



Questionnaire

Part II

**Information provided by the Government of the Republic of Moldova
to the Questionnaire of the European Commission**

CHAPTER 23: JUDICIARY AND FUNDAMENTAL RIGHTS

May 2022

According to Article 2 of the Treaty on European Union (TEU), the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, intolerance, justice, solidarity and equality between men and women prevail. Candidate countries must respect these values and be committed to promoting them.

The rule of law requires that the **judiciary** provide effective judicial protection by courts and tribunals, which are independent, impartial and established by law. As required by Article 19(1), second subparagraph TEU, Member States must establish a system of legal remedies and procedures ensuring effective judicial protection for individuals in the fields covered by EU law. To ensure this, maintaining the independence of courts and tribunals is essential, as confirmed by Article 47 of the Charter of Fundamental Rights of the European Union and Article 6 of the European Convention on Human Rights (ECHR). The guarantees of independence and impartiality require rules, particularly as regards the composition of a court or tribunal and the appointment, length of service and grounds for abstention, rejection and dismissal of its members, that are such as to dispel any reasonable doubt in the minds of individuals as to the imperviousness of that body to external factors and its neutrality with respect to the interests before it. Judges must be protected from external intervention or pressure liable to jeopardise their independence, not only direct influence, but also, in the form of instructions, but also types of influence which are more indirect and which are liable to have an effect on the decisions of the judges concerned. As regards specifically the rules governing the disciplinary regime applicable to judges, these rules must provide the necessary guarantees in order to prevent any risk of its being used as a system of political control of the content of judicial decisions.

Furthermore, the judiciary must have sufficient means to work efficiently; judges are expected to respect high ethical standards in the performance of their duties in accordance with the law.

The above requirements have been clarified in the jurisprudence of the Court of Justice of the EU (CJEU) and the European Court of Human Rights (ECtHR), which is also an accepted reference for the EU *acquis* under Article 6 (3) of the TEU. Moreover, the Council of Europe (COE) has developed European standards on the organisation and functioning of the judiciary, including recommendations from the Committee of Ministers of the CoE.

Article 67 of the Treaty on the Functioning of the European Union (TFEU) mentions that preventing and combating **corruption** contributes to the establishment of an area of freedom, security and justice. Corruption is also listed among the “eurocrimes” under Article 83(1) of the TFEU, which are particularly serious crimes with a cross border dimension where the Union may by means of directives establish minimum rules concerning the definition of criminal offences and sanctions. The 1995 Convention on the Protection of the EC's Financial Interests and the 1997 Convention on the Fight against Corruption involving Officials of the EC or the Member States imply that "effective, proportionate and dissuasive" criminal law penalties are required to fight corruption. The Council Framework Decision on Combating Corruption in the Private Sector of 2003 defines active and passive corruption in the private sector as a criminal offence and prescribes the responsibility of legal persons for both active and passive corruption. Candidate countries are expected under the Communication from the Commission on a Comprehensive EU Policy against Corruption of 2003 to maintain strong political commitment at the highest level, develop and improve investigative tools and allocate more specialised staff to the fight against corruption, pursue training and specialisation, implement strategies and legislation in an effective manner and become fully aligned with the relevant international instruments. The latter include in particular the UN Convention against Corruption and the Council of Europe's Criminal and Civil Law Conventions on Corruption.

According to Article 6 (3) of the TEU and the case-law of the Court of Justice, the Union respects **fundamental rights**, as guaranteed by the ECHR and as they result from the constitutional traditions common to the Member States, as general principles of European Union law. Thus, they are binding on the Union institutions in the exercise of their powers and on the Member States when they implement European Union law (Article 51 of the Charter of Fundamental Rights of the EU). In the interpretation of fundamental rights, the Court of Justice has mainly drawn on the provisions of the ECHR and, occasionally, on several other international sources such as the UN International Covenant on Civil and Political Rights. Art. 6 (1) of the TEU makes the rights, freedoms and principles set out in the Charter of Fundamental Rights of the EU binding for the Union.

The list of fundamental rights covers traditional civil rights, such as the right to life, the prohibition of torture and degrading treatment, the right to liberty and security of person imposing strict limits on pre-trial detention, the freedom of religion, freedom of speech and freedom of association and assembly. The Union also protects the fundamental right to respect for private life with regard to the processing of personal data. The two central instruments at EU level are: Regulation (EU) 2016/679 of the European Parliament and of the Council on the Protection of natural persons with regard to the Processing of Personal Data and on the Free Movement of Such Data and Directive (EU) 2016/680 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data.

