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

**Possible Migratory and Security Impacts of Future Visa Liberalisation
for the Republic of Moldova on the European Union**

Preliminary Assessment

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Preliminary Assessment

1 - INTRODUCTION

1.1. Background

The Action Plan on Visa Liberalisation (VLAP) was presented to the Moldovan authorities by the Commission on 24 January 2011. The Commission reported regularly to the European Parliament and to the Council on the implementation of the VLAP. The First Progress Report was presented on 16 September 2011¹. The Second Progress Report was presented on 9 February 2012². The Commission adopted a Report to the European Parliament and the Council on the Implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation on 22 June 2012³.

According to the VLAP methodology, the Commission was also requested to provide "a wider assessment of possible migratory and security impacts of future visa liberalisation for Moldovan citizens travelling to the EU".

1.2. Methodology

To prepare this assessment, the Commission involved the relevant EU Agencies and stakeholders whose contributions were considered necessary, namely Europol, the EU Border Assistance Mission to the Republic of Moldova and Ukraine (EUBAM), Frontex and the European University Institute - Migration Policy Centre (EUI). On 12 October 2011 the Commission held a meeting with their participation. In January 2012 Europol⁴, EUBAM⁵, Frontex⁶ as well as EUI⁷ delivered their assessment of the possible migratory and/or security impacts of future visa liberalisation.

¹ See SEC (2011) 1075 final.

² See SWD (2012) 12 final.

³ See COM (2012) 348 final.

⁴ The findings presented in Europol contribution are based on information available to the Agency. The contribution does not represent an exhaustive threat assessment on Moldovan organised crime.

⁵ EUBAM's contribution focused on the analysis of the situation at the common border between the Republic of Moldova and Ukraine.

⁶ Frontex tailored risk analysis is based on the Common Integrated Risk Analysis Model. Data were collected through the Frontex Risk Analysis Network (FRAN) and the Frontex Eastern Borders Risk Analysis Network (EBRAN). In addition, Frontex own reports and data collected during Frontex coordinated joint operations, publically available statistical data and open source intelligence were used.

⁷ The EUI conclusions are based on primary and secondary qualitative data: the Delphi survey of experts conducted in December 2011; qualitative interviews with Moldovan migrants in Germany, Italy and Poland as well as interviews with potential migrants in the Republic of Moldova; and a review of the legal framework.

A contribution was also requested from the Republic of Moldova at the Senior Officials Meeting on 7 October 2011. The contribution from the Republic of Moldova was received in January 2012. The issue was subsequently discussed at the Senior Officials Meeting on 27 February 2012, after which updated information was received. A follow-up meeting with the relevant EU Agencies and stakeholders was organised on 23 April 2012, and additional comments and information were received in May and June 2012 on the basis of which the assessment was finalised.

In this context it is important to emphasise that the contributions received did not necessarily point in the same direction, and that, according to the current information and following past experiences, the possible impact of visa liberalisation for the Republic of Moldova will not be the same for every EU Member State.

Based on the contributions received, the present assessment aims to identify the **main phenomena and key trends** in the areas of **migration, mobility and security** in relation to the Republic of Moldova and the possible impact that a visa-free regime would have on them. It also identifies **measures that should be considered** by the Republic of Moldova as well as, where relevant, by the European Union and its Member States.

This assessment reflects the state of play as of June 2012. The findings presented in the current document would need to be updated following the legislative, policy and institutional reforms to be implemented by the Republic of Moldova in line with the VLAP. The present assessment therefore represents a **preliminary snapshot** of the situation at the current state of implementation of the VLAP. It is supposed to change, and potentially to improve substantially, following the effective implementation of the VLAP. The Commission will continue to monitor the progressive implementation of the VLAP, and present its findings in the context of its regular reports to the European Parliament and the Council.

2 - RELEVANT LEGAL REGIMES CURRENTLY IN PLACE

2.1. Background

The aim of the visa dialogue between the EU and the Republic of Moldova is to prepare the ground for a waiver of the visa obligation for short stays for Moldovan nationals travelling to the Schengen area. Such visa waiver will be regulated in Council Regulation (EC) No 539/2001 establishing the lists of third countries whose nationals must be in possession of visas when crossing the external borders and of those whose nationals are exempt from that requirement. In this context, it is relevant to recall that the Commission submitted on 24 May 2011 a proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 539/2001⁸. This proposal, which is currently being discussed in the European Parliament and in the Council, aims to establish a **mechanism for the temporary suspension** of the visa waiver for a third country listed in Annex II to Council Regulation (EC) No 539/2001 in case of an emergency situation, where an urgent response is needed in order to resolve the difficulties faced by one or more Member States, and taking account of the overall impact of the emergency situation on the European Union as a whole.

⁸ See COM (2011) 290 final.

Visa liberalisation does not change the conditions for entry and stay laid down in the **Schengen Borders Code**⁹ **for short stays** and in **national law for long stays**. Visa liberalisation does not mean an automatic right of entry and stay for Moldovan citizens. Neither does it mean an absence of controls of the conditions for entry and stay. In particular, even after the introduction of a short-term visa-free regime, Moldovan citizens, when crossing the external borders of the Member States, would have to justify, *inter alia*, by providing documentary evidence, the purpose and conditions of their journey as well as their intention to leave the territory of a Member State before the maximum duration of authorised stay (90 days in any 180-day-period) has elapsed. Nevertheless, visa liberalisation will reduce the preparation time and costs associated with travelling to the Schengen area.

The VLAP indicates that the visa waiver would apply only to Moldovan nationals holding **biometric passports**, therefore risks related to a visa waiver for non-biometric passport holders are not analysed.

2.2. Visa regime applied by the EU in relation to the Republic of Moldova

Currently, Moldovan citizens are subject to a visa obligation, with the exception of certain limited categories of persons, who are exempted from that obligation under the Visa Facilitation Agreement or under national law (like diplomatic and service passport holders and civilian aircrew members). The issuance of short-stay visas is governed by the Visa Facilitation Agreement and the Visa Code.

The EU-Republic of Moldova Visa Facilitation Agreement entered into force on 1 January 2008. The Joint Committee monitoring the implementation of the Visa Facilitation Agreement regularly addressed the issue of fraud in supporting documents. The Republic of Moldova reported that it designated contact points within its administration to allow Member States' consulates to quickly verify the authenticity of certain categories of supporting documents. During the most recent meeting of the Joint Visa Facilitation Committee in Chisinau on 23 May 2012, with the participation of EU Member States, the Commission registered an overall satisfactory implementation of the Agreement.

As regards the number of **short-stay visas issued by the Schengen States** in the Republic of Moldova: in 2008, 28.911 short-stay visas were issued, in 2009 33.820, in 2010 45.612 and in 2011 49.296. In 2008 12,1% of the short-stay visa applications were refused, in 2009 10,15%, in 2010 11,43%, and in 2011 9,7%. These rates are higher than the global average refusal rates which were 6,68% (in 2009), 5,79% (in 2010) and 5,5% (in 2011).

