in place since October 2011 for the details of all lost and stolen passports to be sent every five minutes from the 'Registru' to the Police National Central Bureau (hereinafter NCB) which is the liaison point with Interpol. The NCB sends this information to Interpol also on a daily basis through a real-time electronic system. No distinction is made between lost and stolen passports. The border crossing points are connected to the Interpol database on lost and stolen passports. The numbers of lost passports are very high compared to their production. In 2011, 29 946 passports were declared lost whereas 261 259 were produced. In 2012, 32 343 passports were declared lost whereas 260 393 were produced. Since October 2011, 15 603 lost passports have been declared found and retrieved.

- **Regular exchange of passport specimens and cooperation on document security with the EU**

¹¹ According to the Moldovan authorities the population of the Transnistrian region is 509 400 persons, out of which 55% are citizens of the Republic of Moldova and 33 128 of which hold Republic of Moldova biometric passports.

EU Member States are updated on a yearly basis on new Republic of Moldova passport specimens through a specific channel of communication. Moreover, since 2009, the Republic of Moldova has joined the Public Register of Authentic Identity and Travel Documents online (hereinafter PRADO) of the Council of the European Union. The last update in the PRADO system was done on 1 July 2011, introducing the new specimens with the Moldovan biometric passports security features. In December 2012, 65 new specimens with the Moldovan diplomatic and service biometric passports security features were sent. In 2012, the Document Expertise Division of the Border Police Department has received through Ministry of Foreign Affairs and European Integration (hereinafter MFAEI) specimens of EU Member States travel documents (62 pieces).

(b) Assessment of Impact recommendations

- *Establish and apply proportionate, effective and dissuasive sanctions for persons convicted of selling or lending their passports*

Art. 361 of the Criminal Code of the Republic of Moldova already provides for sanctions for fabrication, possession sale or use of false official documents. Regarding lost or stolen passports, Moldovan authorities are currently examining the possibility to tighten the conditions for issuing passports to persons that admitted such cases.

- *Regularly share with the EU authorities data on lost and stolen biometric passports, in particular using Interpol's Lost and Stolen Travel Document database*

See VLAP benchmarks point "Prompt and systematic reporting to Interpol/LASP data base on lost and stolen passports", page 5 of this report.

- *Strengthen the legal and institutional framework regarding the "Civil Registry" in order to prevent the abuse of change of names or identity for the purpose of obtaining a new passport. Clear rules should be established and applied regarding name changes; the legal and institutional framework should be strengthened and include effective control as well as traceability measures*

Any citizen can file an application in order to change his/her name or surname. The decision is taken by the Central Civil Status office following opinion of a special committee. The law does not contain any limitation in the number of times name or surname can be changed. The unique personal identification number (hereinafter IDNP) in the birth certificate can never be changed and in case of change of name or surname all previous travel and identity documents are invalidated. Border controls upon exit are made on the basis of the IDNP, while the border police have the access to the SRP where all the previous names/surnames of Moldovan citizens are contained. The system in place reduces significantly the abuse of name changes.

General assessment Block 1

The organisation and processes in place ensure a good level of integrity and security of documents. Civil status registration and document's issuance processes have significantly improved since 2010. The application and issuing systems in place are secure, well thought and provide a good service to citizens. ICAO compliant biometric passports are being distributed and old passport types are being rapidly phased-out. The Republic of Moldova is also requested to provide further information on the high number of lost passports.

The Commission considers that **the Republic of Moldova generally meets the second phase benchmarks set under Block 1.**

Further action is required on:

- Introduce the use of a booklet with integrated chip, implementing both the Extended Access Control (EAC) and the Supplemental Access Control (SAC).
- Automate as many processes as possible, dismissal of the remaining number of manual procedures that currently exist and creation of an electronic link of 'Registru' with the Ministry of Interior.

BLOCK 2: IRREGULAR IMMIGRATION, INCLUDING READMISSION

Block 2 / topic 1 - Border management

(a) VLAP benchmarks

- **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**

On July 1, 2012, a Law on the Border Police came into force according to which the Border Guard Service has been restructured into the Border Police Department of the Ministry of Interior (hereinafter MoI) of the Republic of Moldova.

The Border Police has competences and executive powers in the field of integrated border management, as well as in the prevention and combating of cross-border crime. The Law on State Border follows the definitions and framework of the Schengen Borders Code¹² and it takes into account also the European Union legal framework for carriers' liability, especially the Directive on the obligation of carriers to communicate passenger data (Directive 2004/82/EC). The Border Police are carrying out their activities under similar rules and regulations as border guards in the EU Schengen states. In the area controlled by the Republic of Moldova, 56 border crossing points (hereinafter BCPs) are in place and traffic across the Republic of Moldova borders varies between 13 and 15 million passengers annually. The border checks are broadly carried out in line with best practices of the EU Schengen Catalogue.

Reporting and risk analysis systems are at a very good level, even when compared to the Schengen countries' systems. The risk analysis system follows the FRONTEX common integrated risk analysis model (CIRAM) and the profiles are well drafted and of high quality. Being part of the FRONTEX Eastern Borders Risk Analysis Network (EB-RAN), the Border Police exchange information with FRONTEX on a monthly basis. Furthermore, with the help of the EU Border Assistance Mission to the Republic of Moldova and Ukraine (hereinafter EUBAM), the Border Police and the Customs, and their Ukrainian counterparts are drafting Common Border Security Assessment Reports.

The border surveillance is planned and conducted according to a risk analysis system. The number of patrols is at reasonably good level. The integrated border management (hereinafter IBM) includes plans to build a comprehensive fixed surveillance system along the borders. By introducing the fixed surveillance system with the complementing portable (non-manned) systems, the Border Police can take the border surveillance system at an adequate level. The Border Police has an adequate number of service dogs (123 in total, 74 of those tracking

¹² Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders

dogs). In general, devices for border checks at the first line fulfil the European standards. The number of alerts in the databases was over 5 700 in 2012 (5 687 national alerts; 56 Interpol alerts) and the total number has more than quadrupled compared to 2011. The first line officers have an access to the Border Police Integrated Information System (hereinafter BPIIS), legal framework, foreign alerts, risk profiles and internet (e.g. PRADO). All BCPs have online connections with the central databases. Due to the lack of sufficient devices, the level of second line checks is not at an adequate level at all the BCPs.

- **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**

The Border Police is upgrading the border surveillance system and will establish a National Coordination Centre (hereinafter NCC). Development of the situational picture is part of an on-going three-phase plan named “Development of fixed and mobile communication system at the state border”. Those phases include the acquisition of equipment and the building of a fixed and mobile telecommunication system for the whole country. Establishment of the NCC will improve the situational awareness, and it will also enable cooperation with the European external border surveillance system¹³ (hereinafter EUROSUR). The Border Police have a sufficient number of devices for border surveillance (e.g. thermo vision cameras and night vision goggles, but are currently lacking fixed surveillance systems).

The planned number of staff of the Border Police is 3 543, out of which 83% (2 945) is currently fulfilled. The reason for the lack of staff is that conscripts are no longer employed for border control and all the vacant posts should be filled in by the end of 2013. The National College of Border Police organises two-year training programmes for non-commissioned officers and six months basic training courses for new employees. The two-year program for non-commissioned officers applies the Copenhagen process, and it was drafted with the help of EUBAM and according to the EU Common Core Curriculum (hereinafter CCC) for border guard training. In general, training programs give a solid basis for preparing professional personnel for border management purposes. The Border Police have already implemented most of the recommendations and best practices on the prevention of corruption¹⁴ of the EU Schengen Catalogue on External borders control¹⁵. The Deontological Code of the Border Police was approved on 13 June 2008 and the Border Police salaries are at a competitive level. Unannounced controls are carried out and Border police personnel have to make public their personal interests and incomes upon entering into service and annually after that. A system of regular rotation of personnel is in place.

- **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.**

Inter-agency cooperation in border management has reached a satisfactory level. The Border Police have very intensive cooperation with the Police, the Customs, and the Bureau for Migration and Asylum (hereinafter BMA). The cooperation between the Border Police and

¹³ SEC(2011) 145 final

¹⁴ In 2012, there were 87 investigated cases of corruption, 92 investigation cases concluded, 102 disciplinary sanctions applied, out of which 34 cases resulted for dismissals. During 2010 – 2012, four criminal cases on serious corruption offences have been initiated.

¹⁵ EU Schengen Catalogue on External borders control, Return and readmission, Recommendations and best practices, Council document 7864/09.

the General Prosecutor Office (hereinafter GPO) structurally increased after the Border Police received new competences for criminal investigations. The main forms of inter-agency cooperation are the exchange of information, joint investigation teams, joint actions and joint training. At all the BCPs, the Border Police and Customs have implemented one-stop controls. They are using common cargo vehicles registration system and they can use each other's devices e.g. for checking vehicles.

The Border Police has established a comprehensive set of cooperation agreements and protocols with Romania and Ukraine. In 2012, the Border Police continued the cooperation with EUBAM, ensuring efficient implementation of the Annual Phase 9th Action Plan activities¹⁶. Since 2006, the Border Police has a liaison officer in the Galati joint centre for cross-border cooperation. Cooperation agreements exist with some EU Member States (Latvia, Lithuania, Estonia, Hungary and Poland). Cooperation with other Commonwealth of Independent States (hereinafter CIS) countries takes place via the Commanding Council of Border Guard Services of the CIS. Finally, there is a cooperation protocol between the GUAM¹⁷ states' border guards. The Border Police signed a working arrangement with FRONTEX in August 2008 and it has participated in numerous FRONTEX coordinated activities. In December 2012, the National FRONTEX Point of Contact (NFPOC) was created within the Border Police Department, assigned with competences in coordination and implementation of the FRONTEX Cooperation Plan's provisions.

(b) Assessment of Impact recommendations

- *Continue to strengthen border controls, including risk analysis and surveillance measures, as well as preventing and fighting corruption at the border, and continue to enhance cooperation with EUBAM in all areas of border management;*

See VLAP benchmarks point page 7 and 8 of this report.

- *Enhance cooperation with neighbouring countries. Strengthen bilateral and international cooperation and information exchange on statistical and analytical data and tactical/operational data/intelligence, through measures such as initiating/participating in joint cross-border operations, joint investigation teams, and joint intelligence teams, facilitating the exchange of liaison officers in such operations, offering training for conducting joint border and customs controls*

See VLAP benchmarks point page 8, 9 and 10 of this report.

- *Improve training and capacity building with regard to international customs and law enforcement cooperation and information exchange.*

See VLAP benchmarks point page 8, 9 and 10 of this report.

- *Coordinate the control activities at the common border. Share intelligence and enhance common situation assessment at the operational level.*

See VLAP benchmarks point page 8, 9 and 10 of this report.

- *Enhance cooperation with neighbouring countries, in particular Ukraine*

The Republic of Moldova and the Ukrainian authorities have started in 2007 a pilot project on the Jointly Operated Border Crossing Point Rososhany-Briceni (hereinafter JOBCP). The pilot project on the JOBCP was planned and started with the help and support of the EUBAM and the European Commission. Both counterparts have handed over the responsibility of exit

¹⁶ http://www.eubam.org/files/20121206142708402683P9AP_ENG_Second_Year.pdf

¹⁷ The Georgia, Ukraine, Azerbaijan and the Republic of Moldova (GUAM) Organization for Democracy and Economic Development

checks to each other. The principles of “single window”, “one-stop shop”, “hand-to-hand”, “under one roof” and “shoulder-by-shoulder” have been successfully introduced in the pilot JOBCP.

- *Continue to sustain cooperation with EUBAM and implement EUBAM recommendations on improving and intensifying the use of mobile units*

The Transnistrian segment of the Republic of Moldova-Ukraine border does not fall under the control of the Republic of Moldova Border Police and Customs. This segment includes 25 official crossing points to Ukraine and internationally recognized border checks and surveillance functions are fulfilled only by the Ukrainian Border Guard. Along the internal administrative line between the Transnistrian region and the Republic of Moldova 14 Internal Customs Control Posts (ICCP) are in place where checks on goods are performed by the Customs of the Republic of Moldova.