Regulation (EU) 2016/679 sets data protection standards for both the public and the private sectors with the exception of data processing by criminal law enforcement authorities which is covered by Directive (EU) 2016/680. Another legal instrument in the area of data protection is Convention 108 of the Council of Europe for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS No. 108). On 10 October 2018, the Council of Europe opened for signature the Amending Protocol modernising the Convention (CETS No. 223, usually referred to as “Convention 108+”). The accession of Georgia, Moldova and Ukraine to the Convention 108+ should be promoted.

One of the cornerstones of the EU Charter of fundamental rights is Article 11 which establishes the right to freedom of expression. However, this right is not absolute. Hate speech and hate crimes are incompatible with the values and rights enshrined in Art 2 TEU and the Charter. Hate speech, defined as public incitement to violence or hatred directed against a group of persons or a member of such a group defined on the basis of race, colour, descent, religion or belief, or national or ethnic origin, is criminalised in the EU by the 2008 Framework Decision on combating certain forms and expression of racism and xenophobia¹. The 2008 EU Framework Decision also provides a strong legal framework to combat antisemitic hate crimes and hate speech, including public condoning, denial or gross trivialisation of the Holocaust in a manner likely to incite to violence or hatred. Its full and correct transposition is a priority for the Commission.

The EU's human rights list also contains a number of guarantees to secure equality. There is a general prohibition of discrimination on a variety of grounds; equality between men and women must be ensured; cultural, religious and linguistic diversity is to be respected. Furthermore, in line with Article 24 of the Charter of Fundamental Rights of the EU, the rights of the child need special protection; the contents of these rights may be drawn from the UN

¹ Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, OJ L 328, 6.12.2008, p. 55–58

Convention on the Rights of the Child ratified by all Member States. Children have, in particular, the right to survival; development; protection from harmful influences, abuse and exploitation; and full participation in family, cultural and social life. Directive 2011/93/EU of 13 December 2011 on combating sexual abuse and sexual exploitation of children, and child pornography helps protect these rights by harmonising throughout the European Union criminal offences relating to sexual abuse committed against children, the sexual exploitation of children and child pornography. It also lays down minimum levels for the maximum sanctions that Member States need to provide for such crimes.

Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims envisages protection, assistance and support rights and measures (including in judicial investigations and proceedings) for victims of trafficking in human beings. Specific rights and measures are defined for the protection, assistance and support of child victims and unaccompanied child victims.

In the field of justice, the Victim's rights Directive (2012/29), as well as the Procedural safeguards Directive for persons accused or suspects of criminal offences set standards for children in criminal law. On family life, the legal frameworks include the Work-life Balance for parents and carers Directive 2019/1158/EU as well as on cross-border family law, are set in the Brussels IIa Regulation (2019/1111/EU) and the Maintenance Regulation (4/2009). There is a wealth of EU laws in the field of migration that relate to children. For a full list of EU legal and policy documents that relate to the rights of the child in the different spheres (updated until 24 March 2022) see Annex II EU strategy on the rights of the child².

According to Article 21 of the Charter of Fundamental Rights of the EU, members of national minorities shall not be discriminated against. Article 1 of the Framework Convention for the Protection of National Minorities confirms that human rights include minority rights. The latter include the right to non-discrimination of a person belonging to a national minority; the freedom of association, to assembly, of expression; the freedom of religion; the right to use one's language; and the effective participation in public affairs. Measures against racism and xenophobia cover areas such as anti-Semitism, anti-Muslim hatred and anti-Gypsism.

Finally, the Union *acquis* in the field of fundamental rights contains a number of important judicial guarantees. According to Article 47 of the Charter of Fundamental Rights of the EU, everybody has the right to a fair trial and the right to an effective remedy. Legal aid should be given if the person charged does not have sufficient means; this initially concerned criminal cases but has been extended, under certain conditions, to civil ones when the interest of justice so requires. Furthermore, according to Articles 49 and 48 of the Charter, the principles of legality and proportionality of criminal offences and penalties need to be observed and respect for the presumption of innocence and defence rights must be guaranteed. In particular, suspects and accused persons must be afforded the safeguards enshrined in the EU's procedural rights directives (Directives 2010/64/EU³, Directive 2012/13/EU⁴, Directive 2013/48/EU⁵, Directive 2016/343/EU⁷⁸, Directive 2016/800/EU⁶ and Directive 2016/1919/EU⁷).