As regards the number of **national short-stay visas issued by Bulgaria, Romania and Cyprus** in the Republic of Moldova: in 2009 31.657 national short-stay visas were issued by Bulgaria, 65.042 by Romania and 900 by Cyprus; in 2010 40.898 by Bulgaria, 92.556 by Romania and 539 by Cyprus; in 2011 52.209 by Bulgaria and 50.836 by Romania. No figures are available for Cyprus for 2011. In 2009, the visa refusal rate was 7,49% (Bulgaria), 4,45% (Romania) and 1,52% (Cyprus). In 2010 the visa refusal rate was 1,30% (Bulgaria), 6,89% (Romania) and 7,39% (Cyprus). In 2011 the visa refusal rate was 0,58% (Bulgaria) and 7,61% (Romania). No figures are available for Cyprus for 2011.

⁹ 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 (OJ L 105, 13.4.2006, p. 1).

In 2011, according to information provided by some Member States, the main grounds for refusal were that the justification for the purpose and conditions of the intended stay was not provided or not reliable and that the applicants were not able to show convincingly their motivation to return to the Republic of Moldova.

An amended EU-Republic of Moldova Visa Facilitation Agreement was signed on 27 June 2012.

2.3. EU-Republic of Moldova Readmission Agreement and the readmission regime applied by the Republic of Moldova

EU-Republic of Moldova Readmission Agreement

The EU-Republic of Moldova Readmission Agreement enables the swift and facilitated return of irregular migrants on a reciprocal basis, and, as such, contributes to mitigating the risk of irregular migration between the Republic of Moldova and the EU. The agreement entered into force on 1 January 2008. The Republic of Moldova has thus accepted, and is implementing, clear obligations and terms for readmitting its nationals who do not, or who no longer, fulfil the conditions for entry to, or stay on, the territory of the EU Member States, as well as for third country nationals and stateless persons who illegally and directly entered the territory of the Member States after having stayed on, or transited through, the territory of the Republic of Moldova, or who hold a visa or residence permit issued by the Republic of Moldova.

Member States regularly report on the overall satisfactory implementation of the EU-Republic of Moldova Readmission Agreement. This is confirmed by the meetings of the Joint Readmission Committee, where both sides exchange information on implementation, and where so far no particular problems were raised. During the most recent Joint Readmission Committee meeting in Chisinau on 23 May 2012, with the participation of EU Member States, the Commission registered an overall satisfactory implementation of the Agreement.

The Republic of Moldova has furthermore concluded bilateral Implementing Protocols under the EU-Republic of Moldova Readmission Agreement. Implementing Protocols entered into force with Austria, the Czech Republic, Estonia, Hungary, Germany, Latvia, Lithuania, Malta, Romania and Slovakia. Negotiations with Bulgaria, Italy, Poland, the Netherlands (negotiating also on behalf of Belgium and Luxembourg) were finalised. Negotiations are on-going with Cyprus, Portugal and Spain. Negotiations could possibly start in the future, pending on-going consideration, with Finland, Ireland, Sweden and United Kingdom.

Denmark as well as Switzerland concluded Readmission Agreements with the Republic of Moldova.

The Republic of Moldova is achieving steady results in this area and its considerable efforts in this regard should be further pursued towards the rapid conclusion of outstanding talks with Member States.

Readmission regime applied by the Republic of Moldova

In addition to the Readmission Agreement with the EU, the Republic of Moldova has already concluded or is in the process of negotiating readmission agreements with several third countries. The Readmission Agreements are already in force with Norway, Ukraine and FYROM. The Republic of Moldova has signed Readmission Agreements with Serbia, Bosnia and Herzegovina and Montenegro. Negotiations are on-going with Turkey, Ukraine (in order

to replace the 1997 Readmission Agreement), Albania, the Russian Federation and Azerbaijan and might soon start with Lebanon. The Republic of Moldova should consider opening negotiations for readmission agreements also with other important transit countries in its neighbourhood as well as with source countries of migration.

2.4. Romania-Republic of Moldova Local Border Traffic Agreement

The Romania-Republic of Moldova Local Border Traffic (LBT) Agreement entered into force in October 2010. According to the Commission's Second report on the implementation and functioning of the local border traffic regime set up by Regulation No 1931/2006¹⁰, the Romania-Republic of Moldova LBT Agreement fully complies with the LBT Regulation.

2.5. Visa regime applied by the Republic of Moldova

The countries whose citizens are exempted from having a visa to enter the Republic of Moldova for up to 90 days are: all Member States of the European Union, Canada, the Holy See, Iceland, Japan, Andorra, Monaco, the Liechtenstein, Norway, San Marino, Israel, Switzerland, the USA, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan, Ukraine and Uzbekistan.

The obligation to apply for a visa is abolished for holders of diplomatic and service passports of Albania, Brazil, Bosnia and Herzegovina, Croatia, Montenegro, FYROM, Peru, Serbia, Turkey and Vietnam (for stays up to 90 days) and of China, Iran and Turkmenistan (for stays up to 30 days).

Negotiations on a possible visa free regime are on-going with Chile, Mexico, Serbia and Turkey.

3 - POSSIBLE MIGRATORY IMPACTS OF FUTURE VISA LIBERALISATION

3.1. Current situation

Migratory flows in general

The Republic of Moldova occupies one of the first places on the list of countries dependent on remittances (4th place in the ranking of remittances' share in GDP¹¹) and, consequently, on labour migration. Emigration is perceived as an important option to earn one's livelihood.

The main destinations of Moldovan migrants are CIS countries (mainly the Russian Federation) and EU Member States. Turkey, the USA, Canada and Israel are also important destinations. Within the EU, the main countries of destination are Italy, Spain, Portugal, Germany, Romania, the Czech Republic and Greece.¹²

According to EUROSTAT data, the number of Moldovan citizens registered in the EU Member States has increased continuously from 89.033 in 2006 to 190.857 in 2011. This

¹⁰ See COM (2011) 47 final.

¹¹ The definition of migrant that is used by the Republic of Moldova to calculate remittances is quite wide – it captures stays of 6 months or more, whereas most countries base their calculation on stays of at least 12 months.

¹² Data available at <http://www.carim-east.eu/900/moldovan-emigration-stocks-residing-in-the-european-union-by-country-of-residence-most-recent-data-circa-2010>.

increase might be largely due to regularisation programmes in different Member States and through the implementation of the 2011 Labour Agreement with Italy. For this reason, it appears that these progressive increases in number of migrants should not be considered necessarily as an indication of actual increases in migration flows from the Republic of Moldova. Indicators regarding visas issued, regular passenger flows, refusals of entry, use of false documents, illegal stay and illegal border-crossing would point to a rather stable or only moderately increasing trend in terms of migratory movements of Moldovan citizens towards the EU.

As mentioned above, CIS countries are an important destination for Moldovan migrants. There are three major differences in factors underlying the choice of destination between CIS and the EU:

- **Entry method:** Travel costs to CIS countries are lower and the formalities are limited (visa-free regime).
- **Reasons for labour migration (push and pull factors):** Migrants opting for CIS countries are often not able to obtain EU visas and are more likely to respond to immediate push factors in the Republic of Moldova (poverty and poor employment prospects), whereas migrants opting for the EU are more likely to find themselves pulled by the existing migrant networks in destination countries. Diasporas in the EU are highly significant for the strategy of would-be migrants as peers' experience enables them to evaluate costs, risks and profitability of their extended stay. Frontex estimates that 75% of Moldovan migrants are believed already to have an income-generating activity waiting for them upon arrival in the destination country. In short, labour migration to CIS countries tends to be less planned and more driven by immediate needs, whereas migration to the EU Member States is more likely to be driven both by advice and opportunity.
- **The duration of migration:** As travel costs and risks of irregularity are comparatively low in CIS countries, CIS migration is quite seasonal in character. On the other hand, due to higher re-entry risks and travel costs involved in a possible illegal entry method, most EU-bound migrants leave the Republic of Moldova for extended periods. A significant number of them already have the intention to settle in the Member State of destination when taking the decision to migrate. Migration to the CIS is therefore predominantly circular, whereas migration to the EU is more likely to be of permanent nature.

