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Committee on Civil Liberties, Justice and Home Affairs

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DRAFT REPORT

on the proposal for a Council decision concerning the conclusion of the Agreement between the European Community and Republic of Moldova on the readmission of persons residing without authorisation
(COM(2007)0504 – C6-0340/2007 – 2007/0182(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Marian-Jean Marinescu

Symbols for procedures

*	Consultation procedure *majority of the votes cast*
**I	Cooperation procedure (first reading) *majority of the votes cast*
**II	Cooperation procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***	Assent procedure *majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
***I	Codecision procedure (first reading) *majority of the votes cast*
***II	Codecision procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***III	Codecision procedure (third reading) *majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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on the proposal for a Council decision on the conclusion of the Agreement between the European Community and Republic of Moldova on the readmission of persons residing without authorisation
(COM(2007)0504 – C6-0340/2007 – 2007/0182(CNS))

(Consultation procedure)

The European Parliament,

– having regard to the proposal for a Council decision (COM(2007)0504)[1],

– having regard to Articles 63(3)(b) and 300(2), first subparagraph,of the EC Treaty,

– having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0340/2007),

– having regard to Rules 51 and 83(7) of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Foreign Affairs (A6-0000/2007),

1. Approves the conclusion of the Agreement;

2. Instructs its President to forward its position to the Council and the Commission, and the governments and parliaments of the Member States and of the Republic of Moldova.

[1] Not yet published in OJ.

EXPLANATORY STATEMENT

Background

Negotiations with the Republic of Moldova on the facilitation of the issuance of short-stay visas and readmission were conducted by the Commission between 9 February 2007 and 17 April 2007, following the authorization given by the Council. The agreements were signed on the 10 October 2007, and the Parliament is now consulted on the proposal for Council Decision on the conclusion of these two agreements. The Committee of civil liberties, justice and home affairs and its rapporteur, aware of the importance of the entry into force in January 2008, have agreed to work according to an accelerated calendar, in order to avoid any delays and to allow the conclusion of the agreements in November 2007.

The republic of Moldova has already concluded many bilateral readmission agreements with the Czech Republic, Hungary, Romania, Italy, Lithuania, Norway, Poland, Switzerland, Ukraine, etc.

The provisions of the agreement between the EU and the Republic of Moldova will take precedence over any of these bilateral agreements, in so far as the provisions of the latter are incompatible with the agreement EU – Republic of Moldova.

Content of the agreement

The aim of the agreement is to establish rapid and effective procedures for the identification and safe and orderly return of persons who do not, or no longer, fulfil the conditions for entry to, presence in, or residence on the territories of Moldova or one of the Member States of the European Union, and to facilitate the transit of such persons.

The readmission obligations set out in the Agreement are drawn up in a fully reciprocal way: the Republic of Moldova will have to readmit persons but also the EU member states will have to readmit persons from the Republic of Moldova.

Readmission of own nationals
Moldova/ the member states shall readmit all the persons who do not, or who no longer, fulfil the conditions in force for entry to or to be on the territory of the requesting Member State.

The obligation to readmit own nationals includes also

- former own nationals who have been deprived or have renounced their nationality without acquiring the nationality of another State;
- family members (i.e. spouses and minor unmarried children) who hold another nationality than the person to be readmitted and who do not have an independent right of residence in the Requesting State.

Readmission of third-country nationals and stateless persons
The obligation to readmit third country nationals and stateless persons is linked to the following prerequisites: (a) the person concerned holds or at the time of entry held, a valid

visa or residence permit issued by the Requested State, or (b) the person concerned illegally and directly entered the territory of the Requesting State after having stayed on or transited through the territory of the Requested State. Exempted from these obligations are persons in airside transit and all persons to whom the Requesting State has issued a visa or residence authorisation before or after entry to its territory.

The agreement sets an accelerated procedure, which concerns persons apprehended in the "border region", i.e. within an area which extends up to 30 kilometres from the common land border between a Member State and the Republic of Moldova or within the territories of International airports of Member States or the Republic of Moldova.

Under the accelerated procedure, readmission applications have to be submitted, and replies have to be given, within 2 working days whereas under the normal procedure, the time limit for replies is 11 working days.

The agreement does not prejudice to the rights, obligations and responsibilities of the Community, the Member States and Moldova arising from International Law and, in particular, from:
- the Convention of 28 July 1951 on the Status of Refugees as amended by the Protocol of 31 January 1967 on the Status of Refugees;
- the international conventions determining the State responsible for examining applications for asylum lodged;
- the European Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms;
- the Convention of 10 December 1984 against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
- international conventions on extradition and transit;
- multilateral international conventions and agreements on the readmission of foreign nationals.

Observations by the rapporteur

The rapporteur reminds the necessity to have clear, transparent and fair common rules concerning readmission, while taking into full account the respect for human rights, international law and the protection of asylum seekers and refugees.

He considers that the conclusion of readmission agreements form part of the wider strategy of combating illegal immigration and trafficking in human beings, in a true partnership with the countries of origin and transit. This partnership should also tackle the root causes of illegal migration, the push factors such as the poverty, the wars, the dictatorships and the pull factors such as the possibilities of finding undeclared work in the EU. Also, the fight against trafficking in people must be a high priority for the Union, in particular with a view to combating trafficking in the most vulnerable groups such as women and children.

Recommendations of the rapporteur

1. In the agreements with the Republic of Moldova, a reference to a "Moldovan" language is made, in the sentence "Done at … on the … day of … in the year … in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek,

Hungarian, Italian, Latvian, Lithuanian, Maltese, Moldovan, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic."

While reiterating its support for the conclusion and the implementation of the agreement on visa facilitation and on readmission and its commitment to fully apply their provisions, Romania underlines that its participation to the said agreements does not imply whatsoever any recognition or acknowledgement of the name of the language referred to as "Moldovan". Romania reiterates that, according to the facts and scientific evidence, including the interpretation of the Academy of Science of the Republic of Moldova (issued in September 1994), the correct name of the language is Romanian.[1]

The rapporteur fully endorses this official declaration of the Romanian delegation at the Permanent Representatives Committee (COREPER) and reminds that the same declaration has also been made by the Romanian authorities concerning *the Protocol to the Partnership and Cooperation Agreement (PCA) between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, on accession of the Republic of Bulgaria and Romania to the PCA*.[2]

The rapporteur takes note that in all the 9 agreements with the Western Balkans countries, the Commission used the more neutral formulation "Done at ..... on the ..... day of ..... in the year ..... in duplicate in each of the official languages of the Parties, each of these texts being equally authentic."

He regrets that this formulation was not used in the case of the agreements with the Republic of Moldova and, for the future, recommends the use of such neutral formulations in case of sensitive contexts, such as the present case.

2. The rapporteur regrets the insufficient involvement and information of the European Parliament, as concerns the opening of the negotiations and the negotiations of such agreements. Directly representing the citizens of Europe, the Parliament has an essential role to play in strengthening the accountability of the EU's external action and the democratic control. The LIBE Committee expects from the European Commission to provide the Parliament with information on the results of the implementation of the agreements, in application of the principle of cooperation in good faith between institutions.

[1] Official Declaration of Romania related to final clause of the Visa and Readmission Agreements between the EC and the Republic of Moldova, entered into Council's minutes of the 5 October 2007 of the Permanent Representatives Committee, Council doc 12980/1/07 REV 1.
[2] Council doc 12489/07 ADD 1.