² <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52021DC0142>

³ OJ L 280, 26.10.2010, p. 1–7.

⁴ OJ L 142, 1.6.2012, p. 1–10.

⁵ OJ L 294, 6.11.2013, p. 1–12.

⁷⁸ OJ L 65, 11.3.2016, p.1–11.

⁶ OJ L 132, 21.5.2016, p. 1–20.

⁷ OJ L 297, 4.11.2016, p. 1–8.

In addition, the rights of victims of crime have to be ensured in line with the minimum standards set out in the Victims' Rights Directive (Directive 2012/29/EU⁸). The **EU citizens' rights** regard the right to vote and stand as a candidate in elections to the European Parliament and in municipal elections; the right to move and reside freely within the European Union; and diplomatic and consular protection.

I. THE JUDICIARY

(For detailed questions, see Political criteria)

II. ANTI-CORRUPTION

(For detailed questions, see Political criteria)

III. FUNDAMENTAL RIGHTS

(For detailed questions, see Political criteria)

⁸ OJ L 315, 14.11.2012, p. 57–73.

IV. EU CITIZENS' RIGHTS

A. EU citizenship in general

1. Are there rules allowing for the naturalisation of foreigners in exchange for/as a reward for payments or investments? If so, please outline them.

No, there are no rules in place, in the Republic of Moldova, allowing for the naturalization of foreigners in exchange for/as a reward for payments or investments.

B. Right to vote and stand as a candidate in municipal elections

2. Which measures (legal, institutional or others) would be necessary to allow EU citizens to vote for and/or stand for the local elections in Moldova under the same conditions as nationals of Moldova?

Currently in the RM, only Moldovan citizens are able to vote for and/or stand in local elections, however, by the time of accession, EU citizens will be provided these rights with minor amendments to the Constitution and the Electoral Code." According to articles 38 and 39 of the Constitution,⁹ citizens of the Republic of Moldova have the right to vote from the age of 18 and the right to be elected is guaranteed to the citizens of the Republic of Moldova with the right to vote, according to the law. The citizens of the Republic of Moldova have the right to participate in the administration of public affairs directly, as well as through their representatives.

On the other hand, article 112 of the Constitution, which refers to local self-administration, does not establish concrete restrictions on foreign citizens to run for elected positions in local public authorities. However, in order to ensure non-national EU citizens the right to vote and/or to run in local elections under the same conditions as citizens of the Republic of Moldova, the Constitution and national legal framework in particular the Electoral Code No. 1381/1997¹⁰ will require to be amended.

The restrictions for voting or standing for an elective position are regulated in Art. 38 and 39 of the Constitution of the Republic of Moldova, as well as Art. 11-13 of the Electoral Code. Respectively, in the light of the mentioned constitutional and

⁹Constitution of the Republic of Moldova, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=128016&lang=ro

¹⁰ Electoral Code of the Republic of Moldova No. 1381/1997, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=130981&lang=ro

organic norms, the right to vote in the local elections is conditioned by: the need to hold the Moldovan citizenship, reaching the age of 18, holding a domicile/residence registration address in the locality where the elections take place. Regarding the right to be elected, only the criteria regarding citizenship are applied. The Electoral Code establishes in Art. 13 other general restrictions: for the right to vote - deprivation of the right to vote by the final decision of the Court; for the right to be elected - the existence of an active criminal record. Thus, according to existing rules, non-national EU citizens who have permanent residence in the Republic of Moldova cannot vote or run for local office.

Regarding the main technical aspects that may need to be amended and regulated in the Electoral Code, the following must be taken into account: condition of domicile or residence address registration on the territory of the Republic of Moldova for a period of at least 6 months (recommendation stipulated in the Code of Good Practice in Electoral Matters); official confirmation of domicile or residence address registration by a residence permit issued by the competent Moldovan authorities; the mechanism of inclusion in the Voters' Lists and where appropriate, the confirmation of holding the right to vote in the country of origin. The current legislation establishes that the foreign citizens, upon entering the Republic of Moldova, are assigned a state identification number. If he/she will stay on the territory of the Republic of Moldova, for a period longer than 90 days, an identity document (in the form of a temporary residence permit) will be issued upon request, under the conditions established in the Government Decision No. 522/2019 on the models of identity documents from the national passport system¹¹.