According to the EUROSTAT official data on residence permits, labour migrants from the Republic of Moldova in the EU are predominantly women (in 2010 24,845 residence permits for carrying out remunerated activity were issued to women, compared with 8,298 issued to men¹³). Men prevail in several Member States, most visibly in Poland and Portugal. Moldovan citizens mostly work in domestic, construction and agriculture sectors, with a low rate of migrants in highly-skilled positions. According to the Moldovan authorities, Moldovan migrants are relatively young, aged between 20 and 49 years.¹⁴ The proportion of migrants with higher education was 10% in 2010 and tends to increase.

¹³ Data from 14 Member States.

¹⁴ The full picture of socio-economic data is available at <http://www.carim-east.eu/database/demographic-and-economic-module/?search=1&fromto=from&cmct=Republic of Moldova&nocmct=European+Union>.

Regular passenger flows

The number of passengers exiting the Republic of Moldova has been **steadily growing in the past few years, both at the land and air borders**. At the air borders 426.129 passengers were reported in 2009, 481.231 in 2010, and 421.459 in the first three quarters of 2011. At the land border with Romania, 1.078.024 passengers were reported in 2009, 1.922.753 in 2010, and 1.712.710 in the first three quarters of 2011.¹⁵

Irregular migration

Refusal rates of short-stay visas varied between Schengen States from 23% in the case of the Czech Republic to 5,3% in the case of Germany in 2010. In 2011 the highest refusal rate was in the case of Italy (14,1%) and the lowest in the case of Germany (6,41%). The average refusal rate for Schengen short-stay visa applications was 9,7% in 2011 (decreasing from 11,43% in 2010 and 10,15 % in 2009), but remaining higher than the global average refusal rate in the Schengen area (5,5%) (see also above under section 2.2).

The two non-Schengen Member States, Bulgaria and Romania, refused respectively 7,49% and 4,45% of national short-stay visa applications in 2009. In 2010 the refusal rates were 1,3% for Bulgaria and 6,89% for Romania and in 2011 the refusal rates were 0,58% for Bulgaria and 7,61% for Romania (see also above under section 2.2).

In 2011, 3.435 illegally staying Moldovan nationals were identified in the EU, 15% less than in the same period of 2010 and 1.571 Moldovan nationals were refused entry at the EU external borders, 7% less than in the same period of 2010 (see table below).

FRAN Indicators for Moldovan nationals							
	2009	% of EU total	2010	% of EU total	2011	% of EU total	% change 2011 vs. 2010
Illegal stay	4.182	1,0%	4.023	1,1%	3.435	1,0%	-15%
Inland	3.452	1,0%	3.149	1,1%	2.331	0,8%	-26%
At the border(on exit)	730	1,0%	874	1,5%	1.104	1,6%	26%
Refusals of entry	1.866	1,7%	1.690	1,6%	1.571	1,3%	-7,0%
Land	1.582	3,0%	1.427	2,6%	1.360	2,3%	-4,7%
Air	260	0,5%	232	0,5%	200	0,4%	-14%
Sea	24	0,5%	31	0,6%	11	0,1%	-65%
Return decisions issued	:	n.a.	:	n.a.	1.463	0,6%	n.a.
Effective returns	:	n.a.	:	n.a.	2.012	1,4%	n.a.

Source: Frontex, FRAN data as of 7 May 2012

According to Frontex, most migrants from the Republic of Moldova enter through **land borders** mainly due to lower costs and also to a lower risk of refusal. Currently, the risk of being refused entry at the external air borders is much higher compared to the external land

¹⁵ Data provided by Frontex. Passenger flows from the Republic of Moldova include all nationalities leaving the country.

borders. Most irregular migrants enter the EU through regular Border Crossing Points and procedures, and subsequently overstay.

Thus, in the case of Republic of Moldova, as reported by several Member States, **illegal border-crossings represent a marginal issue** (213 illegal border-crossings detected at the main sections of the external green border of the EU during the first three quarters of 2011). Moreover, yearly comparison with 2010 shows an important decline of 34% in detected illegal border crossings. Not surprisingly, the share of Moldovan citizens in the overall number of illegal EU border crossings remained very low during 2011.

In terms of trends, Frontex noted that a constant decline in detections of illegal border-crossings by Moldovan citizens. Moreover, the same persons are often engaged in multiple illegal border-crossings.

According to Frontex, the number of Moldovan nationals detected using **false travel documents** has been in constant decline since 2009 (174 in 2009, 114 in 2010 and 45 in the first three quarters of 2011). The most frequent cases are those of counterfeited Romanian identity cards. Europol mentions also falsified Italian identity cards and residence permits as well as Spanish residence permits (see also below under section 4). According to the figures provided by the Moldovan authorities, there is a decrease in the number of cases of using false identity and false documents by Moldovan citizens.

Asylum

According to EUROSTAT, the numbers of asylum applications from Moldovan nationals in the EU are low and decreasing (1.110 asylum applications in 2009, 735 asylum applications in 2010 and 602 in 2011). The number of positive final decisions on applications for international protection submitted by Moldovan nationals in the EU Member States has also decreased (25 in 2009, 20 in 2010 and 15 in 2011). According to data gathered by Frontex, most Moldovans apply for asylum in Austria, after their illegal stay has been detected.

According to the data provided by Moldovan authorities, the numbers of asylum seekers in the Republic of Moldova, are relatively low (60 applications in 2011, 90 in 2010 and 50 in 2009). In 2011 three persons were granted refugee status and twenty persons received humanitarian protection status (including stateless persons).

Legal migration flows

The number of Moldovan citizens legally residing in EU Member States has grown in the past years (in 2008 – 129.642, in 2009 – 166.977 and in 2010 – 184.501). Data gathered by EUROSTAT shows that the highest number of residence permits is delivered for the purpose of remunerated activity and the second largest category are permits delivered for reasons of family reunification, with an increasing tendency.

Residence permits delivered for the first time for Moldovan citizens					
	education	remunerated activity	family	other reasons	Total
2008	2.727	36.766	10.555	8.394	58.442
2009	2.981	21.977	10.905	9.729	45.592
2010	2.931	34.648	16.674	1.353	55.606

Source: EUROSTAT

According to data gathered by the EUI, highly-skilled migrants already in the EU do not see the visa regime as a problem for themselves, but rather for their **families and to maintain family ties**. Migrants, including those highly-skilled, and tourists, tend not to know their rights (e.g. right of appeal against a visa refusal) under the Visa Facilitation Agreement and the Visa Code. Diverging practices in the implementation of the visa facilitation provisions by the consulates of the EU Member States are one of the main reasons of concern for highly-skilled Moldovan migrants and their families and plays a role when they decide on the destination to migrate to. Similarly, the waiting time for decisions on visa applications, the costs¹⁶ and the paperwork involved are reported to be important hurdles (keeping in mind that the Visa Facilitation Agreement and the Visa Code only apply to short-term stays and are not applicable to long-term stays, which are governed by national legislation).