In February 2013, the Moldovan authorities started implementing a new strategy in order to prevent irregular immigration and cross-border crime, and to facilitate passengers flow through the Transnistrian region. The strategy includes measures such as: registration of foreign citizens entering and exiting the Republic of Moldova across the administrative line; strengthening capacities of ICCPs by the BMA (at 6 of the ICCPs there will be a 24/7 registration office for foreigners); drafting rules for ICCPs (data protection, exchange of information between authorities and division of tasks); information campaign on new registration rules for foreigners; establishing mobile units¹⁸ throughout the country and reinforcing cooperation with the Ukrainian authorities and the EUBAM. According to this strategy, foreign citizens that enter or leave the territory of the Republic of Moldova through the Transnistrian region, including the ones residing there, can voluntarily register themselves at the ICCPs, BCPs or in defined offices in Chisinau, Balti or Comrat. This mechanism will not affect the movement of foreigners within the internationally recognised borders of the Republic of Moldova. In order to tackle irregular immigration and cross-border crime a mobile unit of 70 officers will carry out risk-analysis-based inland controls throughout the country. These patrols will be conducted more frequently as joint patrols composed of the Customs, Police, Border Police and BMA. The implementation of this policy, including the legal framework, is planned to be accomplished in the first half of 2013. In addition, the Republic of Moldova has the intention on extending the practice of joint controls and patrolling with Ukrainian border guards of the central (Transnistrian) segment of the common border. This practice was initiated in 2012 on the northern segment of the border, in the jointly operated border crossing point of Rososhany-Briceni, and will soon be extended to the border crossing point in Palanca / Mayaki on the southern segment of the border.

Assessment Block 2 / topic 1 - Border management

The Republic of Moldova Border Police is organised according to the recommendations of the EU Schengen Catalogue, the border checks and surveillance are carried out mainly in line with the EU standards and the risk analysis system is organised according to the Schengen best practices. Certain technical improvements are still necessary.

Further action is required on:

- Introduce fixed technical surveillance systems along the land border. Implement best EU practices for the establishment of the NCC and RCCs.

¹⁸ The Border Police Department received in April 2013 all the necessary equipment and 30 patrol cars in order for the mobile units to be functional.

- Intensify checks on vehicles for the detection of hidden persons and improve the risk analysis and profiling of Trafficking of Human Beings (THB). Improve training and availability of first line and second line officers for the detection of forged documents. Continued acquisition of equipment for second line checks and vehicle checks. Monitor and record border checks through cameras in every booth. Intensify anti-corruption prevention at the Customs and implement best EU practices.
- Further implement a mobile unit concept for the Transnistria region composed of competent law-enforcement authorities trained in tackling irregular immigration and cross-border crime. An automatic exchange of information and personal data should be ensured in real time between all the law-enforcement authorities.

Block 2 / topic 2 - Migration management

(a) VLAP benchmarks

- **Continued effective implementation of the EU-Republic of Moldova readmission agreement and measures for the reintegration of Moldovan citizens (returning voluntarily or readmitted)**

The Bureau for Migration and Asylum (BMA) Department of the MoI is the competent authority for the implementation of the Republic of Moldova's readmission agreements. The following readmission agreements of the Republic of Moldova and other states are in place: EU (signed in Brussels on 10 October 2007), Norway (09 August 2006), Swiss Confederation (01 June 2004, 19 May 2010), and Turkey (01 November 2012). Negotiations continue with Albania, Azerbaijan, Russian Federation and Lebanon. During the last meeting of the Republic of Moldova – EU Joint Readmission Committee¹⁹ it was explained that in terms of readmission applications concerning Moldovan nationals from EU countries, numbers have declined from 242 in 2011, to 142 in 2012 and to 57 for the first 5 months of 2013. In 2012, the highest number of applications came from France (54), Germany (34) and Austria (26).

The Ministry of Labour, Social Protection and Family has put in place sustainable measures for the reintegration of Moldovan citizens through the National Employment Agency offices. Regular labour market fairs are organized, a hotline is in place, available information (leaflets, information panels, brochures) on the labour market vacancies and unemployment social benefits are well-displayed in all local branches. The PARE 1+1 programme continues to support the local investments of returned Moldovan citizens with a Government top-up.

- **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 management in the Republic of Moldova is framed by the Law no.200/16.07.2010 on foreigners' regime in Republic of Moldova. The older national laws (i.e. Law no. 275/1994, Law no.180/2008) still apply to legal stays of foreigners and they have not been repealed and integrated into the New Law. Comprehensive procedures for clarifying the time limits and no contravention sanctions in the mechanism of voluntary return are still pending, as well as safeguards for families and children²⁰.

¹⁹ The most recent Joint Readmission Committee took place on 12 June 2013.

²⁰ In accordance with the minimum standards of the Council Directive 2008/115/EC for returning irregularly staying third-country nationals.

The Bureau for Migration and Asylum (BMA) within the MoI is the main responsible authority for migration management in the Republic of Moldova. The Commission for coordination of certain activities related to migration issues (established by the Governmental Decision 133/23.02.2010) provides for the implementation of all state policies and strategies in the field of migration, the prevention and combating of irregular migration, as well as the coordination of all competent public authorities' activities in the field of migration management. In the context of the internal restructuring of the MoI, BMA was equipped with adequate human resources (22 staff) for the coordination of several tasks undertaken in the Migration Strategy. The Immigration Department within BMA has additional competences, such as the registration/cancelation of foreigners domicile or residence, the registration of temporary residence of foreigners posted in the Republic of Moldova up to 90 days²¹, as well as the coordination of issuing long term visas and combating irregular stay of foreigners. Continuous training to BMA staff is provided in the framework of different EU-projects, with the support of IOM, ICMPD and UNHCR. Extensive workshops on Visa Information System and study visits to several EU MSs are organised in the framework of ReVis Project.

During the last meeting of the Republic of Moldova – EU Joint Committee on Visa Facilitation²², it was concluded that the visa refusal rate for Moldovan citizens has significantly decreased from 11.43% in 2010 to 6.53% in 2012. The statistics for 2010 and 2012 show that the uniform Schengen visa refusal rate has decreased at the EU embassies and consulates in Chisinau. For the Czech Republic – decreased from 22.72% to 9.55%; Lithuania – from 15.86% to 2.9%; France – from 14.11% to 9.9%; Poland – from 11.64 % to 6.42%; Italy – from 15.23% to 8.0%;. Hungary (Common Visa Application centre) – from 7.75% to 5.9%; Germany - from 5.33% in 2010 to 2.4% in 2012. The weighted average visa refusal rate in 2010 was 11.43%%, it was 4.8% in 2012. The percentage of multiple-entry Schengen visas issued in the Republic of Moldova also grows steadily (25.2% in 2010 and 26.7% in 2012).

- **Migration profile established and regularly updated and effective analysis of data on migration stocks and flows**

According to the official statistics (Border Crossing Points) on 1 January 2013 – 899 500 Moldovan citizens are abroad, from which 274 500 stayed abroad less than 3 months, 289 500 more than 3 months, 100 700 up to 1 year, 55 600 up to 3 years and 179 100 more than 3 years. The Extended Migration Profile (EMP) was established by Government Decision no. 634/24.08.2012 on the approval of the list of indicators and EMP template. The first EMP was published in April 2013. The EMP will serve as an instrument to develop more efficient and coherent migration policies in the Republic of Moldova, complementary to the National Migration Strategy and its coordination mechanism. A specialized unit responsible for producing and updating the Extended Migration Profile has been created within the BMA (Unit on information development, data management and risk analysis – 5 people).

- **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**

Detection of irregularly staying foreigners is performed by specific checks and controls of the BMA. Evidence is checked against the BMA Integrated Automated Information System Migration and Asylum (SIAMA), records of Border Police; the State Population Register

²¹ In accordance with Council Directive 96/71/EC concerning the posting of workers in the framework of the provision of services

²² The most recent Visa Facilitation Joint Committee took place on 12 June 2013.

(ACCESS), BNC INTERPOL, Computer Evidence of prosecuted persons - "SEARCH". BMA conducts raids throughout the country in cooperation with the Labour Inspection, the State Tax Inspectorate and the National Centre for Public Health. As a result, 107 foreigners in 2011 and 123 foreigners in 2012 were convicted for violation of staying rules and undeclared work. Additional 34 staff was provided to ensure a regional coverage of the country and setting up three regional services of the BMA Combating irregular stay of foreigners. The BMA has recently established an Information Development, Data Management and Risk Analysis Unit (5 staff) and the Border Police has also set up a specialised Risk Analysis Unit on irregular migration. Dissemination and use of these data in all BCPs is performed through on-line database available in all BCPs. In order to ensure the comprehensive implementation of the Law on foreigners and regulating acts, the BMA cooperates with the following MoI specialised departments: Police department, Penitentiary department, Information and security service, Border Police department, Carabineer troops department. A cooperation agreement between the BMA and the Border Police Department in order to prevent and combat irregular migration of foreigners at the borders and within the territory of the Republic of Moldova was signed on 20 December 2012.

An Action Plan for the implementation of the measures to ensure control of the migration flows through the Transnistria region is implemented. It is intended to have a better registration of foreigners at the Internal Customs Control Posts and a control of migration flows by the MoI on the administrative line. A unit responsible for the management of the activity of the Internal Control Posts for evidence and registration of foreigners was set-up within BMA. Obligation to register will apply to foreigners only, without imposing verification of all travellers who cross the Transnistrian region. Additionally, to the proposed procedure at the Internal Control Posts, the foreigners can register at: (i) any territorial office of evidence and documentation of population of the Ministry of Informational Technology and Communication, (ii) Regional Services any territorial subdivision of the of the BMA (in Chisinau, Balti and Cahul) and (iii) subdivisions of the Border Police Department, maximum 72 hours after the border crossing.

- **Provision of adequate infrastructure (including detention centres) and strengthening of responsible bodies to ensure effective expulsion of irregularly residing and/or transiting third country nationals from the territory of the Republic of Moldova**

The enforcement of the expulsion measure is performed by the BMA by escorting the foreigner to the state border or to the country of origin. Foreigners taken in public custody are placed in the Centre of Temporary Placement of Foreigners, a subdivision of the BMA, where access to legal assistance, social, cultural and human rights provided by law is guaranteed. In the context of internal restructuring of the BMA/MoI, the Centre was allocated additional human resources, having now 5 services and 40 staff. 360 foreigners were placed into public custody during 2009-2013, out of which: 71 persons in 2009, 80 persons in 2010, 103 persons in 2011, 97 persons in 2012 and (so far) 9 persons in 2013. Out of 115 identification cases initiated by BMA, 85 foreigners placed into public custody without IDs have been identified.

(b) Assessment of Impact recommendations

- *Organise continuous, targeted information campaigns aiming to clarify the rights and obligations of visa-free travel, including information on rules regulating access to the EU labour market (including through the EU Immigration Portal) and liability for any abuse of rights under the visa-free regime*

Extended meetings of the Visa Task Force have been organized with the EU High Level Advisers, civil society and non-governmental organizations. Public information sessions take place on a regular basis, as part of the EU integration sessions performed by MFAIE in

different media/social/university environments. These public sessions also aim to clarify the rights and obligations of visa-free travel, including information on rules regulating access to the EU labour market and liability for any abuse of rights under the visa-free regime. A very active information centre is placed in Balti, in the premises of the National University. Moreover, many activities on communication and information are executed within different projects of the EU-Republic of Moldova Mobility Partnership (ex. Legal in EU, Nexus, etc.). Regarding the exact conditions of travel into EU, EU visa policy, provisions of the EU-Republic of Moldova Visa Facilitation Agreement, are all presented and permanently updated on the MFAEI website (consular information part), as well within the Centre of Appeal of the MFAEI, a free hotline.

Assessment Block 2 / topic 2 - Migration management

Operational procedures for applying the Law on foreigners are functional and the BMA has become the coordinating actor in managing the migration flows. The Extended Migration Profile has been established and alongside a Data Assessment Report. Effective implementation of the EU-Republic of Moldova readmission and visa facilitation agreements is being observed. Adequate infrastructure including detention centres is existing.

Further action is required on:

- Continue to apply the Law no.200/2010 on foreigners' regime and repeal older national laws.
- Reinforce the human resources for regional coverage of the BMA in the field of immigration and combating irregular stay of foreigners. Provide for a reporting and analysis mechanism on each administrative level by reinforcing the Risk Analysis Unit.
- Carry on with the opening of BMA registration units at the Transnistria line. Cooperate with other law-enforcement authorities and ensure automatic exchange of data.

Block 2 / topic 3 – Asylum policy

(a) VLAP benchmarks

- **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**

The Republic of Moldova law in the area of refugee protection is largely in line with international and European standards. The law on asylum provides the necessary institutional framework and legal procedures and principles. The law is implemented in a satisfactory manner. The quality of the Refugee Status Determination Procedure is good and improving. Access to the procedure is guaranteed by the law and implemented in practice. UNHCR has full access to persons of concern and has good working relations with the asylum authorities and the border police. The non-refoulement principle is respected in practice. It is believed that RSD is of good quality and is continuously improving. In 2012, refugee status was granted to 19 persons and humanitarian protection to 45 persons. 119 decisions were taken in total, meaning that more than half of the applications resulted in the granting of a form of protection. Other countries in the top 5 of applications resulting in the granting of a form of protection are: Armenia, Afghanistan, Kirgizstan and Russia. These numbers might be an indication that decisions are based on objective and up-to-date country of origin information

(COI) and that protection is granted to those persons in need of international protection. However, the COI system needs to be reinforced and more staff hired. In the first instance²³ decision making there is an extremely low turnover rate in appeal: in 2012 all the decisions were maintained in judicial procedure.