Based on the above mentioned provisions, the electoral law should be completed with provisions related to the categories of identity documents to be used for voting by foreign citizens, as well as the list of documents they will have to submit to run for local office (criminal record, identity document, proof of residence on territory of the Republic of Moldova for a certain period).

Foreign citizens living on the territory of the Republic of Moldova are registered in the State Register of Population, which is the main source of information for the creation and updating of the State Register of Voters.

From the constitutional provisions in conjunction with the practice of constitutional litigation, the right of non-national EU citizens to vote and to run for local elections can be ensured by following the steps:

- The amendment of articles 38 and 39 of the Constitution, which shall be carried out by parliamentary means with 2/3 votes of the elected deputies or by republican (nation-wide) referendum.
- Completion of articles 11 and 12, as well as title V "Local elections" of the Electoral Code, by amending the Electoral Code by the Parliament by

¹¹ Government Decision No. 522/2019 on models of identity documents of the national passport system, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=118924&lang=ro

a majority of votes. The choice may be made by the legislative (Parliament) and/or by interpretation by the Constitutional Court.

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Electoral code established in Art. 49 the list of compulsory documents that need to be submitted by the candidate to an eligible position, one of which is a Personal responsibility declaration on:

- non-existence of legal/judicial constraints to stand as candidate or to hold a public office;
- non-existence of acts of final findings regarding the disclosure of wealth and private interests, incompatibility statuses and seizure of unjustified wealth, acts that are not prescribed.

It should be also noted that the legislation of the Republic of Moldova provides that in order to obtain the right of permanent residence, the foreign citizen must submit to the Bureau for Migration and Asylum of the Ministry of Internal Affairs a list of documents, including the original of criminal record from the country of origin, legalized / apostille (as established), translated into official language and notarized or consular authenticated.

Since there is already the above mentioned mechanism, the Parliament could establish a similar regulation for foreign nationals who will apply for an eligible position, expressly specifying the type of criminal record (from the country of origin / from the Republic of Moldova, etc.). The practice of Lithuania or Romania can be taken over when amending the legislation.

3. Which measures (legal, institutional or others) would be necessary to allow EU citizens to vote for and/or stand for elections to the European Parliament in Moldova under the same conditions as would nationals of Moldova?

According to the Constitutional Court Decision No. 24/2014 "For the constitutional review of the Constitutionality of the Association Agreement between the Republic of Moldova, on the one hand, and the European Union and the European Atomic Energy Community and their Member States, on the other hand, and of the Law no.112 of July 2, 2014 for the ratification of the Association Agreement", the orientation towards the European democratic value area is a defining element of the constitutional identity of the Republic of Moldova.

Taking into account the Constitutional Court Decision No. 24/2014, accession to the EU implicitly leads to the positive obligation of the authorities of the Republic of Moldova to ensure the organization of elections to the European Parliament according to the future Accession Treaty, Treaty of the European Union, the EU

Electoral Act¹². In this respect, the national legal framework, in particular the Electoral Code No. 1381/1997¹³ will require revision and legislative amendments to include national provisions on the organization of the Elections to the European Parliament, under a new title, which will provide principles and common provisions, rules on thresholds and certain incompatibilities with the Member of the European Parliament mandate, the role and competencies of national Central Electoral Commission.

In order to hold elections for the European Parliament, the Electoral Code of the Republic of Moldova has to be completed, with a simple majority of the elected MPs. The regulations shall include legal provisions on the conditions for granting the right to vote and be elected to EU citizens, which should be identical to those applied in case of Moldovan citizens. The opportunity to establish a provision for holding a temporary and/or permanent residence as a precondition in order to exercise the electoral rights of the given category of voters shall be decided by the Parliament. International practice and standards allow this (see also the answer to question 1).

At the same time, in case it will be included the precondition for holding a residence address registration on the territory of the Republic of Moldova, the voters holding the citizenship of the Republic of Moldova will be assigned to the main Voters' List of the corresponding polling, through the State Automated Information System (SAIS) "Elections". The System obtains automatically the identification data of voters from the State Register of Population, which is held by the Public Services Agency, - central state body responsible for the registration of the population, including the reign citizens residing in the territory of the Republic of Moldova.