Finally, according to the EUI analysis, the visa regime has a limiting effect on exchanges of **researchers and students**, who are often unable to participate in conferences or exchanges due to refusals or delays in issuing visas. This limits the scope for cooperation and exchange of ideas between the EU and the Republic of Moldova and can be counterproductive to the efforts of the EU to support the development of the country and to bring it closer to EU norms and standards. Moreover, for the same reasons, it poses challenges to **business** contacts and exchanges.

3.2. Key possible impacts

Migratory flows in general

When examining the key possible impacts of visa liberalisation on migration flows between the Republic of Moldova and the EU, it is relevant to highlight that visa liberalisation will only reduce the preparation time and costs associated with travelling to the EU. Labour migration to the EU or the Russian Federation is likely to remain a very attractive strategy to earn one's livelihood. Regardless of the economic and political developments in the Russian Federation, EU Member States are likely to remain an attractive option for labour migrants, even if faced with no or very slow economic growth. Likewise, the demand for domestic work in the Member States is likely to remain resilient to possible future economic downturns. However, the EUI notes that the demographic reality of the Republic of Moldova makes it

¹⁶ It is important to note that the price for a Schengen visa remains very significant for Moldovan citizens, taking into account the average income in the country. For example, in 2010 €35 for a visa constituted roughly 34% of the average monthly income. One should add to this the cost of translating the necessary documentary evidence.

clear that the **pool of migrants is drying up** as the country enters the most accelerated ageing process in Europe.

As evidenced by Moldovan labour migration to Portugal¹⁷, a self-regulatory mechanism of labour migratory flows, whereby legal and irregular immigration tend to increase during periods of higher demand for labour and to decrease when such demand subsides, is likely to remain in place. Therefore, the opening of legal channels of travel will possibly allow for a **more circular migration pattern of those Moldovan nationals who are engaged in illegal work** in the EU. The EUI noted that the same regulatory mechanisms were in place in 1990s, when nationals of the Central European countries could travel visa-free to the EU.

The data gathered by the EUI suggests that there will be an **increase in temporary and short-term flows** from the Republic of Moldova to the EU, be it for *bona fide* visits (majority) or short-term employment. Based on the previous experiences (e.g. the lifting of the visa obligation for citizens of the Central European States in the mid-1990s or their 2004 accession to the EU), lifting a barrier to movement results in an increase in migration that stabilises over time.

The size of such increase, as the experience of internal mobility after the last EU enlargements shows, depends on a number of factors, which, apart from the proximity and openness, include also the existence of migrant networks, the state of the labour market in the host country, opportunities at home, or competition from poles of attraction other than the EU. The character of the increase in migration is likely to be temporary, although the EUI does not exclude an increase in permanent migration, considering the family reunification patterns in some Member States (e.g. Italy). It is difficult to predict the duration of this temporary increase as it will depend on several variables: the propensity to migrate, financial means to be spent on tourism, the state of the economy in the Republic of Moldova and in the country of destination.

Visa liberalisation is not likely to change the length of the period that Moldovan migrants staying irregularly in the EU will spend visiting their home countries, given their lack of spare vacation time and the risk of losing their jobs in the EU. No impact is to be expected on the circularity of the Moldovans living with a residence permit in the EU as they already currently do not need a visa to return from the Republic of Moldova to the EU.

Regular passenger flows

Regular passenger flows are likely to increase, given that visa liberalisation will make travelling to the EU **easier and less costly**.

Irregular migration

The migratory pressure towards the EU borders will rather increase than decrease if a pattern of economic and social problems will prevail in the Republic of Moldova, notwithstanding the country's rapid pace of structural reform and high economic growth (GDP growth rates of 7,1% in 2010 and 6,4% in 2011). According to EUBAM, the volume of irregular migration from the Republic of Moldova to the EU Member States is **likely to remain the same**. The operating mode, the routing and the number of irregular migrants may differ annually depending on several internal and external push and pull factors.

¹⁷ Analysis made by Frontex.

The ratio of the risk of being refused entry at the external air borders to the external land borders is not likely to change if the visa obligation is lifted. Most labour migrants will continue to opt for entering the EU at land borders and subsequently moving to the Member States of their destination.

In terms of destination choices, Member States with the largest communities of Moldovan citizens are likely to remain targeted by labour migrants from the Republic of Moldova.

Frontex and the EUI suggest that labour migrants from the Republic of Moldova would overstay the allowed 90 days in any six-month period if there is a risk that they would lose their job. However, to avoid the negative consequences of detection for illegal stay, migrants could rather opt for more frequent exit and re-entry back to the EU (in which case the use of false entry/exit stamps could increase). On the other hand, as the experience of intra-CIS mobility as well as the experience of nationals of some Central and Eastern European countries in the 1990s shows, the possibility of legal circulation can influence the decision to move back and forth in the prescribed periods of time. In fact, the **visa-free regime** may provide an avenue for **getting out of irregularity** for Moldovan nationals staying illegally and who are currently stranded in the EU, if the consequences of their overstay being detected at the border when leaving the EU are softened.

The organised crime groups dealing with trafficking in human beings and facilitating irregular migration are likely to adapt their operating mode to the visa-free regime and possibly increase their activities (see also section 4).

If the rules on issuing **identity and travel documents** and their security are not strictly applied, including regarding the ICAO-compliant biometric passports, individuals and organised crime groups could try to exploit the loopholes.

EUBAM foresees that the Republic of Moldova will keep its current position of a **transit** country for irregular migrants to the EU. EUBAM argues that it is likely that visa liberalisation could make the Republic of Moldova more attractive for migrants from CIS and Central Asian countries.

On the basis of the above assessment, the following measures should be considered:

By the Republic of Moldova, in line with the VLAP:

- 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;
- 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;
- Regularly share with the EU authorities data on lost and stolen biometric passports, in particular using Interpol's Lost and Stolen Travel Document database;
- Establish and apply proportionate, effective and dissuasive sanctions for persons convicted of selling or lending their passports;
- 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;
- Prevent and fight corruption at all levels and in all areas.

By the EU and Member States:

- Additional efforts should be made to gradually increase the share of travellers whose biometric data have been checked by the border control authorities of EU Member States;
- New IT solutions for calculating the total period of stay could be introduced at all external border sections experiencing large flows of Moldovan citizens in line with the principles of the Communication on smart borders;¹⁸
- Member States should make further efforts to provide the Commission and relevant EU agencies with detailed statistics on the implementation of the readmission agreements.

Other relevant measures include, at EU and Member States level:

- Harmonisation of rules against illegal employment of third-country nationals, as initiated by the Employers Sanctions Directive;¹⁹
- Facilitating legal migration to the EU;
- Continue cooperation with the Republic of Moldova to create better employment opportunities in this country.

¹⁸ European Commission's Communication on Smart borders - options and the way ahead, COM (2011) 680 final.

¹⁹ Directive 2009/52/EC of 18 June 2009.