Within the Asylum and Integration Department, 5 persons are working within the International Protection and Asylum Procedure Unit. This is considered sufficient at the moment, as the numbers of asylum applications are still relatively low (177 in 2012, 72 in 2011), which guarantees sufficient time for qualitative interviewing and decision making. There is one interview room in the premises of the AID and is well equipped and offer sufficient privacy to the asylum applicant. It is reported that special attention is given to the most vulnerable persons, such as minors, victims of torture, traumatized persons, victims of violence and torture, traumatised persons or persons with psychological disorder. They are generally assisted by a representative of the NGO “Memoria”. A new unit was created within the new structure of the BMA: the stateless and information unit, with a staff consisting of 4 persons. This unit deals with statelessness applications²⁴, but also with the registration of asylum seekers. A questionnaire, interview template and guidebook were developed, guaranteeing that the legal provisions will be put into practice. Since February 2012, 160 requests were received and 16 persons were granted stateless status.

The “Law on integration of foreigners in the Republic of Moldova” entered into force on 1 July 2012. The methodologies for conducting social-cultural accommodation sessions and state language courses have been developed. The Regulation on the procedure and conditions of rental housing for foreigner beneficiaries of integration programs and foreigners who have obtained a form of and the Regulation of the Accommodation Centre have been approved. The law guarantees full access to the labour market for beneficiaries of a form of protection and asylum applicants, to unemployment assistance and measures to prevent unemployment. Several successful pilot projects have been observed. At the time of this evaluation, it was still not possible for refugees to obtain travel documents allowing them to travel outside the territory of the Republic of Moldova. Due to issues with the tender for the issuing of IDs and biometric passports these documents would be available by September 2013. The Regulation of the Accommodation Centre for Asylum Seekers was approved by the Government on 28 December 2012. The Centre exists since September 2010 and its maintenance and staff are paid from the State budget. On 15 February 2013, 18 asylum seekers, 2 beneficiaries of Humanitarian protection and 1 with Refugee Status were living in the reception centre. Social workers, legal counsellors and UNHCR have access to the centre at all times. The conditions and the quality in the Centre are generally good, despite the understaffing and insufficient funds.

Assessment Block 2 / topic 3 – Asylum policy

The Law on Asylum is adequately implemented and the quality of the Refugee Status Determination Procedure is good and improving. The Republic of Moldova has developed a statelessness determination procedure that is exemplary. Considerable progress has been achieved in the field of integration.

²³ In 2012 the average processing time for the first instance decisions amounted 107 days, well within the 6 months deadline. When the second instance is included, this processing time is considerably longer - 401 days. Currently, decisions on 82 cases (85 persons) are pending (awaiting a decision in first instance or appeal instance).

²⁴ 17 decisions were taken since the start of the procedure. On 1st January 2013 there were 1998 stateless persons on the territory of Republic of Moldova (recognised / with right of permanent residence).

Further action is required on:

- Include the One-Stop-Shops as one of the authorities competent to receive asylum applications in Article 52 of the Law on Asylum.
- Provide continuous asylum training for police and border police. Ensure the necessary expertise with asylum cases within the judiciary, for example through creation of specialised courts or specialised judges.
- Further develop the methodology for COI-management and secure access to up-to-date COI Subject Related Briefings.
- Increase the funding for State sponsored integration measures and develop an ethical code for the personnel of the reception centre(s).

General assessment Block 2

The Commission considers that **the Republic of Moldova largely meets the second phase benchmarks set under Block 2**. Some recommendations still need to be implemented further, as described above.

BLOCK 3: PUBLIC ORDER AND SECURITY

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

(a) VLAP benchmarks

- **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;**

In order to implement the National Strategy on preventing and combating organized crime the several implementing activities have been carried out since 2011. The National Council for coordination of the activities to prevent and combat organized crime was created on 4 May 2012. The Council is an interdepartmental collegial body, created to ensure an efficient cooperation between the authorities of the central public administration, and coordination of their activity in preventing and combating organized crime. A Roadmap on the implementation of the recommendations of the EU evaluation missions from October-November 2011 regarding the special investigative measures and combating organized crime was approved on the 8 June 2012. The National Coordination Council on the activity of preventing and combating organized crime was created by the GPO. During 2012, 70 crimes were committed by 49 criminal groups with 229 active members (out of which 6 criminal groups with criminal activity at international level). An improvement of reporting of civil society on illicit deeds, stricter record keeping and rigid discipline to avoid concealment of crimes and other offenses was observed in practice.

In parallel to the implementation of the Strategy and the Action Plan, a major reform of the Ministry of the Interior (MoI) entered into force on 5 March 2013. The main principles and goals of the reform are the: the de-politicization of the activities of law enforcement agencies; the demilitarization of the Carabinieri Troops department; increasing presence of the law enforcement agencies (LEAs) across the country, through a more coordinated deployment of police units; better harmonization and coordination of different police departments to avoid

overlap and duplication of functions; a more efficient response to major and serious crimes by specialising criminal investigation activities and parallel prosecution services. With the reform of the Ministry of the Interior, two new concepts were introduced and are under implementation: specialization of police units tasked with serious and organized criminal files, and an intelligence-led policing approach. The Analysis Unit of the Police Department has been set up and has five intelligence analysts using I2 and the IT analytical tool Letizia. The reform has been universally acknowledged as an excellent means to separate policy making from policy implementation. The new competences of the Minister concerning police activities no longer include their former criminal investigation function, in line with the best EU and international standards. A first positive result of the reform is the appointment of the Chief of Police by the Government after being proposed by the Minister of the Interior. Under the MoI reform, the Carabinieri have been reorganized, demilitarised and positioned in the structure of the General Police Inspectorate.

Activities to strengthen forensic laboratories were also undertaken. By the Order no. 399 from 29 November 2012 an interdepartmental working group was set up to develop the legislative and regulatory framework necessary to create and manage a DNA database and a DNA laboratory. In June 2013, experts from Austria will assist the MoI in drafting a law on DNA. 2 million euro will be allocated for equipment and training of personnel working in the technical and forensic fields.

All relevant international conventions have been adopted, and in general the current legislative framework and institutional system of law-enforcement could be considered in line with the EU's acquis and the best EU standards, and its implementation at an advanced stage. However, the legislation on confiscation still shows some gaps with respect to international standards and the EU acquis. Such gaps mainly relate to the freezing powers and third party confiscation.

The Republic of Moldova should strengthen the current company registration rules and the corporate criminal liability provisions in order to limit the use of "shell" companies to launder the proceeds of crime and hide criminal assets. Based on the statistics on confiscation, the amounts confiscated are low in comparison with the number of convictions. The Moldovan authorities should make an increased use of their confiscation powers. The Republic of Moldova should establish a centralised asset recovery office in order to strengthen the identification and tracking of the proceeds of crime resulting from both domestic and cross-border criminal activity and expediently exchange information with the asset recovery offices in the Member States.

Assessment Block 3 / topic 1a - Preventing and fighting organised crime and terrorism

The implementation of the reform of the MoI has been properly planned and started. Law-enforcement authorities in charge of fighting serious and organized crimes are well coordinated, approach European standards and deliver results. Further adjustments and investment in technical means are needed to make the reform sustainable and fully exploited.

Further action is required on:

- Further develop a strategic intelligence analysis model for the Police in line with Intelligence-led Policing. Step up efforts in improving the coordination of the patrolling duties of all departments under the National Patrol Inspectorate. Remove the intermediary technical role of the Security and Intelligence Service in the interception of communications as for criminal investigation purposes such activities should be executed exclusively by law enforcement authorities.

- Strengthen the legal framework on confiscation, establish an asset recovery office, enhance the transparency of legal entities and systematically use the confiscation powers.

- **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;**

The Republic of Moldova made significant steps forward in the field of anti-trafficking in the past 2 years in terms of legal and institutional framework modernisation. It is apparent that policies on anti-trafficking are prioritized within the political agenda. The National Action Plan 2010-2011 and the National Action Plan 2012-2013 (with regard to the actions planned for 2012) were 75% fully implemented and 11% partially implemented. Many activities of the plan were implemented also due to the support provided by IOs and NGOs within a number of international programmes. A new 6th THB Action Plan will be developed in the second half of 2013. According to the statistics²⁵ in 2012 at the borders were detected 18 THB cases with 35 persons, whereas the number in 2010 was 10 (15 persons) and 13 (29 persons) in 2011. More than half of the cases were detected at the Chisinau airport. Victims were typically young girls who were trafficked to the United Arab Emirates, Turkey, Northern Cyprus and Saudi Arabia, and very seldom to EU countries.

Laws and regulations on THB are in line with the international and European standards in the field - the Palermo Protocol - UN TOC Convention, 2000, and the Council of Europe Convention on THB, Warsaw 2005, have been all ratified and are being implemented. The structure of the anti-trafficking national system is built upon the multi-agency cooperation among the most relevant institutions, including civil society. It is focused as well on a human rights based approach which is intended to give priority to the needs of the victims. Increasing efforts have been made in the field of international police and judiciary cooperation, including the negotiations of bilateral agreements with some destination countries of trafficked persons. In the framework of the MoI reform, the Centre for Combating Trafficking in Persons (CCTP) has been fully integrated into the General Police Inspectorate and a civilian has been appointed as a Director of the CCTP, with extended experience in anti-trafficking field.

In terms of actual implementation of the anti-trafficking policies, despite considerable efforts the budget allocation (financial and human resources) seems to be still insufficient in the perspective of a thorough government ownership and sustainability of the action in the long run. The government is steadily increasing its efforts in this regard. Currently the State cannot fund NGOs (because of the legal framework currently in force) which somewhat hinders a fully-fledged cooperation with the civil society. However, a draft law on public funding of private social services providers was recently approved. As to data collection, a national statistical database on THB is still in the making. Law enforcement authorities have their own database on investigations and criminal proceedings and the Ministry of Labour and social protection has its database on assisted persons. Recently a pilot project for the harmonization of data collection was launched by the Permanent Secretariat of the National Committee for combating Trafficking in collaboration with the IOM.

The Government is aware and committed to prevention, and the national referral system on THB provides also assistance to potential victims and vulnerable groups. However, it seems

²⁵ Annual figures on THB: registered crimes (140 in 2010; 111 in 2011; 151 in 2012) and victims assisted by the CAP (355 in 2010; 339 in 2011; 424 in 2012). Identified victims, according to the MoI: 131 in 2011; 266 in 2012. Convictions: 7 in 2011; 13 in 2012. Assisted victims of child trafficking: 9.6% in 2010, 14% in 2011, 13% in 2012.

that the issue of prevention is to some extent narrowly interpreted and should include work on the root causes of THB. In this respect efforts are being made by the Government, with the support of specialized NGOs, to improve the protection of vulnerable children, with a draft law on the protection of children currently under consideration. Special interview rooms for children have been set up and additionally special interviewing rooms for victims and witnesses will be set up in the regions. Guidelines have been drafted for police, health and social workers to steer them in solving cases of domestic violence. Furthermore, the Ministry of Finance will grant funds for campaigns on awareness-raising among the public for 2013. Campaigns for the public opinion on the dangers and seriousness of crimes committed on internet are on-going until August 2013, followed by a week of campaigns on THB in October 2013, in line with the EU day on THB.

The government seems to be very committed to cope with corruption of civil servants and public officials and their involvement in trafficking cases. During 2012, criminal investigation has been initiated against 11 persons who fall under the category public officials, of which: sent to court – 7 persons; classified – 1 person; On-going criminal investigation – 3 persons.

Assessment Block 3 / topic 1b - Preventing trafficking in human beings

Substantial improvements were achieved through the implementation of the National Action Plan. The structure of the anti-trafficking national system is built on multi-agency cooperation, including with civil society. Additional funding and staffing are to be provided to guarantee the Government's ownership of the implementation of the anti-THB policies.

Further action is required on:

- Consolidate the national database on trafficking fed with data from all law enforcement authorities and from public and private bodies in charge of the assistance to the victims. Allocate sufficient human and financial resources for the implementation of the NAP.
- Link the national system for the protection of victims and potential victims of trafficking with the national system for the protection of children. Create a national fund for the assistance, protection and compensation of victims.
- Further develop minimum quality standards for the assistance and treatment of victims and potential victims of trafficking and recognise the status of social workers. Implement the law and the regulation on the accreditation of private social services renderers.

- **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;**

In the past four years, the Republic of Moldova has made serious steps on the path of fighting corruption with recently several high-level cases of abuse of official position emerging. Recent events in the Republic of Moldova point out that the indirect political dependence of anticorruption institutions poses a threat to professional non-partisan investigations against high-level officials. Investigations should not be misused and transformed into a political weapon. Adequate guarantees must be put in place to secure the independent and efficient functioning of anti-corruption institutions. Top appointments must follow objective and transparent criteria.