The adjustment of SAIS "Elections" in order to include the above mentioned category of voters will not involve major resources, the system being flexible for further. According to the Constitutional Court Decision No. 24/2014 "For the constitutional review of the Constitutionality of the Association Agreement between the Republic of Moldova, on the one hand, and the European Union and the European Atomic Energy Community and their Member States, on the other hand, and of the Law no.112 of July 2, 2014 for the ratification of the Association Agreement", the orientation towards the European democratic value area is a defining element of the constitutional identity of the Republic of Moldova.

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¹² Act concerning the election of the members of the European Parliament by direct universal suffrage, available in English at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01976X1008%2801%29-20020923>

¹³ Electoral Code of the Republic of Moldova No. 1381/1997, available in Romanian language at: https://www.legis.md/cautare/getResults?doc_id=130981&lang=ro

Electoral Act. In this respect, the national legal framework, in particular the Electoral Code No. 1381/1997 will require revision and legislative amendments to include national provisions on the organization of the Elections to the European Parliament, under a new title, which will provide principles and common provisions, rules on thresholds and certain incompatibilities with the Member of the European Parliament mandate, the role and competencies of national Central Electoral Commission.

The main technical aspects that will require amendment and regulation in the Electoral Code are: the mechanism for inclusion in the Voters' Lists; the mechanism for preventing multiple voting; including, where appropriate, the condition for holding a domicile or residence address registration on the territory of the Republic of Moldova for a certain period time; preparation/translation of ballot papers. People who do not speak Romanian may be assisted in the voting process by third parties who may be able to guide them, in case the electoral officials will not be able to overcome the language barrier on their own. CEC already ensures the translation into English of the Electoral Code and certain Regulations. From this perspective, the necessary resources shall be planned for the translation of all needed information materials, normative acts, electoral materials, according to the best European practice in this field in order to ensure the access of all interested subjects.

In addition, we would like to mention that near the Central Electoral Commission, autonomously operates the Center for Continuing Electoral Training (CICDE), which is a model in the region. Its main responsibilities are to train electoral officials, political parties, and candidates for any type of election. The staff of the Center are properly qualified, certified and have the needed experience to adjust the existing training programs and to create new ones, for the new types of elections. CICDE educational and training materials are translated into the languages used on territory of the Republic of Moldova and some of them in English, in order to make them accessible to international experts and foreign Electoral Management Bodies.

C. Right to move and reside freely

4. Which measures (legal, institutional or others) would be necessary to allow EU citizens to enter Moldova on the basis of a valid identity card or passport?

Since 2014 the citizens of the European Union member states are allowed to enter Republic of Moldova on the basis of a valid passport or ID card (the established

formats are ID1, ID2 (TD-1, TD-2, *according to ICAO standards, including biometrics*)¹⁴.

With regard to identity cards, the Moldovan legal framework already provides for clear regulations on travel documents allowing the crossing of the Moldovan border. Thus, according to the Annex no.1 to the Government Decision No. 765/2014 on the approval of the list of travel documents accepted for the crossing of the state border of the Republic of Moldova by foreigners¹⁵, the list of travel documents issued by third countries, entities and territorial authorities, which are recognized and accepted for the crossing of the state border of the RM by foreigners, is provided. Concretely, the list of documents specified above for EU countries includes the travel document "Biometric Identity Card".

With reference to the validity period of the travel passport for entry into the Republic of Moldova, there are regulations provided for in Article 6 letter a) and 6¹ of the Law No. 200/2010 on the regime of foreigners in the Republic of Moldova¹⁶: entry into the territory of the Republic of Moldova is allowed to foreigners possessing a valid travel document, recognized or accepted by the Republic of Moldova, unless otherwise provided by international treaties to which the Republic of Moldova is a party.

Travel document requirements:

(1) At the date of entry of the alien into the territory of the RM, the validity of the travel document must exceed by at least 3 months the date set for leaving the territory of the Republic of Moldova.

(2) In the exceptional cases referred to in Article 21 paragraph (1), as well as in the case of international officials who are going to participate in major national or international events organized by the central public authorities, the entry into the Republic of Moldova shall be allowed on the basis of a travel document, the validity of which shall exceed the date set for the departure from the territory of the Republic of Moldova by less than 3 months.

(3) The travel document must contain at least two blank pages.

(4) The travel document must have been issued within the last 10 years.