Asylum

There are several relevant issues that need to be considered in order to assess the impact of the visa liberalisation on the number of asylum applications, as the previous experience with the Western Balkans has shown.²⁰ In particular a **low level of integration of minority communities**, in particular Roma, and their poor access to schooling, housing, employment and healthcare, may increase their propensity to abuse the asylum system in EU Member States. Furthermore, severe political and economic marginalisation, a significant gap in the earning potential compared to the rest of society, geographic proximity to the EU, low travel costs and support associated with asylum claims in the EU Member States made the asylum seeking an attractive short-term migration strategy for communities across the Western Balkans. Financial return assistance for failed asylum seekers can also be a powerful factor.

In the Republic of Moldova there are a number of **ethnic minorities**, the most significant of which are Ukrainians, Russians, Gagauz, Bulgarians and Roma (see section 5). The Gagauz minority has seen its rights recognised and constitutionally guaranteed by a specific autonomy status for the Autonomous Territorial Unit of Gagauzia, established in 1994. Although the Roma population are generally a disadvantaged group with regard to education, employment, health, living conditions and participation in decision-making process, the authorities of the Republic of Moldova have proven their commitment to improve the situation of that minority and made progress in the support and integration of the Roma community. An Action Plan on Roma Support 2011-2015 has been adopted and is currently implemented, after being upgraded up to international requirements in January 2012. Roma Community Mediators have been put in place to serve as intermediaries between the authorities and the minority communities to help implement the Action Plan and, beyond this, help better integrate the Roma minority.

Therefore, although it cannot be excluded, there is currently **no indication for an increase in asylum applications** from Moldovan citizens after the visa liberalisation.

On the basis of the above assessment, the following measures should be considered:

By the Republic of Moldova

- 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 and liability for any abuse of rights under the visa-free regime.

By the EU and Member States

- Further convergence of Member States' policies on asylum procedures, in particular with regard to the length of procedures, benefits afforded to asylum seekers and possible financial return assistance.

Legal migration

According to the EUI, whereas the travel of migrants in the EU to their home countries is likely to become somewhat more frequent, an **increase in flows of new migrants** to the EU

²⁰ Post visa liberalisation monitoring reports for the Western Balkan countries SEC (2011) 659 final and SEC (2011) 1570 final.

from the Republic of Moldova is **not likely to occur**. No impact is to be expected on the circularity of the Moldovan citizens holding a residence permit in the EU as already under the current regime they do not need a visa to return from the Republic of Moldova to the EU. The availability of financial means (rather than the requirement to obtain a visa) will be the key factor shaping the decision of Moldovan migrants to travel home.

Visa liberalisation will help to enhance the positive impact of migration on development, especially by mitigating the negative social consequences of migration through facilitation of **maintaining family ties and contact with** the Republic of Moldova. It will decrease the negative impact on families left behind, in particular minors and the elderly, as it will be easier for them to visit the migrant family member. However, the availability of financial resources will continue to play a key role in that respect.

The easing of short-term travels as a result of visa liberalisation will make the EU a more **attractive destination for highly-skilled migrants** for two main reasons: facilitating family visits, as mentioned above, and, more generally, forming a more positive perception of the EU as a destination.

Visa liberalisation will have a **positive impact on business exchanges and activity, research and innovation, and mobility for students and researchers, with a long-term positive knock-on effect on the economy**.

4 - POSSIBLE SECURITY IMPACTS²¹ OF FUTURE VISA LIBERALISATION

4.1. Current situation

According to Europol, Moldovan organised crime groups (OCGs) are already present and active in at least nine EU Member States. Some are involved in well-organised criminal activities. They are linked with the Russian-speaking horizontal network of "thieves-in-law". Others are of smaller size, with limited operational range, lacking structured preparation and overall strategy. Their links with domestic EU OCGs are limited. Moldovan OCGs do not seem to hold an important role in the EU OC hierarchies.

It is important to note that like for all OCGs originating in the Former Soviet Union (FSU), there are solid links between Moldovan OCGs and OCGs from other parts of the FSU. Sometimes they play the role of intermediaries between OCGs from the FSU and OCGs active in the EU. Thus, there is a tendency to cluster Moldovan OCGs with other criminal groups under the label of "Russian speaking OCGs".

Moldovan OCGs are active in several EU criminal hubs, as defined by the 2011 Europol Organised Crime Threat Assessment (OCTA).²²

According to Europol, Moldovan OCGs are particularly active in the following criminal activities: trafficking in human beings, facilitating irregular immigration, organised property

²¹ This section is focussing on those criminal activities that could potentially benefit from visa-free travel for Moldovan citizens and on examining the possible impacts of visa liberalisation on organised crime groups.

²² <https://www.europol.europa.eu/content/press/europol-organised-crime-threat-assessment-2011-429>.
NB: The Moldovan authorities provided a contribution to the 2011 OCTA which was submitted in November 2011.

crime, payment card fraud, cigarettes smuggling and cybercrime. Some of these findings are confirmed by the feedback of "Operation Akkerman"²³.

i) Trafficking in human beings (THB)

The Republic of Moldova is a **source country** and, to a lesser extent, a transit and destination country for women and girls for the purpose of sexual exploitation, and for men, women and children for the purpose of labour exploitation.²⁴ Moldovan victims seem to be more and more exploited for forced labour or services, in particular as nurses, baby-sitters, and carers for family or elderly people. Moldovan OCGs are mainly active in the **recruitment of victims**, mostly for sexual exploitation in the EU. In some cases they exploit the victims themselves. The main *modi operandi* used by traffickers have not changed significantly in the last few years. Recruiters attract their victims mainly through deceit and occasionally through the use of violence.²⁵

Victims are often forced to pay for the necessary documents, ranging from passports and identity cards to visas, contracts with night-clubs owners and health insurance. This increases their debt to the OCGs and prolongs their exploitation. OCGs make use of specific legitimate business structures to recruit and exploit victims in the EU.

According to the figures provided by the Moldovan authorities, there is a decrease in the statistics on THB: the number of registered cases has decreased from 243 in 2006 to 111 in 2011²⁶. With regard to the number of identified and assisted victims, according to IOM figures, there has also been a decrease from 273 in 2007 to 98 in 2011²⁷. With regard to the number of cases of trafficking in children there has also been a decrease from 61 cases in 2006 to 23 in 2011²⁸.

²³ "Operation Akkerman" is an inter-agency and international joint border control operation (JBCO) run by EUBAM and Europol, together with the Moldovan and Ukrainian authorities. During two intelligence-led operational phases in 2011 – the second of which took place in September 2011 – smuggled goods were seized such as cigarettes, alcohol and stolen vehicles, and customs fraud worth € 3.2 million was detected. This was also the result of the better structural organisation of the operation aimed to enhance, notably the effective use of intelligence, the establishment of Task Force Teams as operational arms of the JBCO, the substantial improvement of the interface of the Communications Centre and the further extension of the support provided by key international players.

²⁴ United States Department of State Trafficking in Persons Report – Republic of Moldova, June 2012.