The Republic of Moldova has adopted in July 2011 the National Strategy on anticorruption 2011-2015 by a decision of the Parliament - it is a complex and well-developed programmatic

document. In February 2012 the Parliament adopted the Action Plan for 2012-2013 for the implementation of the Strategy²⁶. Many of the measures have been delayed or not implemented at all and the impact of the implemented measures is still to be seen. There is no indication as to what the estimated deadlines are for the measures that are not yet implemented.

In the area of prevention of corruption, the Republic of Moldova has taken steps to make the public sector more transparent in an attempt to increase public trust in the public institutions, to bring people closer to the governmental decision-making process and to limit vulnerabilities to corruption. Part of this effort regards a wide-scale open data program through which the Moldovan government makes available to the public various data sets of public information in an open data format, including budgetary information. The Republic of Moldova has also introduced in 2008 the obligation of the initiator of a piece of legislation to post it online and allow for public comments to be submitted by the citizens.

The National Anticorruption Centre (hereinafter NAC) holds important competencies in the field of prevention of corruption and Moldovan institutions have started implementing integrity plans based on the evaluation of corruption risks in each institution²⁷. NAC also provides upon request of the Government or of the Parliament anticorruption expertise of draft legislation.

In the field of repression of corruption, the competences are split between the NAC and the specialized Anticorruption Prosecutor's Office (hereinafter AP). Most of the investigative work is done by the NAC employees with the prosecutor from the AP conducting and overseeing the activity, issuing various authorizations or applying for various court orders during the investigative stage. NAC was reorganized in 2012 and shifted from the supervision of the Government to the supervision²⁸ of the Parliament just to return under the control of the Government in May 2013.

Lifestyle checks²⁹ and integrity testing are envisaged in the law of the NAC and are potentially being considered by Moldovan authorities for the rest of the public administration. Discrepancies could flag up problems and might result in sanctions being applied, including dismissal. Detailed procedures for lifestyle checks are still being drafted. Currently only the Information and Security Service can technically conduct phone tapping. NAC is allowed to

²⁶ The funds necessary for the implementation of actions included into the plan shall be provided in the allocations for 2012–2013 made to the public authorities financed from the state budget and local budgets, in addition to the external assistance to be received by the public authorities for the implementation of specific projects: Support of CoE Project for the Good Governance and Fighting Against Corruption in the Eastern Partnership, Support of the European Commission in the project „Supporting the Government of the Republic of Moldova in maintaining the anti-corruption activities, reforming the Ministry of Internal Affairs including police, and personal data protection”.

²⁷ Until now this system has not had the envisaged impact and has not significantly modified the approach to integrity in the public sector. Self-evaluation of corruption risks was most of the time a formal exercise and the political instability had an impact over the management capacity of public institutions. The integrity plans resulting from this process were not of satisfactory quality. NAC has recently acquired the competence to be part in and comment on the work of the working groups entrusted with the analysis of corruption risks – before NAC only had a general oversight role that did not allow for substantial involvement in the process.

²⁸ Functional independence is ensured through a procedure of appointing the NAC director so that the term of office does not correspond to that of the Government, Parliament and President; appointing the NAC director and deputy directors based on criteria of professionalism non-political affiliation set in the law; procedure of nomination/dismissal shall involve more than one authority; strict conditions of dismissal before the end of the term of office exhaustively defined in by the law.

²⁹ Lifestyle checks refer to the verification of the lifestyle of a person compared to the legally earned income.

listen to the intercepted conversations in real time and make transcripts and audio recordings for the prosecutors. Financial investigations are a weak point of the law enforcement authorities in the Republic of Moldova. The lack of in-depth specialization of investigators in financial investigations has a serious negative impact considering the complexity of the investigations and on ultimately on the assets recovery from convicted defendants.

The elimination of immunity of judges for criminal investigations on corruption (articles 324 and 326) is a welcome step in the right direction. Similar steps should be considered with regard to all the other remaining categories of officials that enjoy immunity.

In 2011, 314 corruption related decisions were adopted, but few of them high-level ones – 213 convictions, 18 acquittals and 83 abandoned trials. In 2012, 293 decisions were adopted - 197 convictions, 27 acquittals and 69 abandoned trials. In 2012 only in 17 cases a jail sentence was given – the rest of the convictions resulted in fines or on probation jail time, or the interdiction to occupy a position in the public sector. This is not a satisfactory practice as the courts show lenience towards offenders. The NAC has commissioned an analytical study to assess with the help of MIAPAC³⁰ the level of sentencing in all the corruption cases that reached the courts. It would be also recommendable to organize debates within the Moldovan judiciary about sanctioning practice (sentencing guidelines) that would ensure that deterrent sanctions are applied in the cases of corruption.

The National Integrity Commission (NIC) is an autonomous public authority independent of other governmental agencies, other entities or individuals. Its members are appointed by Parliament for a term of 5 years. NIC is in charge with declarations of assets, of interests and of incompatibilities. The law establishing it entered in effect on 1 March 2012, but the NIC started operating only on 1 March 2013. The NIC has 21 staff positions of which 12 are already employed. NIC oversees all dignitaries, prosecutors, judges, public servants and other managerial functions and in total it covers about 25 000 civil servants. In terms of software and technical capabilities the resources of NIC are scarce. The newly appointed NIC does not have yet a track record on controls of declarations of assets, declarations of interests and incompatibilities.

Recently a law was passed doubling the salaries of NAC employees (EUR 500 for a starting position equalling the salary of a Supreme Court judge or Deputy-Prosecutor General), which however might require providing the same treatment for AC prosecutors in order not to unbalance the system.

The Republic of Moldova was assessed by GRECO and received 17 recommendations, 9 of which in the area of party funding and 8 were concerning incriminations. The GRECO report acknowledges that much effort was done to implement all recommendations. Until now the legislation to address them was not yet adopted but a working group created by the Central Electoral Commission (CEC)³¹ has prepared and publicly debated the Draft Law, which now must be adopted. The elimination of immunity of judges for criminal investigations on corruption (articles 324 and 326) is a welcomed step in the right direction. Similar steps should be considered with regard to all the other categories that enjoy immunity.

Assessment Block 3 / topic 1c - Preventing and fighting corruption

³⁰ “Support to the Government of the Republic of Moldova in the field of anticorruption, reform of Ministry of Internal Affairs including police and personal data protection” project

³¹ CEC is composed of representatives from various political parties with three full-time functions plus 20 staff and they operate mainly during the electoral campaign. The CEC must have the necessary resources to implement substantive, proactive oversight of the financing of election campaigns and of political parties in general.

Affirmative action was taken regarding the strengthening of the NAC and the AP, and the start of the activities of the National Integrity Commission. Solid safeguards, adequate funding and additional capacity building measures are further needed to ensure the full political independence of all anti-corruption authorities.

Further action is required on:

- Establish a solid system for appointments based solely on professional and objective criteria for key positions in anticorruption institutions, in the prosecution and in the Supreme Court that would guarantee their non-partisan and independent operational activity. Merge the AP with the NAC and restrict its activities to high-level corruption. Improve the salary scheme and boost the number of employees in all anti-corruption institutions (NAC, AP, NIC).
- Further develop the legislation and practice on the control of asset declarations/unjustified wealth and conflicts of interests, and develop financial investigations capabilities in the law enforcement authorities. Implement bylaws for NAC lifestyle checks based on European best practices and design a cooperation mechanism on joint-lifestyle checks with the NIC. Review the remaining immunities of officials through the lens of international best practices. Train judges, prosecutors and law-enforcement personnel on the European practices of interception of communications.

- **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);**

The Republic of Moldova's legal framework on anti-money laundering and combating financing of terrorism (AML/CFT) is very comprehensive and complete. Numerous administrative authorities are involved in the Moldovan AML/CFT regime with different roles and functions, and all of them master their competences. The level of institutional coordination and cooperation among the different authorities is good, as required by international standards.

In 2012, the Republic of Moldova approved and implemented several laws (Law on Capital Market, Law on Payment Systems and e-money, Law on Special Investigation Activity), bylaws (Decision regarding regulation on AML/CFT measures for the non-banking financial market) and instructions and recommendations in order to address some of the deficiencies that were identified in the 3rd Mutual Evaluation Report of the Council of Europe's MONEYVAL Committee. A few minor deficiencies in the criminalization of money laundering and financing of terrorism need to be addressed and, in this regard, Moldovan authorities have prepared legislative changes which are currently under way. However, the current regulation of the crimes is in line with FATF, EU and international conventions. For 2011, out of 151 cases opened by the FIU, indictments were given in 4 cases and convictions were handed out in 2 cases.

All the institutions have been included as active members of the National Strategy 2013-2017 on AML/CFT that is about to be approved by the Moldovan Parliament. Specific tasks, duties and deadlines have been assigned in the Action Plan to each and every one of those institutions, under the Office for Prevention and Fight against Money Laundering³² (OPFML) coordination and the supervision of a special Commission of the Moldovan Parliament.

³² OPFML is a member with observer statute of the Camden Asset Recovery Inter-agency Network (CARIN).

Supervision and guidance of the financial entities belonging to the Moldovan AML/CFT regime that are carried out by NBM, NCFM and OPFML seem to be appropriate and consistent with international standards. There is a good level of compliance by the financial entities with the preventive measures according to the FATF and EU standards: Customer Due Diligence; enhanced identification measures; on-going business relationships; political exposed persons; beneficial owner; wire transfers; record keeping; training; internal procedures and policies; compliance units; Suspect Transactions Reports (STRs).

The December 2012 report of the Council of Europe's MONEYVAL Committee acknowledged the steady progress of the Republic of Moldova in the areas of customer diligence and reporting. Based on this Report, the Republic of Moldova was placed on simplified regime of monitoring since December 2012.

Assessment Block 3 / topic 1d - Prevention of money-laundering and financing of terrorism

The AML/CFT legal framework is comprehensive and properly implemented. The level of institutional coordination and cooperation among the relevant authorities is adequate and meets European and international standards.

Further action is required on:

- Further strengthen the sanctioning regime for AML/CFT, increase the penalties and improve the confiscation, freezing and seizing regime for AML/CFT funds. Implement supervision measures for Designated Non-Financial Business and Professions. Bring in line cash border operations with current EU legislation and FATF standards.
- Continue the systematic and timely implementation of the National Strategy 2013-2017 on AML/CFT and the Recommended Action Plan drawn by Moneyval.

- **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;**

The National Anti-drug Strategy 2011-2018 and the National Anti-drug Action Plan 2011-2013 are implemented in line with the European standards. The new national Anti-drug Action Plan 2014-2018 is currently being drafted, equal importance being paid to tackling both the drug use and trafficking.

As envisaged by the Action Plan, in April 2012, the Republic of Moldova joined the Council of Europe's Pempidou Group. Following the signature of the Memorandum of Understanding with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) in 2012, a good level of cooperation has been established.

The 2011 established National Anti-Drug Commission coordinates interagency cooperation among governmental institutions, and liaises with non-governmental institutions and civil society on all matters relating to drug policy. A very good level of cooperation and coordination between the relevant bodies has been established. It applies a balanced approach between demand reduction and supply reduction services.

Cooperation between the Antidrug Directorate of the General Inspectorate of the Police of the MoI and the institutions in charge of prevention and care is at very good level. Cooperation with NGOs involved in assisting drug users is satisfactory, but it seems to be more developed regarding HIV-related actions, than in prevention of drug use and harm reduction. In 2004

substitutive treatments were introduced, with methadone being distributed in health and care centres.

All drug crimes and other categories of offences are reported and recorded as crimes in Integrated Automatic Information System established by the MoI in order to record offences, criminal cases and persons who have committed offences. Several special drug operations have been conducted successfully. In 2012, 1 457 offences related to drugs were registered and 8 criminal groups involved in illicit drug trafficking were documented. Seizures in 2012 amounted to 304 kg 890 grams of drugs. Basic forensic capability is in place at the district level, but preliminary drug tests on the seized substances cannot be performed. Therefore, the analysis relies on external forensic laboratories, which is time-consuming and inefficient.

The Republic of Moldova is neither a major drug trafficking nor drug producing country, but serves as a transit point for drugs destined for Western Europe. Counternarcotic activities were so far hampered by insufficient specialized police officers and equipment. The Government has taken serious steps to address the situation in the context of on-going police reform efforts, and is increasing staffing and reorganisation of the specialized anti-drug units of the anti-drug Directorate of the MoI.

Combating domestic cultivation of marijuana was one of the most important challenges facing the anti-drug Directorate during the last years. However, synthetic cannabinoids and synthetic cathinones emerged as a growing problem in 2012.

Synthetic drugs are reportedly quite widespread (amphetamines, methamphetamines, synthetic cannabinol and some synthetic analgesics such as Tramadol, which are reportedly cheap and relatively easily available). In response to this trend, the MoI has petitioned the government to add many of these synthetics to the official list of banned substances. Multi-drug use (different drugs or drugs along with alcohol and other substances) has been also spreading increasingly.

