

Memorandum of Understanding between the European Commission, the Government of the Republic of Moldova and the Government of Ukraine on the new functions of the European Union Border Assistance Mission to the Republic of Moldova and to Ukraine

The European Commission and the Governments of the Republic of Moldova and of Ukraine (the 'Sides') have reached an administrative understanding to broaden the mandate of the European Union Border Assistance Mission (hereinafter: the Border Assistance Mission) in order to respond to the ongoing emergency resulting from the influx of large numbers of Ukrainian and third country nationals following the unprovoked and unjustified military aggression by the Russian Federation against Ukraine:

1. The Border Assistance Mission will assist in performing tasks requiring executive powers for border control (border checks and border surveillance) of the respective Moldovan/Ukrainian border and customs authorities. The Border Assistance Mission will act on behalf and under the authority of the respective Moldovan/Ukrainian border and customs authorities that retain the responsibility for border control actions and decisions. To the effect, these executive powers and related privileges and immunities, as well as the details with respect to the precise powers, tasks and timeframe, will be set out in an official request for assistance by the Government of the Republic of Moldova and/or the Government of Ukraine in accordance to their national rules and procedures. The exercise of such powers will respect the sovereignty of the Republic of Moldova and Ukraine. The privileges and immunities shall be equivalent to those provided for in the Agreement between the European Union, of the one part, and the Republic of Moldova, of the other part, on operational activities carried out by the European Border and Coast Guard Agency in the Republic of Moldova.

In case the request emanates from either the Government of Republic of Moldova or Ukraine alone, the respective powers, privileges and immunities will be granted to Mission's experts only on the territory of the country that requested such additional assistance. This enhanced mandate will apply alongside, in close coordination with, and without prejudice to operational assistance provided by the European Border and Coast Guard Agency in the Republic of Moldova.

2. The Border Assistance Mission will refrain from any action or activity incompatible with the supportive nature of its duties. Members of the Border Assistance Mission are bound, as a matter of EU law, in the performance of their tasks and in the exercise of their powers, to fully respect fundamental rights, including access to asylum procedures and human dignity, and to pay particular attention to vulnerable persons. Any measures taken in the performance of their tasks and in the exercise of their powers should be proportionate to the objectives pursued by such measures. While performing their tasks and exercising their powers, they should not discriminate against persons on the basis of any grounds such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation in line with Article 21 of the Charter.

3. The Border Assistance Mission may access additional equipment upon the request of the Government of the Republic of Moldova and/or of Ukraine.

4. No claims in connection with the performance of tasks requiring executive powers for border control by the Border Assistance Mission on behalf and under the authority of, directly or indirectly, in whole or in part, the respective Moldovan/Ukrainian border and customs authorities, including claims for indemnity or any other claim of that type, can be satisfied.

5. The envisaged collaboration based on the Memorandum of Understanding can start as of the date of signature or the date indicated in a request for assistance from the Republic of Moldova or Ukraine.

Done at Brussels on xx May 2022, in three original copies, each in the English, Romanian and Ukrainian languages, all texts being equally authentic. In case of divergence in interpretation, the English text will prevail.

For the European Commission	For the Government of the Republic of Moldova	For the Government of Ukraine
Maciej POPOWSKI Acting Director General of Directorate-General for Neighbourhood and Enlargement Negotiations	Daniela MORARI Head of the Mission of the Republic of Moldova to the European Union	Vsevolod CHENTSOV Head of the Mission of Ukraine to the European Union