

Moldova on the visa liberalization path: taking stock of achievements and failures

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It's been one year and two months since Moldova received the Visa Liberalization Action Plan from the European Union. During this period, Chisinau has proved to be committed to the implementation of the provisions of the action plan and has made continuous efforts to carry out the visa liberalization reforms despite the political crisis. However, the benchmarks are only partially met. In the area of the legislative harmonization almost all the necessary laws were adopted, while the implementation seem more difficult, as it is requiring money, efforts, capacity, time and most importantly, political will.

Up to this moment, the European Commission has issued two assessment reports of the progress in the implementation of the first phase (legislative) of the Action Plan. Both reports take stock of the progress in adopting the laws, but none of them refers to the practical implementation of the adopted laws, as EC is not officially monitoring the implementation, which belongs to the second phase (implementation) and will be monitored only after Moldova will successfully complete the first phase.

In fact, Chisinau is already very close to the accomplishment of the first phase and this is also suggested by the second evaluation report of the EC. Out of the 41 laws that were supposed to be adopted, 34 were already adopted. The remaining 7 laws are still posing problems, even if 5 of them are already in the parliament, while 2 of them are still in the government. The laws that have to be adopted are related to the responsibility of transporters, combating corruption and organized crime, special investigation activities, UN Convention against corruption, criminal procedure code, antidiscrimination and independence of the Centre for Combating Economic Crimes and Corruption. Particularly interesting is that most of the laws are related to the justice sector and one can conclude that if Chisinau has difficulties in adopting laws on reforming the justice sector, then their implementation will be even more difficult to carry out. Thus, it is clear that despite the good progress in many areas, passing into the second phase will be impossible without adopting these laws.

In the rest of areas it seems that the legal framework is in place, but the implementation of many of the adopted laws is still pending. Some of them like the transformation of the Border Guards Service into the Border Police with investigation and penal prosecution competences require time for preparations, while other like the one related to data protection require additional resources. Basically, one can easily notice that the implementation of "technical" laws is smooth and fast like the case of the biometric passports, while the laws with "political component" are rather "carefully" implemented. Overall, the population is not aware of the visa liberalization process, especially on the side of the reforms that need to be carried out.

Conclusions and recommendations

Given the current situation, several conclusions and recommendations could be suggested. The popularization and speed up of issuing the biometric passports will help the authorities to make aware the population of the visa liberalization process. The cooperation with the neighboring states, especially with Ukraine, should be enhanced to a higher degree that would help to ensure a better border management system, immigration related difficulties and would be beneficial for a better control of the Transnistrian perimeter, which is still generating some challenges for the migration potential of the third countries nationals, even if Moldova is in general avoided as a route for migration into the EU. In addition to the cooperation within the EUBAM framework and joint border patrolling which is already taking place, the recent example (February 2012) of pilot joint Moldova-Ukraine cross border point in Briceni-Rososhany should be expanded, particularly on the perimeter of the Transnistrian region.

At the same time, combating corruption remains one of the biggest challenges of the government and is strongly affecting the image of Moldova and the progress in few areas, thus comprehensive anti-corruption programs should be developed in close cooperation with the civil society. The inability to adopt the law related to combating corruption shows that there are actors that work hard to postpone the adoption of this law. It is also very important that the law on the Centre for Combating Economic Crime and Corruption is adopted as soon as possible and this institution would be placed under the parliament and parliamentary oversight.

In the same context, it is worth mentioning the reform of the Ministry of Interior which remains to be highly “soviet”, despite the positive rhetoric on the professionalization and demilitarization. Even if the Action Plan does not spell out explicitly the need to reform the MoI, it is clearly written that the law-enforcement agencies should be functional. Thus, for MoI would be recommended, alongside other institutions with low capabilities, to develop and implement Twinning projects with the EU member states institutions. Currently, most of the institutions prefer TAIEX projects because these provide technical assistance without “demanding” concrete results, while Twinning projects should end up with concrete reforms and upgrade of institutional capacity.

Last but not least, the authorities should pay more attention to the human rights issues and tolerance of different minorities. Discussions about the anti-discrimination are still avoided by some officials and the government, together with the civil society organizations, has not done enough in order to curb the feeling that the law on antidiscrimination is not needed.

A practical recommendation would be to create a position in the PM secretariat who would deal with this issue on a daily basis, because coordination is

obviously lacking and more than that, leadership on visa issue is not enough, on internal reforms, even if the MFA is doing well its job related to visa liberalization, a “watchdog” type advisor would give a better dynamic to the process and additional impetus for the authorities to stick to their commitments.

A particular issue is the communication campaign that should be deployed by the state authorities together with civil society and media. A smart communication campaign would help authorities to explain the “possibilities” of the visa liberalization regime, but also would increase citizens’ support for the reforms that should be carried out under the visa liberalization process.

Also, despite the good progress in adopting the necessary legislation for fulfilling the first phase of the Action Plan, the biggest challenges are expected, however, at the actual implementation of the adopted laws. The problems to which the experts refer mostly are related with the low capacity of some institutions to convert policies into practice, the insufficient professional skills of the civil servants involved in the actual implementation of the laws and the shortcoming of the financial means to deal with all challenges that are being posed by the visa liberalization process. Thus, efficient use of the CIB and better donor coordination with a particular emphasis on ownership principle would be an important step to reduce the institutional deficiencies.