Assessment Block 3 / topic 1e - Implementation of the Anti-drug policy

The National Anti-drugs Strategy Action Plan 2011-2013 and the institutional framework have been well implemented, and inter-agency cooperation is at good level. The National Anti-Drug Commission is functioning well and the Antidrug Directorate of the MoI is well organized and has recently significantly increased its analytical capability at the operational level. Further involvement of NGOs in drug demand reduction and harm reduction activities is necessary.

Further action is required on:

- Continue to increase efforts to equip police with technical means to identify substances found within their operations.
- Ensure further involvement of NGOs engaged in anti-drug activities and treatments.

- **Implementation of relevant UN and Council of Europe Conventions, as well as GRECO recommendations in the above mentioned areas.**

The Law and the Strategy for prevention and combating organised crime are fully in line with the provisions of the UN Convention against cross-border organized crime and its additional Protocols.

(b) Assessment of Impact recommendations

- *Prevent and fight corruption at all levels and in all areas.*

Partially implemented – see VLAP benchmarks point. Additionally, with the support of the Project Against Corruption, Money Laundering and the Financing of Terrorism in the Republic of Moldova (MOLICO), a Practical Guide for the investigation of corruption and corruption related offences was developed. The Guide is intended to anticorruption prosecutors and investigators within the Anticorruption Prosecutor’s Office, The National Anticorruption Centre, MoI and the Security and Intelligence Service.

- *Enhance the data collection on criminals and OCGs at national level inter alia by setting up and/or improving the national databases.*

See VLAP benchmarks point page 17, 18 and 24 of this report.

- *Continue efforts to improve data indicators and crime data collection in all crime fields.*

See VLAP benchmarks point page 17, 18 and 24 of this report.

- *Implement anti-corruption actions as a matter of priority in all areas, as well as in relation to wider rule of law aspects. The national authorities should have the capacity to fight corruption at all levels - central, regional, local and sector-specific, paying particular attention to the law enforcement and customs authorities.*

See VLAP benchmarks point page 19 to 22 of this report.

- *Ensure effective protection of witness of THB, and further improve the protection, assistance and support to THB victims.*

See VLAP benchmarks point page 18 and 19 of this report.

- *Assets confiscation procedures must be agreed with the Moldovan authorities, in order to recover stolen property or the profit thereof, and to reduce the financial power of OCGs, thus facilitating their dismantlement.*

See VLAP benchmarks point page 17, 22 and 23 of this report.

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

(a) VLAP benchmarks

- **Implementation of international conventions concerning judicial cooperation in criminal matters (in particular Council of Europe Conventions);**

The Republic of Moldova has a comprehensive and updated legal framework for the purposes of international legal co-operation in criminal matters. The law on the ratification of the Second Additional Protocol to the Council of Europe Convention on Mutual Legal Assistance in Criminal Matters was adopted on 26 December 2012. This framework, composed of several international, regional as well as domestic instruments, enables it to request and offer international co-operation in criminal matters adequately, in line with European standards. The legal framework covers the traditional areas of co-operation such as extradition, rogatory letters, transfer and takeover of criminal proceedings, requests for recognition and enforcement of foreign criminal judgments and request for transfer of sentenced persons. This framework includes some provisions on the use of quite effective means of investigation such as hearings by video-conference, cross-border observations, controlled deliveries, undercover operations and joint investigation teams. As a result, the legal framework is strong enough to face the increasing demand of co-operation in the fight against the most serious crimes as terrorism, organized crime, drug trafficking, trafficking in human beings, corruption, cybercrime and money laundering.

Starting from 2012, the representative of the Prosecutor's Office the Republic of Moldova is attending the plenary meetings of the Committee of Experts on the operation of European Conventions in the field of criminal co-operation (PC-OC) of the Council of Europe.

Incoming and outgoing requests of international co-operation are channelled through the central authorities, the GPO and the Ministry of Justice (hereinafter MJ) according to the rules established by the Criminal Procedural Code according to the stage in the procedure either criminal investigation or conviction following trial.

Both authorities perform their task in coordination with other internal and international bodies and institutions. They are adequately staffed, especially the Courts following several decisions adopted in early 2013 by the High Council of Magistrates to increase the number of investigative judges. Growing attention is paid to providing the necessary training and efforts are on-going to increase the necessary budgetary resources for this purpose.

The available statistical data show that both GPO and MJ services are regularly asked to process a significant number of requests for international legal co-operation. Regarding **extradition, taking over cases in criminal proceedings** and **transfers of cases in criminal proceedings the Republic of Moldova appears to be more a requesting than a requested State**. During 2009-2012 GPO was asked to process per year the average number of around 227 outgoing requests for extradition and only 27 incoming requests for extradition. GPO dealt on average with 31 taking over (incoming requests) cases in criminal proceedings and 11 (outgoing requests) of transfers of cases in criminal proceedings. On the contrary, for **rogatory letters**, the Republic of Moldova appears to be more a requested than a requesting State as during the same period, GPO processed per year the average number 494 incoming requests and 388 outgoing requests.

MJ is also asked permanently to process requests but on a smaller scale than the GPO. During 2012-2013, regarding **extradition**, MJ processed 71 outgoing requests and 12 incoming requests. MJ dealt with 14 **taking over cases in criminal proceedings (incoming requests)** and no request of **transfers of cases in criminal proceedings (outgoing requests)**. For **rogatory letters**, only global figures are available for the MJ, namely 1068 cases of both incoming and outgoing requests in civil and criminal matters, criminal cases being slightly less numerous than the civil ones.

MJ is in addition solely responsible authority for request for recognition and enforcement of criminal sentences and requests for transfer of sentenced persons. During 2012-2013 MJ dealt with 16 incoming and 12 outgoing requests for recognition and enforcement of criminal sentences. MJ processed 390 requests of transfer of sentenced persons to the Republic of Moldova and 21 requests for transfer of sentenced persons to foreign countries.

The statistics on extradition show that GPO processes a more significant number of requests than MJ. This difference simply mirrors the fact that the requests related to cases which are at the investigation stage are much more numerous than those related to the trial stage (see above regarding competence).

Regarding **extradition**, Both GPO and MJ **refused a limited number of incoming requests**. GPO during 2009-2012 rejected only 15 requests on legal grounds mostly because the wanted persons held the citizenship of the Republic of Moldova or due to statutory limitations. MJ during 2012-2013, rejected only one request on legal grounds given that the wanted person received asylum. The limited number of refusals can be considered an indication of the open attitude of the Republic of Moldova authorities to co-operate with third countries.

The **average timeframe** is an important performance indicator to assess the effectiveness of the international legal co-operation. The **timeframe for processing by** both GPO and MJ³³ appears reasonable and does not exceed the EU average.

- **High level of effectiveness of judicial co-operation in criminal matters of judges and prosecutors with the EU Member States.**

The majority (roughly 2/3) of the requests referred to above dealt with concerns the CIS and only less than 1/3 EU Member States. The authorities of Republic of Moldova have been ensuring an effective cooperation with the relevant authorities of the EU Member States.

- **Conclusion of an operational cooperation agreement with Eurojust**

Eurojust finalised the Evaluation Report of the Republic of Moldova on data protection in autumn 2012 and informed the Council in November 2012 about the proposal to launch formal negotiations on 1 February 2013 aimed at the conclusion of an operational cooperation agreement. The first round of negotiations took place on 10 June 2013 and was a very positive one, consequently negotiations are expected to be finalised soon.

(b) Assessment of Impact recommendations

- *Strengthen the judiciary system, including judicial cooperation in criminal matters, in particular mutual legal assistance.*

The Republic of Moldova is currently implementing a comprehensive reform of its judiciary system on the basis of the 2011-2016 Strategy and Action Plan including important legislative and institutional changes. A department for the implementation of the reform of the GPO was created in September 2012 and the Prosecutor's Offices Strategic Development Program for 2012-2014 was approved in December 2012 by the Superior Council of Prosecutors and is currently implemented.

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

The Republic of Moldova is a reliable and active partner in international legal co-operation and its track-record demonstrates a very open attitude to co-operate with EU Member States and other countries.

Further action is required on:

- Continue to improve the training of judges and prosecutors on international matters, including by increasing the necessary funding.
- Continue improving the statistics and record them using a commonly defined list of parameters applicable, where relevant, to both the GPO and the MJ.

Block 3 / topic 3 - Law enforcement co-operation

(a) VLAP benchmarks

- **High level of operational and special investigative capacity of law enforcement services and its consistent and efficient use to tackle cross-border crime;**

³³ (i) Incoming requests for extradition: MJ processes them in 3-4 months and GPO in 2-3 months; (ii) Incoming rogatory letters: MJ processes them in 2-3 months and GPO in maximum 6 months; (iii) MJ processes incoming requests for recognition and enforcement of criminal sentences in approximately 3 months and outgoing requests for recognition and enforcement of criminal sentences in 4-5 months; (iv) MJ processes requests for transfer of sentenced persons to foreign countries in 5-6 months.

Since the reform of the MoI of March 2013, the National Investigation Inspectorate of the Police consists of specialized directorates (serious crimes, organized crime, fraud, drugs, intervention unit) and two centres (human trafficking and IT), which tackle, under the same umbrella, the whole spectrum of serious and organized criminal activities. Three regional subdivisions ensure coverage across the Republic of Moldova. They report to the central directorates and perform investigations independently.

Legally and technically the reform provided for a better cooperation between police services and prosecutors. A specialized unit was created within the GPO – Division on control and investigation of organized crime, which has duties in exercise and management of prosecution in cases of organized crime offenses, in the accusation representation in courts and in the control and coordination of the activities of special subdivisions vested with responsibilities in preventing and combating organized crime. Furthermore, the GPO operates a division on combating trafficking in human beings and a division on combating cyber-crime.

In December 2012, a new law on special investigative activities entered in force and some amendments to the CPC were adopted in April 2012. Both laws harmonise the existing legislation to the new provisions on combating cross-border crime and international joint investigation teams, review of national legislation on interception of telephone conversations and review of relevant legislation in the framework of Police Cooperation Convention for South East Europe.

The current legal framework provides for a more suitable and lawful system to employ special investigative measures, regulated by law and under the control of the prosecutor and judicial authority. The legal provisions are in line with international and EU legal standards and put a wide range of investigative tools at the disposal of investigating services. Various criminal cases have been already solved owing to such measures, and investigators and prosecutors give the impression of having a clear picture and understanding of when it is practically and legally appropriate to use these tools.

The interception and recording of conversations equipment, by telephone or live listening devices are located within the premises of the Security Intelligence Service and under their custody. The SIS is in charge of receiving the signals from the telephone company or from the listening devices and it transfers the signals to the investigating services for their activities. The current system creates a situation whereby actors performing other duties (such as intelligence and counter-intelligence for state security purposes) have at their disposal and control data belonging to a criminal investigation regulated by the CPC.

The absence of control of Transnistria somewhat reduces the Republic of Moldova's efforts to ensure public order and security. The smuggling of goods is the most frequent illegal activity and its impact has been limited through the presence of the EUBAM. At this stage, there is no formalized police cooperation between Chisinau and Tiraspol.

- **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;**

In 2012 the Republic of Moldova introduced a tool for international judicial and police cooperation: the Joint Investigation Teams (JITs). The legal background is Article 19 of the United Nations Convention³⁴ against Transnational Organized Crime, the Palermo Convention, which entered in force after ratification in the Republic of Moldova on 16

³⁴ According to the Convention the competent authorities of two or more states parties may establish, by mutual agreement, a JIT for a specific purpose and for a limited period of time to execute criminal investigations in one or more of their countries.

September 2005. The Moldovan law, in line with the EU requirements, establishes the general conditions when such teams can be established. The model used by the Moldovan authorities is based on the EU Council Framework Decision and by the EU Council Resolution on JITs.

In the relations between police and prosecution no major obstacles or shortfalls in communication have been observed. Cooperation in place is at good level and there is clear division of competences between the police and prosecutor's office. The cases studied show a thorough and effective knowledge of criminal procedures and investigative techniques on both sides. The newly-established system with the MoI reform will need to be implemented and exploited. Another measure for increasing inter-agency cooperation was the establishment within the GPO in February 2013 of a control³⁵ and investigation unit specialized in organized crime and consisting of 10 prosecutors with at least 10 years of experience each.

A sensitive issue is the powers of the General Prosecutor. The General Prosecutor, besides directing the main prosecution service and being in charge of the most serious criminal cases, has a strong power of "call-back", to take over the responsibility for a case from any lower-ranked prosecutor. This power, included in all legislative frameworks for the purpose of coordination and substitution in case of "inactivity", may strongly limit the independence and autonomy of prosecutors, and should be exercised with great caution and restriction. Some concerns were raised on whether such a power should be somehow limited or better regulated.