²⁵ The victims are approached either directly or by means of employment agencies or advertisements. As a rule, they offer employment abroad as domestic help, baby sitters, waitresses, farm workers and other types of legitimate activities that will allegedly be well paid if compared with the average salaries in the Republic of Moldova. Cases in which the victims are actually kidnapped by traffickers occur, but are less common. After the victims are smuggled into the EU, they are deprived of their documents, isolated and severely limited in their movements. Unable to speak the local language, with no means of proving their identity, the victims are constantly under the control of their exploiters, suffering major violations of the basic human rights. In many cases the victims ask for help through their clients.

²⁶ The number of cases (i.e. offences registered within the Criminal and forensic information Register where only the cases which were qualified as crime/criminal act according to the Criminal Code based on which criminal case was opened): 243 (2006), 251 (2007), 215 (2008), 185 (2009), 140 (2010), 111 (2011).

²⁷ The number of identified and assisted victims: 273 (2007), 158 (2008), 159 (2009), 139 (2010), 98 (2011).

²⁸ The number of cases of trafficking in children: 61 (2006), 47 (2007), 31 (2008), 21 (2009), 21 (2010), 23 (2011).

According to the figures provided by the Moldovan authorities, several criminal groups involved in THB and related crimes were identified and dismantled following operative investigation measures²⁹.

ii) Facilitating irregular immigration

OCGs are also involved in the exploitation of Moldovan migrants who do not enter, stay, reside or work legitimately in the destination country. Moldovan OCGs work closely with OCGs from neighbouring countries, especially Ukraine, by assisting each other in matters related to **transportation or falsified documentation**. In relation to facilitated irregular immigration from the Republic of Moldova, cases of use of falsified Italian and Romanian identity cards and Italian and Spanish residence permits were reported (see also above under section 3).

OCGs dealing with the facilitation of irregular migration of Moldovan citizens have active members in the Republic of Moldova which are involved in the recruitment of potential irregular migrants. Members of Moldovan OCGs have also been identified in Ukraine (where they were involved in the falsification of documents and as guides at the border between Ukraine and Hungary) and also in Romania (where they were dealing with counterfeiting of identity cards and passports). Legal businesses are reportedly used to facilitate irregular migration.

iii) Drug trafficking

The Republic of Moldova is considered to be mainly a **transit route** and allegedly a location for storage and further processing of cocaine³⁰.

According to the figures provided by the Moldovan authorities there is a decrease in drug trafficking from 2144 criminal cases in 2007 to 1606 in 2011³¹.

The findings at the Moldovan-Ukrainian border in 2011 show the current level of the drug trafficking³².

iv) Organised Property Crime

Moldovan OCGs are involved in a range of organised property crime. They focus in particular on stealing lorries, industrial and agricultural vehicles. The OCGs are of small size (3 to 5 members), with basic techniques and *modi operandi* (mainly sudden raids, use of violence and need to find a receiver after the crime is committed).

²⁹ The number of criminal groups: 39 (2006), 40 (2007), 29 (2008), 40 (2009), 22 (2010) and 40 (2011).

³⁰ Russian-speaking individuals resident in Latin America facilitate and organise the trafficking of cocaine to the EU and the Russian Federation. A significant cocaine seizure took place in June 2010 in the port of Odessa in Ukraine. According to the bill of lading, the shipper of the cargo was a Bolivian company and the cargo was supposed to be sent to the address of a private company located in the Republic of Moldova.

³¹ The number of criminal cases: 2144 (2007), 2103 (2008), 1865 (2009), 1773 (2010), 1606 (2011).

³² In 2011 - in 60 cases - 34,255kg of drugs were seized at the joint border. Amongst the total quantity of drugs 61% were detected outside BCPs and in the border area. The types of detected drugs were as follows in 2010/2011: marijuana: 6,916kg/20,54kg, poppy straw: 1,21kg/11,34kg, cannabis: 0,754kg/2,318kg, which shows an increase in 2011 compared to 2010.

v) High excise goods smuggling

Together with Ukraine, and increasingly with Belarus and the Russian Federation, the Republic of Moldova is among the main source countries of cigarettes smuggled into the EU in recent years and this trend seems to increase. The Republic of Moldova has long been a known **source and transit country** for the flow of contraband cigarettes into the EU and is playing an increasingly important role in this respect as tobacco prices in many EU countries rise, notably in the Member States who acceded in 2004 or 2007 to the EU. Cigarettes originating in the Republic of Moldova are increasingly penetrating black markets of the EU Member States. This is the reason why the Commission adopted in 2011 an Action Plan to fight against smuggling of cigarettes and alcohol along the EU Eastern Border³³.

Enhanced cooperation in preventing and combating illicit trade in tobacco products is also one of the objectives of the Strategic Framework for EU-Republic of Moldova Customs Cooperation³⁴.

The Republic of Moldova is among the main producers of genuine cigarettes smuggled into the EU. The most popular brand of "cheap white" cigarettes is produced legally in the Republic of Moldova, Kaliningrad and Ukraine.³⁵ Moldovan OCGs also provide raw materials to OCGs in the EU involved in the production, packing and distribution of counterfeit cigarettes. Being a low-risk, high-profit activity, it is probably more widespread and intense than official statistics would indicate.

According to the figures provided by the Moldovan authorities, the number of cigarettes packages confiscated increased from 201.588 cigarettes packages in 2008 to 276.337 in 2011.

vi) Weapons trafficking

There are currently no clear indicators of organised weapons and ammunition trafficking across the Moldovan-Ukrainian border. Seizures at that border consisted mainly of cold and pneumatic weapons or hunting guns with the associated ammunition while transported from Ukraine to the Republic of Moldova.³⁶

³³ See SEC (2011) 791 final.

³⁴ The Strategic Framework was endorsed by Prime Minister Filat and Commissioner Šemeta by exchange of letters in October 2011.

³⁵ "Cheap white" cigarettes is the tobacco industry term for cigarettes produced entirely independently of the traditional tobacco manufacturers. They are cheap cigarette brands legally manufactured, but made specifically for smuggling because they have no legitimate market. They are often of reasonable and consistent quality, and provide a good alternative to counterfeit cigarettes, whose quality can vary significantly. The EU has recently been flooded by smuggled Jin Ling cigarettes, a new brand virtually unknown to the authorities a few years ago. The popularity of Jin Ling is such that it now rivals Marlboro as the top smuggled brand seized in the EU.

Imperial Tobacco Limited (ITL) is the world's fourth largest international tobacco manufacturer. They estimate that about 20 per cent of all the counterfeit tobacco products referred to them by Law Enforcement Agencies are manufactured illegally in Ukraine and the Republic of Moldova.

³⁶ In comparison with 2010, in 2011 the number of detected attempts to illegally transport ammunition decreased by 31%. At the same time, the number of detected ammunition increased by 36% (2011 – 1.995 pieces, 2010 – 1.269 pieces). In most cases, the ammunition was transported from Ukraine to the Republic of Moldova, primarily (74 %) through land border crossing points. In 2011, in six cases, 3,65 kg of explosives were seized at the joint border (against four cases and 1,47 kg in 2010). In 2011 only gunpowder (3,65kg) was detected, while in 2010 not only gunpowder (1,2kg) but also trotyl (0,27 kg) was detected. 90% of the offenders are citizens of the Republic of Moldova who transport gunpowder illegally for hunting purposes. In 2011 all cases of illegal transportation of explosives were

4.2. Key possible impacts

Visa liberalisation is not likely to have much effect on the behaviour and *modi operandi* of the "more structured" OCGs, as they are already able, even under the current visa regime, to manage movements between the EU and the Republic of Moldova. However, considering that the expertise they provide to bypass visa restrictions is one of the reasons of their success (especially in **THB and facilitating irregular immigration**) **visa liberalisation would reduce the demand for such expertise.**

The **"less structured" OCGs are more likely to somehow benefit from a visa-free regime.** Although these groups' activities are less extensive, their access to the EU could alter the current criminal *statu quo* (e.g. by making easier for them to enter into new criminal activities).