(5) The provisions of paragraphs (3) and (4) shall not apply to the identity cards accepted for crossing the state border.

¹⁴ Government Decision No. 765/2014 on the approval of the list of accepted travel documents for foreigners crossing the state border of the Republic of Moldova, available in RO at: https://www.legis.md/cautare/getResults?doc_id=110309&lang=ro

¹⁵ Government Decision No. 765/2014 on the approval of the list of accepted travel documents for foreigners crossing the state border of the Republic of Moldova, available in RO at: https://www.legis.md/cautare/getResults?doc_id=120502&lang=ro

¹⁶ Law No. 200/2010 on the regime of foreigners in the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130912&lang=ro

With regard to identity cards, the Moldovan legal framework already provides for clear regulations on travel documents allowing the crossing of the Moldovan border. Thus, according to the Annex no.1 to the Government Decision No. 765/2014 on the approval of the list of travel documents accepted for the crossing of the state border of the Republic of Moldova by foreigners¹⁷, the list of travel documents issued by third countries, entities and territorial authorities, which are recognized and accepted for the crossing of the state border of the RM by foreigners, is provided. Concretely, the list of documents specified above for EU countries includes the travel document "Biometric Identity Card".

Since 2014 the citizens of the European Union member states are allowed to enter Republic of Moldova on the basis of a valid passport or ID card (the established formats are ID1, ID2 (TD-1, TD-2, *according to ICAO standards, including biometrics*)¹⁸.

5. Which measures (legal, institutional or others) would be necessary to grant a special status to third-country family members of EU citizens accompanying or joining the EU citizen in Moldova?

The national legal framework provides for facilitations for third-country family members only in the procedure for their admission to the country. Thus, according to Article 30 letter e) of the Law No. 200/2010 on the regime of foreigners in the Republic of Moldova¹⁹, the following are exempted from the invitation procedure: foreigners holding a residence permit or a valid visa (with the exception of transit visa) issued by one of the Member States of the European Union or other states whose list is approved by the Government or states parties to the Schengen Agreement.

At the same time, in Annex No. 1 of Law No. 257/2013 on third-country nationals who are required to hold a visa and third-country nationals who are exempt from the visa requirement when crossing the state border of the Republic of Moldova²⁰, provides for the exemption from the visa requirement for entry, exit and transit through Moldovan territory for holders of a valid residence permit or visa (except transit visa), issued by one of the Member States of the European Union or one of the States parties to the Schengen Agreement, specified with the index "2" who may travel to the Republic of Moldova during their validity.

¹⁷ Government Decision No. 765/2014 on the approval of the list of accepted travel documents for foreigners crossing the state border of the Republic of Moldova, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=120502&lang=ro
¹⁸ https://www.legis.md/cautare/getResults?doc_id=110309&lang=ro

¹⁹ Law No. 200/2010 on the regime of foreigners in the Republic of Moldova, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=130912&lang=ro
²⁰ Law No. 257/2013 on third-country nationals who are required to hold a visa and third-country nationals who are exempt from the visa requirement when crossing the state border of the Republic of Moldova, available in Romanian language at: https://www.legis.md/cautare/getResults?doc_id=112701&lang=ro

According to Art. 28/1, which provides for the issuance of a family reunification permit for foreigners who have the right of residence in the Republic of Moldova, paragraph (10) of Law No. 200/2010 on the regime of foreigners in the Republic of Moldova states that if approved, the family reunification notice shall be handed over to the person applying for family reunification to be forwarded to the family members concerned, who shall submit it, as appropriate, to the diplomatic mission or consular office within 90 calendar days from the date of issuance, together with the application for a long-stay visa for family reunification. The status of third-country family members accompanying or joining third-country nationals is the same as the status of family members accompanying or joining EU citizens in the Republic of Moldova. No differentiation criteria are stipulated in the relevant legal framework.

In accordance with the provisions of para. (1) of Art. 38 of the Law No. 200/2010 on the regime of foreigners in the Republic of Moldova, the right of temporary residence may be granted or extended to foreigners married to foreigners having the right of temporary or permanent residence in the Republic of Moldova, except for those who have been granted this right for study purposes, or to foreigners who have been recognized as stateless persons. Holders of the right of residence on the territory of the Republic of Moldova may apply to the competent authority for aliens for family reunification for:

- husband or wife;
- unmarried minor children, whether born in or out of wedlock, as well as children adopted by both spouses or only by one of them, for children entrusted to both spouses or only to one of them by decision of a competent authority of the State of origin, provided that these children are actually in the care of either spouse;
- unmarried adult children of the holder of the right of residence or of his or her spouse if they are unable to support themselves for medical reasons;
- parents dependent on the holder of the right of residence or his/her spouse;
- persons for whom guardianship or curatorship is established.