Other forms of inter-institutional cooperation between law enforcement bodies, including the in the field of prevention and combating of corruption, are based on informational exchange systems. An Automated Integral Informational System of evidence of the offences, criminal cases and of offenders, and the criminal procedural legislation is shared since July 2008 between the GPO, the MoI, the Customs Service and the National Anticorruption Centre.

- **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.**

As a result of the on-going MoI reform, a new Centre of International Police Cooperation (CIPC) was created in the beginning of 2013. The CIPC brings together three subdivisions of MoI with competences in international police cooperation: NCB Interpol, NVC SELEC/GUAM and NCP Europol. All the offices and units in charge of international police cooperation are now unified within a single structure and are located in the same premises.

Interpol is the centre for international police cooperation within the MoI, and is linked with the MJ, the Customs Service, the Security and Intelligence Service, the GPO, the Border Police, and the National Anticorruption Centre. The Interpol office receives and sends all international requests for information related to Interpol's databases and it is linked with different databases and registers in the Republic of Moldova. The flow of incoming information is stable and the rate of outgoing information is increasing. The officials and the specialists of the unit are thoroughly aware of their mandate and mission.

Part of the wider system for international police cooperation is the GUAM unit, which ensures a daily exchange of information between Georgia, Ukraine, Azerbaijan and the Republic of Moldova. The amount of information which the Republic of Moldova shares with those countries through the unit is remarkable. The Moldovan authorities participate in the work of SELEC (Southeast European Law Enforcement Centre) and have sent two liaison officers to the SELEC centre and besides the exchange of information, many joint operations are planned and implemented with SELEC countries. The Republic of Moldova has posted a liaison

³⁵ The control objective means how law-enforcement bodies refer, register and notify organized crime cases.

officer under Bureau for Coordination of Fight Against Organized Crime within of Community of Independent States (CIS).

The GPO of the Republic of Moldova has signed cooperation agreements with similar institutions from Romania, Ukraine, China, Turkey, Ireland, Hungary, Italy, and South Korea. In 2012 the GPO of the Republic of Moldova has signed agreements and memoranda of cooperation with: DIICOT – Romania; Federal Prosecutor’s Office of the Kingdom of Belgium, General Prosecutor’s Office of Armenia, Ministry of Justice of Georgia. Currently bilateral agreements are being negotiated with Azerbaijan, Russian Federation, Belarus, Baltic countries, Bulgaria.

Two successful examples of recent international police cooperation include in particular the arrest of a dangerous Moldovan criminal in Verona (Italy), with the support of the National Central Bureau Interpol Rome and the Carabinieri of Verona; and a sensitive video interview of a victim of trafficking.

The Republic of Moldova Customs Service signed in May 2013 a Memorandum of Mutual Understanding with the European Anti-Fraud Office (OLAF). It envisages the fostering of cooperation, mutual exchange of information, and joint operations against cross-border crimes.

- **Conclusion of an operational cooperation agreement with Europol**

After signing a strategic agreement with Europol in 2007, a national contact point (NCP) Europol office was established to exchange strategic and technical information with the EU Agency. A Moldovan liaison officer will be delegated to Europol in Hague at the end of July 2013 following the signature of a liaison agreement in early 2013. The preparatory phase for the signature of an Operational Cooperation Agreement with Europol is on-going and the Republic of Moldova is awaiting a Europol study visit to evaluate its data protection regime.

(b) Assessment of Impact recommendations

- *Cooperation between the Moldovan and Member States’ authorities should be enhanced, including information sharing with Europol.*

See VLAP benchmarks point on page 29 and 30 of this report.

- *Cooperation between the Moldovan authorities with their counterparts in EU Member States on protection and assistance should be strengthened, including the identification and referral of THB victims and their safe return.*

See VLAP benchmarks point on page 18, 29 and 30 of this report.

- *Threat assessments and exchange of information on serious crime should be developed on a regular basis, under the aegis of Europol, and where appropriate with support of Interpol channels. Comparative crime data should be collected according to commonly defined indicators.*

See VLAP benchmarks point on page 29 and 30 of this report.

- *Exchange of best practice and training of law enforcement services should be strengthened.*

See VLAP benchmarks point on page 29 and 30 of this report.

Assessment Block 3 / topic 3 - Law enforcement co-operation

The legal provisions, in line with European standards, give a wide range of special investigative tools at the disposal of investigating services. All law-enforcement authorities

are equipped and dedicated to enhance international cooperation, and an operational agreement with Europol will greatly increase these prospects.

Further action is required on:

- Further develop strong links between the fighting regional and transnational organized crime unit of the Police with its counterparts in the EU, in the region and with Europol.
- Further implement joint planning of coordinated measures and investigations between the National Patrol Inspectorate and the Border Police, particularly in view of the execution of special investigative measures such as controlled deliveries.
- Enhance cooperation with Ukrainian border and law-enforcement authorities, enlisting EUBAM's support. Encourage operational links and exchanges of information between Chisinau and Tiraspol, without prejudice to 5+2 settlement process.

Block 3 / topic 4 - Data protection

(a) VLAP benchmarks

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

The Data Protection legislative framework, as revised in April 2012, is in line with European standards, including the *EU acquis*, notably Directive 96/46/EC. The Law establishes the rights of individuals when their personal data is processed and it applies inter alia to data processing by businesses, public administration and the police sector (excluding data classified as 'state secret').

The Law entrusts the key responsibility to supervise the compliance with the personal data protection standards upon an independent authority: the National Centre for Personal Data Protection (NCPDP). The 2012 NCPDP Report, available on its multilingual and user-friendly website, demonstrates the wide range of its activities and provides a good track record of the implementation of the data protection law indicating that NCPDP both fulfils its task of carrying out controls of the lawfulness of personal data processing and invests efforts in the education of the data controllers from other institutions. The procedures for the notification of data processing are well established.

The structure of the Centre approved in 2008 by law indicates a staff-limit of 21 employees. Currently 16 persons are employed and the Centre is adequately supplied with financial resources. For 2012, the Centre conducted 82 controls and as a result it issued: 6 decisions of suspending the operations of personal data processing; 1 decision on cessation of operations of personal data processing and started 4 contravention procedures on the refusal of the authorities to declassify information deemed to be unfounded classified. Having legal powers to investigate complaints from the subjects of personal data, during 2012 the Centre's staff examined 214 petitions and other complaints (almost 3 times more in comparison with 2011 and 10 times more as in 2010), of which 98 petitions were accepted and 5 rejected, in 111 cases explanations were given and in 6 cases brought lawsuits in administrative court on the rejection of the authorities to declassify information deemed to be classified unfounded. Additionally, during 2012, the Centre has checked 41 projects of normative and legal acts issued by other authorities for compliance with the principles of personal data protection.

Assessment Block 3 / topic 4 - Data protection

The legislation is implemented in line with European standards, including the EU *acquis* on data protection. The National Centre for Personal Data Protection is independent and functional.

Further action is required on:

- In case of a further legislative revision, envisage the possibility of amending the legislation to formally include the pre-consultation function among the tasks of the Centre.
- Continue to actively follow up on the current pending courts cases in order to clarify the application of the law when personal data are processed by a law enforcement body. Increase efforts to raise public awareness regarding the rules applicable to data protection in electronic communications.

General assessment Block 3

The Commission considers that **the Republic of Moldova largely meets the second phase benchmarks set under Block 3**. Several recommendations need to be further implemented so as to fulfil all benchmarks.

BLOCK 4: EXTERNAL RELATIONS AND FUNDAMENTAL RIGHTS

(a) VLAP benchmarks

- **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;**

As reflected in the VLAP benchmarks, the restriction to the freedom of movement within the Republic of Moldova of Moldovan citizens and legally staying foreigners or stateless persons concerned their registration / de-registration procedure. In application of the Law on Foreigners 2010, a new institutional framework was established to manage foreign migrants lawfully resident in the country. A Bureau for Migration and Asylum (BMA) was set within the MoI, introducing a 'one-stop-shop' for quickly receiving, processing and issuing permits of stay and identity documents to foreigners lawfully residing in the country, as well as dealing with invitation procedures, clearance for repatriation and visa extensions. On 10 December 2012, the service for providing documentation to foreign citizens opened two regional offices: one in Balti (North Regional Service), which is expected to serve about 13% of the foreigners living in the country, and one in Comrat (South Regional Service), expected to serve about 11% of the foreigners. The BMA headquarters in Chisinau continue to serve the foreigners living in the capital as well as in the central part of the country.

Similarly, the Action Plan approved on 9 November 2011 by the Government to simplify the conditions for the immigration of foreigners for working reasons and facilitate the application for residence by foreign investors (Decree no. 106) was translated in 2012 into important legislative amendments to the Law on Foreigners 2010, the Law on Labour Migration 2008 and the Law on HIV 2007. These amendments removed previous discriminatory provisions and effectively abolished travel and permanent residence restrictions for foreign people living with HIV/AIDS. Moreover, the amendments to the Law on HIV concentrate on prevention

measures aiming to reduce the vulnerability of women towards HIV infection, in particular by promoting nation-wide programmes and action in support of education and gender equality. Measures were introduced as well to ensure the confidentiality of medical data by medical institutions, and the protection of personal data regarding HIV-infected people by the public administration.

- **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.**

Specific measures were put in place to facilitate the issuance of identity documents to juveniles and socially vulnerable categories. In 2009, the Government made the first application for identity cards free of charge (Decision no. 844 of 18 December 2009); an information campaign (“Identity Cards for Young Citizens”) takes place annually in April and May. In 2011, 6 699 persons received their first identity documents. Since that year, the Ministry of Information Technology and Communication has kept record and made analyses of the cases of refusal of issuance of identity documents; this assessment, which is used to guide the implementation of measures to facilitate access to identity documents for all Moldovan citizens, is carried out quarterly.

The categories of persons benefitting from facilitated access to identity documents include also persons with severe, accentuated or medium-degree disabilities; WWII veterans and assimilated persons; liquidators of the Chernobyl accident and assimilated persons; and persons injured during the military conflict in Transnistria. For these categories, identity documents can be issued free of charge at first documentation; this benefit is permanent for disabled persons. Free-of-charge issuance of identity card and passport at first documentation is also provided to the victims of the floods of the summer of 2010 (one-time benefit); donors of blood / blood components (one-time benefit); and babies up to one year who must receive health treatment abroad, based on a pre-authorisation by the Ministry of Health (a fast-track issuance procedure is foreseen for such cases).

Since January 2012, mobile documentation offices and home delivery of identity documents have been put in place for persons with disabilities. The mobile services are free of charge for children under the age of one year in need of medical treatment abroad (based on referrals from the Ministry of Health) and for persons with severe disabilities (based on referrals from the Ministry of Health or the Ministry of Labour, Social Protection and Family). In 2012, the mobile documentation offices delivered 155 identity documents; and 108 documents were provided using the home delivery service.

For stateless persons, the remaining obstacles to the acquisition of citizenship (on grounds of previous imprisonment for premeditated crimes or criminal prosecution during the application examination) were removed by amendments to the Law on Citizenship 2000 adopted on 9 June 2011. From 1 May 2011 to 31 March 2013, 52 stateless persons obtained the Moldovan citizenship.

As regards ethnic minorities, the Moldovan authorities have managed to put in place over time a relatively successful set of measures to turn into practice their integration policy of the multi-ethnic Moldovan society. After 2009, the Government Activity Programmes 2011-2014 and 2013-2015 "European Integration: Freedom, Democracy, Welfare" included a specific chapter on “National Minorities” where the Government committed to the following objectives: to preserve and develop the cultural and linguistic heritage of all persons belonging to national minorities; to implement a coherent and multidimensional state policy in relation to persons belonging to national minorities; and to revise the legal framework, so

as to facilitate the integration of persons belonging to national minorities in the social, administrative, cultural, political and economic life of the country.

Recent progress towards these objectives, such as the first steps envisaged in the education system towards multilingual education (for instance, in the Autonomous Region of Gagauzia), has often been achieved in cooperation with international monitoring bodies (such as the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities) and despite a relatively outdated legal framework (the law on the Use of Languages on the territory of the Republic of Moldova dates from 1989 and the Law on the Rights of Persons Belonging to National Minorities dates from 2001). The Republic of Moldova ratified in 1996 the Council of Europe Framework Convention for the Protection of National Minorities, and up until now had limited itself to signing in 2002 the European Charter for Regional and Minorities Languages ('the Charter'). In February 2012, however, a new dynamics took over, when the Government set up a Working group on ratification of the Charter, with a view to initiating the drafting of the Charter ratification instrument. The authorities, represented by the Bureau of Interethnic Relations, have since then made a preliminary cost estimation of the ratification and are actively working towards the ratification of the Charter.