Although difficult to evaluate based on the available information, **the extent of the threat posed by Moldovan OCGs to the EU should continue to be monitored.** Visa liberalisation might change the current dynamics of criminal activities. However, it is difficult to predict at this stage the extent to which visa liberalisation will have an impact on each of them.

i) Trafficking in human beings (THB)

In relation to THB, visa liberalisation could have an impact on OCG's active in this area, as well as on victims and routes. Moldovan OCG are active in the area of the recruitment of victims and on the transportation of victims to the EU; a visa-free regime could offer to EU OCGs with a firm grip on the EU criminal markets the opportunity to bypass the Moldovan OCGs and to recruit their victims directly.

At the same time, potential victims of traffickers in human beings, no longer in need of illicit help to cross the border, might try to enter the EU on their own, thus **reducing one of the OCGs' main criminal activities.** One of the "services" offered by traffickers is the transportation of the victims into the EU, where they are often sold and exploited by other OCGs. A visa-free regime *de facto* nullifies the need for such "service", as the victims would not need OCGs' help any more. In order to avoid a decrease in the number of victims and a fall in profits, the OCGs could be inclined to define new strategies and enter new criminal activities.

ii) Facilitating irregular immigration

Under a visa-free regime, the Republic of Moldova could become more attractive for the different OCGs transporting irregular migrants but there is no clear indication in this direction (see also section 3 above).

detected at border crossing points while moved from Ukraine to the Republic of Moldova. Out of the general quantity of the detected arms the significant part is electric shock, pneumatic, cold and hunting weapons. Also fire arms (seven pieces) and gas arms (two pieces) were detected. The main category of persons who attempted to illegally transport arms is citizens of the Republic of Moldova (53%) and Ukraine (28%). Radioactive materials on the common border were not detected. In 2010-2011 two cases of seizure of radioactive substances in the Republic Moldova were recorded. Their origin was Russia and followed the route via Ukraine for further resale.

iii) Drug trafficking

The Republic of Moldova does not seem likely to become a drug trafficking hub. It may be tangentially touched upon by the Northern Route,³⁷ and it is possible that some Moldovan OCGs could temporarily stockpile drugs in the Republic of Moldova.

Regarding the border between the Republic of Moldova and Ukraine, the current risk level in relation to the illegal transportation of narcotics, especially synthetic drugs, via road BCPs is likely to remain.

iv) Organised Property Crime

Property crime, in many of its different typologies, could be one of the most affected areas. Moldovan OCGs involved in property crime might exploit visa liberalisation and could cooperate with OCGs already established in the EU.

v) High excise goods smuggling

A possible important impact could be on cigarette smuggling which could be seen as a low-risk, high-profit easily manageable criminal activity.

vi) Weapons trafficking

Current information available does not give indications as to a possible impact of a visa-free regime on weapons trafficking. Although the current level of risk of weapons trafficking is not high according to seizure indicators and other information currently available, attention should be paid to the potential opportunities of weapon smuggling in connection with the storage of weapons and ammunition in the Transnistrian region.

On the basis of the above assessment, the following measures should be considered:

By the Republic of Moldova, in line with VLAP

- 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.
- Improve training and capacity building with regard to international customs and law enforcement cooperation and information exchange.
- Continue to enhance cooperation with EUBAM.
- Coordinate the control activities at the common border. Share intelligence and enhance common situation assessment at the operational level.
- Enhance the data collection on criminals and OCGs at national level inter alia by

³⁷ <https://www.europol.europa.eu/content/press/europol-organised-crime-threat-assessment-2011-429>.

setting up and/or improving the national databases.

- Continue efforts to improve data indicators and crime data collection in all crime fields.
- Strengthen the judiciary system, including judicial cooperation in criminal matters, in particular mutual legal assistance.
- 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.
- Ensure effective protection of witness of THB, and further improve the protection, assistance and support to THB victims.

By the EU and Member States

- Increase the operations run through inter-agency and international cooperation in number and scope, following a top-down setting of objectives. Europol could act as the platform for the coordination of multilateral law enforcement operations in this regard. Information gathered during such operations must be subsequently used for drafting of focused threat and risk assessments.
- Enhancing border control in line with the Schengen Border Code and the Communication on Smart Borders³⁸ in order to have in place an effective system to detect and respond to overstays, and to detect possible activities linked to organised crime.
- In line with the "EU Strategy towards the Eradication on Trafficking in Human Beings 2012-2016"³⁹, specific actions should be taken, especially regarding minors. It is important to note in this context that an anti-trafficking training guide for border guards will be soon issued by FRONTEX and guidelines for consular services and border guards for the identification of victims will be issued by the Commission in 2012.

By the EU, Member States and the Republic of Moldova

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

³⁸ European Commission's Communication on Smart Borders - options and the way ahead, COM (2011) 680 final.

³⁹ See COM (2012) 286 final.

power of OCGs, thus facilitating their dismantlement.

- 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.
- Exchange of best practice and training of law enforcement services should be strengthened.
- Strengthen cooperation with Moldovan authorities in order to tackle the illicit trade in high excise goods.

5 - HORIZONTAL ISSUES

Based on figures provided by the Moldovan National Bureau of Statistics and the Transnistrian *de facto* authorities, the total population of the Republic of Moldova was approximately 4.075.000 in 2011.

5.1. Minorities

5.1.1. Current situation

The protection of minorities against discrimination is guaranteed by specific provisions in the Constitution, and in criminal, civil and administrative laws. Minorities' rights were further strengthened following the adoption of anti-discrimination legislation on 25 May⁴⁰.

According to the information provided by the Moldovan authorities, the following ethnic minorities live in the Republic of Moldova: 311.902 Ukrainians, 236.087 Russians, 131.811 Gagauz, 68.928 Bulgarians and 14.202 Roma⁴¹.

Under the Moldovan Constitution, the Autonomous Territorial Unit of Gagauzia enjoys recognition and promotion of its political, social and cultural rights, including the right for its population to use the Gagauz language in administrative matters.

In addition, the Republic of Moldova has a liberal language legislation, which gives Russian speakers (including, beside the Russian minority, a significant part of the Moldovan ethnic majority and of the Ukrainian ethnic minority) the right to access official information in Russian and the opportunity to receive Russian-language education.

In that general context, minority issues are mostly confined to those of the Roma community, which the Moldovan government has undertaken to tackle actively, by putting in place Roma Community Mediators, with the help of UNICEF and the Council of Europe, and implementing its Action Plan on Roma Support 2011-2015, for which a specific budget has been earmarked in the country's Medium-Term Budget Framework.

⁴⁰ "The Law on Ensuring Equality" was adopted in May 2012. See COM (2012) 348 final.