Paragraph (4) of this Article lays down the conditions for granting the family reunification permit:

- the marriage is not fictitious or, where applicable, there is a family relationship;
- there is no polygamy;
- the applicant provides proof of living space;
- the applicant has means of support in the amount corresponding to the category of the right of residence of which he/she is the holder.

Regardless of the country of origin, foreigners with legal residence status in the Republic of Moldova shall enjoy the same rights and freedoms as citizens of the Republic of Moldova, guaranteed by the Constitution of the Republic of Moldova and other laws, as well as the rights provided for in international treaties to which the Republic of Moldova is a party, with the exceptions established by the domestic legislation(para. (1) Article 84/1 of the Law No. 200/2010 on the regime of foreigners in the Republic of Moldova).

According to the provisions of Article 39 of the Law No. 200/2010 on the regime of foreigners in the Republic of Moldova, in case of loss of family ties between family members, the right of temporary residence is granted to family members independently. Thus, according to paragraph (1), the foreigner holding a right of provisional residence for family reunification may be granted or extended the right of provisional residence independently if:

- becomes of full age;
- has held the right of provisional residence for family reunification for at least five years;
- the person who applied for family reunification has died;
- the marriage has been terminated by divorce or death;
- is a victim of domestic violence.

For the extension of the right of residence, the applicant shall additionally submit, where appropriate, a birth certificate, death certificate, divorce certificate or court decision terminating the marriage. The right of temporary residence provided for in paragraph (1) shall be granted or extended for a period of up to one year.

6. Which measures (legal, institutional or others) would be necessary to grant EU citizens an unconditional right of stay for up to three months in Moldova?

According to Article 94 paragraph (2) of the Law No. 200/2010 on the regime of foreigners in the Republic of Moldova²¹, foreigners who hold a visa and those who are not required to obtain a visa to enter the RM may enter the territory of the country and stay up to 90 calendar days during any period of 180 calendar days. Thus, there is no need for additional measures since all EU citizens already have the unconditional right to stay in the country for a period of up to three months.

²¹ Law No. 200/2010 on the regime of foreigners in the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130912&lang=ro

7. Which measures (legal, institutional or others) would be necessary to grant EU citizens (workers, self-employed, students or non-active) a right of stay for more than three months in Moldova?

The Law No. 200 of 16.07.2010 on the regime of foreigners in the Republic of Moldova²² (art. 30¹) provides for the right to stay for a period of up to 6 months calculated cumulatively over a period of 12 months, without the requirement for a residence permit for the following categories of **EU citizens**:

- **The professional sellers** - who may carry out activities of negotiation or conclusion of contracts for the sale of services or goods based on a copy of the national passport, on the visa, as the case may be, or by a document confirming that they are authorized by a legal entity.
- **Contractual service providers** - who may carry out their activity based on a copy of the national passport, on the visa, as the case may be, of the document confirming the obtaining of a service contract for a maximum of 12 months for a legal person from a Member State of the European Union, of the document confirming the provision of a temporary service as an employee of the legal person during the year preceding the date on which the application for entry into the territory of the Republic of Moldova was submitted, of the document confirming the power of attorney given by the employing legal person regarding the temporary provision of certain types of services in its interest, of study or qualification documents to confirm the professional experience of at least 3 years in the field, and, as the case may be, based on other documents provided by the legislation of the Republic of Moldova for the provision of services in certain fields.
- **The self-employed professionals** - who may work based on the copy of the national passport, on the visa, as the case may be, of the service contract concluded on a period of maximum 12 months, of the documents of studies or qualification and confirmation of professional experience in the field of at least 6 years and, as the case may be, based on other documents provided by the legislation of the Republic of Moldova for the provision of services in certain fields.