As regards in particular the Roma minority (0.4% of the population as per the 2004 census), the Ministry of Information Technology and Communication has pursued a systematic work programme to identify the areas of compact residence and to refine statistical information on Roma people in the State Register of Population ('the Register'). The term "Rom" was introduced into the Register as a choice for "ethnic belonging", making it easier for members of the Roma minority to identify and declare themselves (previously, the term "Tsygan", which for many has a pejorative meaning, was the only one proposed for identification).

Moreover, as the lack of documents has a negative impact on the enjoyment of social and economic rights, the Moldovan authorities have the intention on continuously addressing the issue of providing all Roma people residing in the Republic of Moldova with identity documents. In 2012, the Government exempted the citizens of Roma ethnicity from issuance fees for a period of six months starting from 1 October 2012 (Decision n. 497 of 6 July 2012). Four information campaigns were subsequently carried out through local public administrations, educational institutions, Roma NGOs and the electronic media to encourage Roma people to apply for identification documents and social benefits. Thanks to these measures, 959 individuals were newly provided with identity cards. Overall, 2 521 identity documents were issued in 2012 to Roma people; in application of the Action Plan on Supporting Roma People, the process of issuing identity documents to Roma people (evidence and documentation) is permanently monitored by the territorial subdivisions of the Ministry of Information Technology and Communication.

Regarding the registration of new-borns, in particular to prevent possible cases of missing registration of new-born Roma children, the Ministry of Information Technology and Communication (Common Order no. 114/476 of 12 December 2008) has established a mechanism for issuing birth certificates at the medical institutions, and instituted offices for subsequent registration of children in maternities.

- **Effective implementation of legislation and policies on anti-discrimination, implementation of relevant UN and Council of Europe instruments;**

The Law on Ensuring Equality of 25 May 2012 entered into force on 1 January 2013. Accompanied by a package of legislative acts, including the Law on Social Inclusion of People with Disabilities and amendments to the Criminal Code, timely adopted by the Parliament, and their implementing acts, it constitutes the cornerstone of the anti-

discrimination framework in the Republic of Moldova. However, it can be evidenced that the Moldovan authorities undertook to implement without delay a robust program of actions and initiatives to promote and explain the content of the new legal framework to magistrates, lawyers, law enforcement officers and the general public. The results of these efforts are already visible, not the least thanks to the early involvement in this effort of relevant and competent institutions such as the Ombudsmen / Centre for Human Rights, the National Institute of Justice, some of them in partnership with UNDP, and the help of a number of NGOs and international partners. In November 2012, the National Institute of Justice conducted regional trainings for 255 judges and 42 prosecutors on "Interpretation and enforcement of the Law on Ensuring Equality". New trainings are scheduled for the current year.

At the request of the MJ, the Office of the UN High Commissioner for Human Rights in partnership with the National Institute of Justice held on 6 December 2012 a pilot training course for 30 judges and prosecutors. For 2013, six training seminars are envisioned, out of which three have been conducted (90 judges and prosecutors). In addition, the Advocates' Law Centre in partnership with the Bar Association organised in 2013 a series of training sessions for 200 lawyers (from all the Republic of Moldova's regions) on national and international provisions on non-discrimination, on European Court of Human Rights case-law in the field, and on providing legal assistance to victims of discrimination. This initiative took place in the framework of a project ("Consolidating lawyers' knowledge on discrimination cases") funded by the Soros Foundation, which was concluded with a nation-wide conference on "The role of lawyers in tackling discrimination cases - European experience in practice" (19 April 2013).

The Moldovan authorities have also made significant efforts to make operational a major element for the implementation of the Law on Ensuring Equality, the Equality Council. Effective functioning of the Council and its ability to carry out its duties in an independent and impartial manner are key components of the implementation process. Two members were appointed on 7 March and the three remaining were appointed on 10 June. In the EU-Republic of Moldova Human Rights dialogue of 16 April 2013, the Moldovan authorities confirmed their commitment to making the Equality Council operational by the Autumn of 2013. The MJ anticipates that the budget of the Equality Council will allow funding 20 full-time employees in the start-up phase.

In 2012, the Republic of Moldova recognised the competence of the UN Committee on Elimination of Racial Discrimination to receive individual communications under Article 14 of the UN Convention on the Elimination of all forms of Racial Discrimination. Following the adoption of the Law Ensuring Equality, the Moldovan authorities are considering also to ratify Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Apart from the Law on Ensuring Equality, other important reforms were adopted in 2012 in order to ensure the legislative framework for ensuring non-discrimination in accordance with international and European standards. The Law on HIV 2007 was amended in order to fulfil a two-fold objective: a) to remove the discriminatory provisions against persons affected by HIV in different fields, including the abolition of travel and permanent residence restrictions for foreigners, and b) to strengthen the protection of privacy and confidentiality. These amendments are effectively implemented.

Also, the Law on Social Inclusion of Persons with Disabilities (law n. 60 of 30 March 2012) entered into force, aligning the Moldovan legal framework with the country's obligations resulting from the ratification of the UN Convention on the Rights of Persons with

Disabilities (UNCRPD). This new, far-reaching law applies not only to Moldovan citizens but also to foreign citizens with disabilities who have their legal residence in the Republic of Moldova. The law foresees cooperation between the State and civil society. According to the latter, the Moldovan authorities are working actively on implementation measures to move from a 'medical' to a 'social' model for the determination of, and dealing with disabilities and the rights of persons with disabilities, and on the allocation of the necessary budgetary resources.

Yet, a number of measures have been already adopted to implement the provisions of Law n. 60 concerning integration in the field of employment (Chapter V) and especially the provision establishing a 5% quota of employees to be recruited by medium-size and large companies (more than 20 employees) among persons with disabilities with an employment recommendation from the National Council for Determining Disabilities and Work Capacity. The Ministry of Labour, Social Protection and Family launched the recruitment of 43 officials to be deployed to all the local offices of the National Agency for Employment with a view to providing personalised assistance to persons with disabilities in the job-recruitment process, with the participation of ad hoc associations, trade unions and employers.

On 26 December 2012, law n. 306 'amending and completing some legal acts' was adopted by the Parliament; it introduced in the Contravention Code new administrative offences of labour discrimination, education discrimination and discrimination regarding access to public services and goods.

In addition, the criminal legislation on 'hate crimes' was reviewed. Article 176 of the Criminal Code ('infringement of equality') was reformulated so as better to define the elements constituting the criminal offence ("distinction, exclusion, restriction or preference" instead of the nonspecific "infringement"). Still, some aspects are not yet brought in conformity with the standards of specificity and foreseeability; moreover, the criminal legislation covering 'hate crimes' remains rarely implemented by law enforcement agencies and the judicial authorities. By contrast, judicial litigation in civil law cases reflect an active dynamic in Moldovan society, reflecting the Government's pro-active policy, with the emergence of a track record of litigation activity initiated by civil society and state institutions on discrimination cases, which have prompted precedent-setting rulings by domestic courts and raised awareness of the general public to the issue.

Furthermore, in the wake of the June 2012 ruling of the European Court of Human Rights in the Genderdoc-M case (application n. 9106/06), the central authorities and the Chisinau municipality showed readiness to ensure the right of freedom of assembly of LGBTI persons, as shown during the successful marches of the LGBTI community on 14 February and 19 May 2013. These marches were the first ones ever in the history of the Republic of Moldova to take place in secure conditions, under effective protection of the police.

A positive step must be mentioned also regarding the status of transsexual people and of their rights for legal recognition of change of name and legal gender. On 2 November 2012 the Supreme Court of Justice issued its 'Recommendations N. 16' on the examination procedure for complaints regarding the rectification of the civil status act following gender reassignment surgery. These recommendations correctly and expressly reflected European Court of Human Rights case-law, establishing the denial to recognise post-operative gender in civil status as a violation of the Convention for the Protection of Human Rights and Fundamental Freedoms (right to respect for private and family life). While commendable, this effort does not seem to solve entirely the issue: other legal provisions seem to continue to give ground for Civil Status Registry offices to refuse to amend a person's civil status following his/her gender reassignment, with the consequent need for him/her to contest the decision in court.

In the judicial field, as a consequence of the heated public debate in 2011-2012 and as a sign of a more active dynamic in Moldovan society on discrimination issues, the year 2012 witnessed a remarkable emergence of litigation activities on discrimination cases. Some cases clarified the limits of the freedom of expression in the case of 'hate speech', among other cases in instances of defamation and inflammatory statements against Roma people and LGBTI persons or the publication on web-sites of 'black lists' of public figures "promoting homosexuality". It is important to underline that the Courts adjudicated these cases in line with international and European standards with respect to the legitimate limits of the freedom of expression in cases of dissemination of ethnic, religious or social hatred ('hate speech'); in some of the cases, they also decided to grant moral compensation to the plaintiffs.

Also, the Chisinau of Court of Appeal rejected a complaint lodged by a religious organisation against the decision of 'Teleradio Moldova' to broadcast a documentary on LGBTI rights as human rights, with the reasoning that the plaintiff had tried "to enforce an interdiction for freedom of expression and opinion on a subject related to the rights of sexual minorities". Equally telling was the reaction prompted by civil organisations and public authorities as well by the discriminatory measures against LGBTI individuals and members of religious minorities adopted by some local councils, including the Balti City council. On 28 February 2013, the Balti Court of Appeals ruled that the latter's creation of a "zone of special support of the Moldovan Orthodox Church" and ban on the "aggressive propaganda of non-traditional sexual orientation" was a violation of human rights. As regards the discriminatory decisions adopted by some other local councils, the State Chancellery notified the concerned authorities about the illegality of their decisions and initiated the related legal proceedings. As a result, all decisions of local municipalities were cancelled by the issuing authorities or declared illegal by the respective courts. The same approach is being followed by the Ombudsmen in the case of the law 'on ensuring the principles of equality, equity and objectivity' adopted on 30 April 2013 by the People's Assembly of the Gagauz Autonomy, which calls into question some of the rights established by the Law on Ensuring Equality, notably with regard to the employment rights of LGBTI persons.

- **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;**

On 27 December 2012 the Parliament adopted amendments to the National Human Rights Action Plan ('the Action Plan'), prepared together by the authorities and civil society in order to take into account new developments, such as the outcome of the Universal Periodic Review (final report of March 2012) and other international recommendations. Following this exercise, new chapters were included, such as: Prevention of, and fighting against discrimination; Freedom of thought, conscience and religion; and Rights of stateless persons, migrants, refugees and asylum seekers. In the EU-Republic of Moldova Human Rights dialogue of 16 April 2013 the Moldovan authorities confirmed the priority they attach to the continuous implementation of the Action Plan - with adequate financing - and its monitoring.

The latter is coordinated by an ad hoc National Commission for the Implementation of the Human Rights Action Plan ('the national commission') with the technical support of the MJ, as well as by the Standing Parliamentary Committee on Human Rights. It is based on a set of performance indicators and includes a qualitative assessment and feedback mechanism; it showed that 85% of the actions planned for 2012 had been completed or were in progress at the end of the year. The national commission requested more involvement from the country's 35 district councils. It also added a separate financial chapter to the Action Plan, where the

national and local authorities have been requested to indicate the sources of finance, internal or external, earmarked or required to ensure full implementation; cooperation with national and international partners has remained an important factor for the implementation of the Action Plan. The Moldovan authorities have recently decided to invite representatives of the Council of Europe, the UN, the EU, the OSCE, national and international NGOs to participate in the national commission.

The National Action Plan on Supporting Roma People 2011-2015, revised in 2012 in consultation with international partners, makes a breakthrough in the Republic of Moldova's policies towards Roma as it focuses on social inclusion rather than limiting itself to the promotion of Roma culture. The institutionalisation of the Roma community mediators is an important step towards better integration of Roma people. The work of the network of Roma community mediators, now on the pay roll of the Republic of Moldova budget, should be pivotal for the intended strategy of social inclusion, based on combined efforts of the central and local authorities, the active participation of civil society and international organisations (such as UNICEF), and with adequate financial allocations. 15 Roma community mediators have been put in place, being fully funded by the state budget; this number is planned to reach the optimal level of 47 community mediators by 2015. In support of a strategy of empowerment of Roma women, 13 out of these 15 initial community mediators are of female gender. As a positive development to increase the capacity and awareness of the Moldovan authorities to target the issue of social inclusion of Roma, a post of special adviser to the Prime Minister on Roma issues was created in November 2012.

As regards the institutions, the importance of ensuring respect for human rights in the justice sector was re-affirmed as one of the pillars of the large-scale, comprehensive Strategy for reforming the justice system 2011-2016 and the related Action Plan. A first wave of legislative amendments, adopted in July 2012, strengthened the Superior Council of Magistracy and in particular reinforced its disciplinary powers; they also achieved the goal of allocating judges in a more efficient and flexible manner, according to the effective workload and caseload in particular courts and districts, and of reducing work pressure on judges, by creating the position of judge's assistant. The system of legal aid, created in 2008 and organised around a National Legal Aid Council, was improved as well. The Guide on State Guaranteed Legal Aid published in 2010 with the support of the Council of Europe and the European Commission continued to be conveyed to relevant institutions and specialists providing legal aid, while a summarised leaflet was made available for the general public, providing explanations about the types of legal aid and procedures for its request and delivery.