⁴¹ According to the population census in 2004, there are 12 271 Roma (or 14 202 – data are inconsistent across available sources). However, the authorities of the Republic of Moldova admit that it is difficult to estimate the exact number, due to fact that the Roma ethnicity is often not officially declared. Roma community leaders mention higher figures.

5.1.2. Key possible impacts

The Moldovan government is generally considered, including by the specialised local civil society organisations, as making serious efforts to improve rapidly the record of the Republic of Moldova with respect to the treatment of its ethnic minorities, particularly the Roma minority. The adoption of the Law on Ensuring Equality on 25 May 2012 provides additional guarantees in that regard. A Roadmap was adopted at the working level (to be included in the Human Rights Action Plan, currently under amendment) in June 2012 to guide the application of the above mentioned law, and an Equality Council was set up on 5 July 2012 by Government Decree which will be the reference point for victims of discrimination. It should be therefore expected that minority issues should not have a sizeable impact on the migration and security situation in the context of visa liberalisation. In addition, as earlier indicated (see above under section 4), language rather than ethnic origin lies at the basis of the constitution and cooperation of OCGs, including in the Republic of Moldova.

On the basis of the above assessment, the following measures should be considered:

By the Republic of Moldova, in line with the VLAP

- Continue to implement its Human Rights Action Plan 2011-2014 and continue to seek involvement of the international community in tackling minorities' issues.
- 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.
- Sustain its financial efforts to implement the Action Plan on Roma Support 2011-2015 in an effective and consistent manner.

5.2. The Transnistrian region

5.2.1. Current Situation

The constitutional authorities of the Republic of Moldova have *de facto* no control over the breakaway region of Transnistria ("Transnistria") as well as on the central segment of the Ukrainian-Moldovan border. The *de facto* authorities in Tiraspol consider the Nistru river as a border to be controlled by their border guards and customs officers, which are deployed at locations in the so-called security (buffer) zone. Chisinau as well as the international community, which has not recognised the independence of "Transnistria", considers the Nistru river as an internal administrative boundary controlled by police. For fiscal purposes, Moldovan customs officers also operate along the internal administrative boundary line⁴².

⁴²

Currently there are 20 checkpoints on the right-bank of the Nistru river on the 411 km-long boundary line. The main purpose of these check points is to perform police and customs controls over the movements of passengers and cargo. Controls are performed by the Customs Service and the Ministry of Internal Affairs of the Republic of Moldova. There are 16 international border checkpoints and 11 police stations along the administrative line with the Transnistrian region, which are connected online to the Interpol Stolen Lost Travel Documents (SLTD) database. There are also 14 Internal Customs Control Posts (ICCPs), out of which two are for rail transport and are not connected with the Interpol SLTD. There are on-going plans to deploy joint Moldovan-Ukrainian border control points (BCPs) along the central segment of the border (on Ukrainian territory). A first jointly operated BCP was opened in Rososhany-Briceni in January 2012, in application of a Protocol between the partner services of the two countries.

The current situation poses additional obstacles to an effective and efficient performance of controls. The authorities of the Republic of Moldova face several challenges to check foreigners who enter/exit the Republic of Moldova via "Transnistria". In particular, police staff at Internal Customs Control Posts (ICCPs) lack records about foreigners and have difficulties to conduct passport checks of foreigners and to decide whether they are eligible for entry into the Republic of Moldova (respect of the visa regime). Based on a cooperation agreement signed in July 2010 by the Police representatives from the right and left bank of the Nistru river, Chisinau and Tiraspol exchange information regarding wanted persons and criminal records on inhabitants resident in both banks.

The reform of the Ministry of Interior, the creation of the Border Police as well as the entry into force of the Law on the State Border of the Republic of Moldova on 1 July 2012⁴³ will most probably have a positive impact on the current situation. The Moldovan authorities have designed a plan to control migration flows through the Transnistrian region. Furthermore, customs controls along the Transnistrian segment of the Moldovan-Ukrainian border are performed by Ukraine on behalf of, and in connection with, the Republic of Moldova, in application of the Joint Customs Regime agreement of 2005 between the two countries (implemented with the help of EUBAM).

Since January 2012 the cooperation in customs matters has started to be extended to other border controls. A pilot "jointly operated border control point" was set up in Rososhany-Briceni, in the North of the Republic of Moldova. This experiment is being deployed gradually to other BCPs on the common border, with a view to allowing joint border control on its Transnistrian segment by mixed Moldovan-Ukrainian border guard (border police) and customs teams.

In addition, EUBAM is assisting the Moldovan authorities in enhancing the use of Mobile Units by giving more emphasis to risk analysis and intelligence-led activities. The Moldovan authorities have expressed their readiness to implement the EUBAM recommendations and, since 1 July 2012, have set up a Border Police service with a view to performing border controls on the internal administrative boundary along the Nistru river.

As regards **document security**, according to the latest information provided by the Moldovan authorities, 229.489 citizens of the Republic of Moldova residing in the Transnistrian region have been issued Moldovan passports, out of which 175.764 passports are still valid (i.e. not expired). During the first three months of 2012 the authorities in Chisinau issued 2.722 biometric passports to Moldovan citizens residing in the Transnistrian region. The Ministry of Information Technology and Communication, in cooperation with the Ministry of Justice and the Ministry of Interior, has developed a comprehensive legal framework for the procedures for identification, at first documentation, of persons from the Transnistrian region, based on additional information on family members and relatives (breeder documents of parents, marriage certificates and others)⁴⁴.

In addition, the bilateral confidence-building working group on civil status has been reactivated since the election of "President" Shevchuk in "Transnistria" in December 2011, with a view to easing in future exchange of information. At present, the national registration authority is applying special measures to confirm citizenship and provide access to national identity cards free of charge for inhabitants of the Transnistrian region, in accordance with the amended Law on Citizenship of 2 June 2000 and Government Decision of 9 September 2005

⁴³ See COM (2012) 348 final.

⁴⁴ See COM (2012) 348 final.

on safety measures relating to confirmation of citizenship and the documentation of the population from the districts in the Transnistrian region⁴⁵. Besides, cooperation on criminal matters between Chisinau and Tiraspol was and remains active.

5.2.2. Key possible impacts

The Moldovan Government continued to address the situation in the Transnistrian region actively. Cooperation in matters related to visa liberalisation – including human rights issues – were identified by Chisinau and Tiraspol as priorities for confidence-building measures and activities, which was reflected accordingly in the work programme of the "5+2" negotiating format on the settlement of the Transnistrian conflict.

Pending concrete results from this increased cooperation, the intermediary measures put in place by Chisinau, sometimes with Ukraine's cooperation, will continue to offer a clearly defined framework for ensuring document and border security.

On the basis of the above assessment, the following measures should be considered:

By the Republic of Moldova

- Enhance cooperation with neighbouring countries, in particular Ukraine;
- Continue to sustain cooperation with EUBAM and implement EUBAM recommendations on improving and intensifying the use of mobile units⁴⁶;
- 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;
- 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.

⁴⁵ See COM (2012) 348 final.

⁴⁶ EUBAM White Paper of 6 August 2010, which includes a number of proposals based on risk analysis, intelligence led activities of mobile units (inland controls) and cooperation mechanism between the relevant law enforcement structures from Chisinau and Tiraspol.