The Law No. 200/2010 also provides for the right of temporary residence as per art. 32, for a period of more than one year to the following categories of **EU citizens**:

- **Persons with management positions (art. 36²)** transferred from a branch, representative office or legal entity established by the parent company on the territory of the Republic of Moldova, based on an application accompanied by a copy of the document confirming the transfer and the attributions of the foreigner, the original and a copy of the national

²² Law No. 200/2010 on the regime of foreigners in the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130912&lang=ro

passport, proof of living space, proof of medical insurance and means of subsistence, criminal record translated and legalized / apostilled by the state authorities whose nationality the foreigner holds it, the original civil status documents and the children. The term for issuing the decision of granting or extension of the right of temporary residence shall not exceed 15 calendar days from the date of submission of the application. The right of temporary residence is extended for a cumulative period of up to 3 years.

- **Specialists working for legal persons from a Member State of the EU (art. 36³)**, who are transferred to a branch, representative or legal person established by the parent company on the territory of the Republic of Moldova, based on an application accompanied by a request from the respective entity, a copy of the document certifying the transfer and duties of the foreigner, copies of his documents or qualification, the original and a copy of the national passport, proof of living space, proof of medical insurance and means of subsistence, criminal record translated and legalised / apostilled by the state authorities whose nationality the foreigner holds it, the original civil status documents and the children. The term for issuing the decision of granting or extension of the right of temporary residence shall not exceed 15 calendar days from the date of submission of the application. The right of temporary residence is extended for a cumulative period of up to 3 years.
- **Students and scholarship holders (Art. 37)** based on the application, accompanied by the request from the educational institution, the document certifying his enrolment in studies, confirmation of the existence of means of subsistence and the means necessary to conduct studies in the country, the original and a copy of the national passport, proof of living space, proof of medical insurance and means of subsistence, criminal record translated and legalised / apostilled by the state authorities whose nationality the foreigner holds it, the original civil status documents and the children. The right of temporary residence shall be granted and extended on the basis of a long-stay visa for the purpose of professional specialisation, for carrying out documentation or research activities in an educational institution. The foreigners admitted to studies in accredited state or private educational institutions, the right of temporary residence is granted for the entire period of studies.
- **Interns/trainees who graduated at University from a member state of the EU (art. 37¹)** based on an application accompanied by a request from the legal entity, the document attesting the transfer of the foreigner, the copy of the document attesting the university studies, the original and a copy of the national passport, proof of living space, proof of medical insurance and means of subsistence, criminal record translated and legalised / apostilled by the state authorities whose nationality the foreigner holds it, the original civil status documents and the children. The right of temporary residence is offered for up to 12 months, without the right of extension.

D. Diplomatic and consular protection

8. Which measures (legal, institutional or others) would be necessary to allow EU citizens to receive, in third countries where their Member State of nationality is not represented, from protection by the diplomatic or consular authorities of Moldova?

The diplomatic and consular authorities of the Republic of Moldova are ready to provide assistance and protection to the citizens of the Member States, throughout all 41 embassies and consulates which are operating in 37 countries located in Europe, North America and Asia.

In terms of the national legal framework, some amendments should be taken, in order to codify in law that EU Member States citizens are entitled to protection by the diplomatic or consular authorities, on the same conditions as the nationals of the Republic of Moldova. In this context, the following regulatory acts will need to be amended:

- Law no.761/2001 on diplomatic service²³;
- Government Decision No. 368/2002 on consular statute²⁴.

A first step - will be the adoption of new normative acts aimed at amending specific Government decisions and Laws, which will empower the consular officers to provide specific consular protection. In addition, under the provisions stipulated in art.8 of Vienna Convention on Consular Relations, a consular post of the sending State may, unless the receiving State objects, exercise consular functions in the receiving State on behalf of a third State. Thus, prior coordination with EU member states will be mandatory, which will imply the need, as a technical matter, to synchronise or integrate specific IT systems.

Also, to ensure a proper form of assistance to unrepresented EU citizens in matters of issuance of emergency travel documents ('ETDs') (as a form of consular protection) Government decision No. 987/2012 on emergency travel document regulation²⁵, should be amended accordingly. At the same time, technical upgrades will need to be applied in order to improve the capacity of the Moldovan diplomatic and consular representations to issue ETD's that would comply with the EU standards in place for documents of such type.

²³ Law No. 761/2001 on diplomatic service, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=125189&lang=ro#

²⁴ Government Decision No. 368/2002 on consular statute, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=32043&lang=ro

²⁵ Government decision No. 987/2012 on emergency travel document regulation, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=62706&lang=ro