Furthermore, the provision of legal aid was diversified by instituting public defenders alongside the private lawyers who are willing to deliver legal aid on contract basis with the five territorial offices of the National Legal Aid Council. Accredited NGOs will also be allowed to provide legal aid in civil cases; paralegals and NGOs will provide primary legal aid (basic information about law and assistance in drafting different acts, except procedural acts for court proceedings). As from 1 January 2012 it became possible for plaintiffs to apply for legal aid also in civil cases; such aid is available to persons with no means to retain a lawyer, and whose case is of a certain legal or procedural complexity.

The strategy for the reform of the justice sector gives due importance to the reform of the Ombudsmen's institution, the Centre for Human Rights ('the Centre') with a view to strengthening its independence and effectiveness as well as those of the related National Mechanism for the Prevention of Torture (in November 2009, the Centre for Human Rights received "B" status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, so indicating partial compliance with the Paris principles). An ad hoc working group conducted a detailed study on the activity of the

Centre, including the evaluation of the latter's performance, financial needs and possible measures for optimising its activities. Based on its conclusions, and with the involvement of international partners (such as the UN local adviser on human rights and the former UN Special Rapporteur on torture) and local NGOs, the MJ prepared draft legislation on the re-organisation of the Centre, the selection and nomination of the Ombudsperson(s), and establishing the latter's degree of autonomy in selecting and appointing the Centre's staff, shaping the internal organisation of the structure, and dealing with budget issues. At this stage the draft law has been submitted for public consultation.

At the same time, the Centre made its own efforts to improve its effectiveness and the credibility of its role. It started to use its prerogative to question the constitutionality of specific laws before the Constitutional Court and to initiate legal standings before the Court or to intervene in judicial proceedings in the form of "amicus curiae", including in anti-discrimination proceedings. It opened a regional centre in Varnita, a Republic of Moldova-controlled suburb of Bender, in the so-called Security Zone, with a view to addressing the requests of the local population and improving cooperation with the correspondent ombudsman institution in "Transnistria".

(b) Assessment of Impact recommendations

- *Continue to implement its Human Rights Action Plan 2011-2014 and continue to seek involvement of the international community in tackling minorities' issues.*

The Moldovan authorities have shown consistent commitment and improving results in implementing the Human Rights Action Plan 2011-2014. In March 2013, amendments to the Government decree establishing the National Commission for the Implementation of the Human Rights Action Plan are being drafted in order to invite international organisations such as the Council of Europe, the UN, the EU, the OSCE and international NGOs to partake in the commission's monitoring and assessment work. The intention of the Moldovan authorities was to proceed quickly with such an invitation after a new Government would be appointed.

- *Ensure effective implementation of anti-discrimination legislation, in line with European and international standards, notably by issuing comprehensive guidelines and by having in place a functioning Equality Council.*

As extensively dealt with in the previous section, the Moldovan authorities, judicial institutions, civil society and the population at large show a high degree of awareness of anti-discrimination issues, a subject that is still controversial in the society. A number of implementation measures being taken shortly after the Law on Ensuring Equality was adopted, notably a robust education and training programme to provide implementation guidelines to jurists and to inform the general public; administrative decisions or regional legal acts opposing the Law on Ensuring Equality being repealed through legal means; and to the emergence of national case law being set in line with the decisions of the European Court of Human Rights.

- *Sustain its financial efforts to implement the Action Plan on Roma Support 2011-2015 in an effective and consistent manner.*

As dealt with in the previous section, the Action Plan on Roma Support 2011-2015 has been implemented in a consistent manner. Although with some delay, their previous commitment to institutionalise the Roma community mediators was translated into effective budgetary commitments in 2013. On this issue as well on human rights issues in general, cooperation with, and support from the international community is an important factor for ensuring success of the planned actions.

- *Continue the good cooperation with de facto authorities in Tiraspol, which would allow information exchange on the issuance of documents as well as on law enforcement aspects;*

As described in the VLAP benchmark point, the issuance of identity documents to Transnistrian residents by the constitutional authorities of the Republic of Moldova is made on the basis of information provided under Moldovan law and checked against information in the possession of the constitutional authorities.

Cooperation between Chisinau and Tiraspol on law enforcement matters takes place in an ad hoc manner on the basis of an agreement of 1994. This agreement, however, cannot be implemented as such in the context of the Republic of Moldova's progress in human rights issues insofar as it does not provide sufficient guarantees on the protection of personal data and respect for human rights of suspects requested for investigation by the de facto Transnistrian authorities; this format needs to be revised. Work on this issue was resumed in the wake of the Odessa '5+2' meeting, on the basis of a draft proposed by the OSCE Mission to the Republic of Moldova.

- *Increase efforts to overcome possible security and migration challenges and find possible solutions for enhancing the control without prejudice to the "5+2" negotiating process.*

In March 2013, the Moldovan Deputy Prime Minister for reintegration (the Republic of Moldova's political representative in the '5+2') informed through a letter the Transnistrian de facto administration, the other participants in the '5+2' process and the Joint control commission established under the Russia-Republic of Moldova ceasefire agreement of 1992 about the Republic of Moldova's intention to create six registration points of the Moldovan Bureau for Migration and Asylum on the administrative boundary line with 'Transnistria', in the so-called security zone of the Transnistrian conflict to monitor and control migration flows through the central (Transnistrian) segment of the Republic of Moldova-Ukraine border. The information provided to Tiraspol contained basic facts about the location, procedures, responsible institutions and other relevant aspects.

In April, following the negative reaction of the Transnistrian administration, the Deputy Prime Minister for reintegration provided additional clarifications to Tiraspol in writing, as well as through public statements, including those issued by the Bureau for Migration and Asylum. The issue was raised again during the Odessa meeting of the '5+2' (23-24 May 2013), where the Republic of Moldova dispelled Transnistria's accusations that its initiative would hinder freedom of movement for Russian and Ukrainian Transnistrian residents who did not hold a Moldovan passport. Transnistria seemed satisfied with the explanations received. The Republic of Moldova agreed additionally to pursue with Russia and Ukraine tripartite consular consultations on the recognition of the Moldovan residence of Russian and Ukrainian Transnistrian residents who refuse to register with the Moldovan authorities.

According to the National Bureau of Statistics, in 2012 the population of the Republic of Moldova was 3 559 541 persons (without the Transnistrian region). Additionally, the population of the Transnistrian region was estimated about 509 400 persons (without deducting the considerable number of immigrants from the region), out which 280 239 (55%) were Moldovan citizens registered within the State Register of the Population. In 2012, the Ministry of Information, Technology and Communications issued 15 531 passports to the citizens of the Republic of Moldova residing in the Transnistrian region.

The Republic of Moldova pursues a generally inclusive policy with regard to its citizens residing in 'Transnistria', allowing them to get free-of-charge access to Moldovan citizenship on a voluntary basis (or free-of-charge issuance of identity documents at first documentation).

Given the lack of recognition of the Transnistrian civil status documents by the Republic of Moldova, the Ministry of Information, Technology and Communications applies specific measures to confirm the applicants' citizenship, in line with the amendments of the Law on citizenship 2004 and Government Decisions n. 959 from 9 September 2005 and n. 337 of 10 May 2011. Since May 2012, discussions have been underway between Chisinau and Tiraspol to implement a mechanism of information exchange, allow the re-registration of the documents issued by the Transnistrian de facto authorities, and notably introduce elements of nation-wide identification (a number generated by the Moldovan Civil Status Registry) in the civil status documents issued by the Transnistrian de facto authorities; this would simplify the application process for Transnistrian residents applying for Moldovan identity documents.

For the moment, Government Decision n. 125 of 18 February 2013 approving the 'Regulation on the issuance of the identity documents and evidence of the population of the Republic of Moldova' (replacing Government decision nr. 376 of 6 June 1995 as subsequently amended) stipulates that the "identification of the persons that reached the majority age and have not been documented earlier, or whose identity cannot be established upon documents issued earlier, is to be performed upon the declaration on the responsibility of one of the parents, legal representatives or other relatives of the I-III degree". In the latter case, the applicant must provide additional explanatory documents issued by the local public authority or other state institutions that possess information on the respective person. Accordingly, descendants or relatives of residents of Transnistria who are not able to be identified and recognised under the Soviet-model passport system (which the Moldovan "Register" has inherited), can currently rely on the statements of their relatives in order to apply for Moldovan citizenship. The Moldovan Criminal Code foresees fines and up to one year of imprisonment for false statements in front of a public officer in order to produce a legal consequence for a third person.

General assessment Block 4

The Republic of Moldova has moved towards effective implementation of the required second phase benchmarks. Remaining restrictions on the legal stay of foreigners and stateless persons were removed; access of all citizens to identity documents has continued to be effectively improved; considerable improvements were achieved in the implementation of the anti-discrimination legal framework. Additionally, the situation of the Transnistrian region has been addressed diligently, by setting-up a migration monitoring system and putting in place special confirmation procedures for Transnistrian residents applying for Moldovan identity documents. Moreover, the Republic of Moldova shows a track record of consistent follow-up on all the recommendations conveyed in the Assessment of Impacts.

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

Further action is required on:

- Confirming the sustainable implementation of the Law on Ensuring Equality, notably by setting up a functioning Equality Council and furthering progress towards the full implementation of the law on the social inclusion of persons with disabilities;
- Confirming the financial backing of the National Human Rights Action Plan;
- Continuing the implementation of the justice sector reform, including the strengthening of the ombudsman institution;
- Establishing the announced registration posts along the administrative boundary line with

'Transnistria';

- Furthering progress with 'Transnistria' to facilitate the documentation and evidence of Transnistrian residents.

3. CONCLUSIONS

Since the launching of the EU-Republic of Moldova Visa Dialogue in June 2010 and the presentation to the Moldovan authorities of the Action Plan on Visa Liberalisation (VLAP) in January 2011, the Commission has been regularly reporting to the European Parliament and to the Council on the progress made by the Republic of Moldova in taking the necessary measures to fulfil the benchmarks identified under the four blocks of the first phase and now under the second phase of the VLAP through this 4th progress report.

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

- the EU-Republic of Moldova Joint Visa Facilitation Committee;
- the EU-Republic of Moldova Joint Readmission Committee;
- the EU-Republic of Moldova Joint Sub-Committee n°3;
- the Senior Officials Meeting of the EU-Republic of Moldova Mobility Partnership;
- the EU-Republic of Moldova Human Rights Dialogue.

In each of these committees and frameworks the state of dialogue and cooperation between the EU and Republic of Moldova is advanced and running smoothly. During the most recent Visa Facilitation and Readmission Joint Committees that took place in on 12 June 2013 in Brussels, with the participation of EU Member States, the Commission registered an overall satisfactory implementation of both agreements.

The EU-Republic of Moldova Visa Dialogue has proved to be an important tool for advancing **reforms**, not only in the Justice and Home Affairs area, but also beyond impacting areas such as rule of law and constitutional issues including political parties financing and political immunities. The progress made by the Republic of Moldova under the various areas covered by the four blocks of the VLAP has been constant and effective in the last three years, showing the important commitment and the efforts made by the Moldovan authorities in making the implementation of the VLAP a priority in its legislative, policy and administrative agenda.

It is however important to reaffirm that reforms undertaken in several areas covered by the VLAP, and in particular those attaining to the good governance of the public administration, clearly need **stable political will** to be shown by the Moldovan authorities, with a view to having those reforms fully consolidated in the Moldovan society.

The current assessment shows that the Republic of Moldova **is broadly in line with all benchmarks set in the four blocks of the VLAP**. The functioning of the legislative and policy framework and the institutional and organizational principles and procedures throughout the four Blocks is in compliance with the European and international standards. The Commission considers that the Republic of Moldova has made **very good progress** in the effective and sustainable implementation of the second phase benchmarks of the VLAP. The fulfilment of the actions required in the present report would bring the Republic of Moldova to the finalisation of the implementation of all benchmarks of the second phase of the VLAP.

The Commission will continue paying particular attention that appropriate financial and human resources are being allocated by the Republic of Moldova to the sustainable implementation of the legislative and policy framework. In that respect, the Republic of Moldova is requested to establish a **long-term multi-year planning** for ensuring that the necessary financial and human resources are allocated for an enduring fulfilment of the benchmarks through the systematic integration of the necessary expenditure lines in the State budget. It is also essential to continue organising **targeted information campaigns** aiming to clarify the rights and obligations of visa-free travel, and on rules regulating access to the EU labour market.

The Commission will **continue to actively monitor** the fulfilment of the actions required in the present report under the four Blocks of the VLAP, with a view to **reporting in the autumn** on the effective implementation of all benchmarks under the Action Plan on Visa Liberalisation.