

CNF /CCBE TWINNING PROJECT MOLDOVA

Baroul Avocatilor din Republica Moldova

CHISINAU CONFERENCE

- MOVEMENT OF LAWYERS BETWEEN ITALY AND MOLDOVA -

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Part One: The Moldovan national in Italy

The Italian legal system - in harmony with the rules of the European Union – regulates the principal aspects of entry into the national territory of the foreign national.

The purpose of this *Guide* is to supply the Moldovan national with general guidance for entry into Italy, legally, by means of a brief survey of the legislative framework currently in force.

However, one must add to the general view the stricter consequences arising from the full understanding that the Republic of Moldova is not – at the moment – a nation properly integrated into the European Union, a fact which to some extent complicates the free flow and exchange of citizens between the two countries.

As already explained, the Italian rules on the flow of immigration are principally the product of national legislative political choices, to which one must add the legal and regulatory directions coming from the European Union.

In general terms, the bodies charged with implementation of these immigration policies are: the Ministry of the Interior, the Ministry of Justice, the Ministry of Universities, and Research and the Ministry of Foreign Affairs, in the latter case both directly and through the international network of embassies and consulates.

In the present case, the Italian Embassy in Bucharest (http://www.ambbucarest.esteri.it/Ambasciata_Bucarest) fulfils a role of primary importance of local co-ordination of the said policies and the grant (if necessary) of a “Visa”. The latter is, without any doubt. The first real step towards obtaining legal entry to Italy.

It is however worth noting that the reasons for which a Moldovan national may be granted an entry visa are very wide and varied, to the extent that they should fully satisfy the ordinary needs of private or professional life

Foreigners, or rather all persons who are not nationals of the European Union Member States, may enter Italy with a passport (or equivalent document) and visa for a maximum period of **90 days**. For stays which may exceed 90 days, as well as a visa, a **residence permit (permesso di residence)** is needed bearing the same reasons as the visa.

Example: if the visa was granted for tourism, it is not possible to be granted a residence permit for work.

Entry into Italian territory is allowed only for foreigners who:

- present themselves at a frontier pass;
- hold a passport or other equivalent travel document recognised as valid for crossing frontiers;
- carry documents which justify the purpose and conditions of the stay;
- have a valid entry or transit visa, where prescribed;
- have not been registered on the Schengen data system for the purposes of refusal of entry;
- are not considered a danger to public order, national security or international relations;
- must have available financial means which guarantee their support during the stay and the availability of a sum needed for repatriation, which may also be demonstrated by showing a return ticket.

Foreigners on entry are submitted to frontier, customs, currency exchange and health controls.

A foreigner lacking just one of these requisites may be refused at the frontier. The refusal order may be implemented by the Frontier Authority, even where there is a regular entry or transit visa. At the point of entry into Italy, even if holding a visa, the Frontier Authority is entitled to request again the production of the prescribed requirements for obtaining the visa itself.

ENTRY VISA

The visa (printed on adhesive paper) is applied to the passport or other valid travel document of the applicant. It may be defined as an authorisation granted to the foreigner for entry into the Italian territory.

The visa is granted by the Italian embassies or consulates in the State of origin or permanent residence of the foreigner which attest to the validity and appropriateness of the documentation presented by the foreign applicant, also to be examined concerning the motives and circumstances of the stay.

The visa demand must be presented in writing on the appropriate form in a single original (<http://www.ambbucarest.esteri.it/NR/ronlyres/39DF34B7-4F96-4413->

[AA87-DF1DEC74AD52/0/Visas.pdf](#)) signed by the foreigner and accompanied by a passport format photograph; a valid travel document should also be annexed and, where required, the specific documentation for the type of visa requested.

Grant of a visa is not possible (nor the extension of an existing visa) to a foreigner who is already on Italian National Territory.

The foreigner must obligatorily show:

- Purpose of the voyage
- Means of transport and of return
- Means of support during the voyage and stay
- Lodging conditions

A foreigner already resident in a Schengen State, and holder of a residence permit, is exempt from a visa for stays not exceeding three months, on condition that the entry into Italy does not take place for motives of employed work, independent work or apprenticeship.

- **Grant of a Uniform Schengen Visa:** this allows transit or a short stay for up to 90 days. It is granted by the Italian Embassy or Consulate in the applicant's country.
- **Grant of a National Visa:** this allows a long stay for over 90 days.

It is granted by the Italian Embassy or Consulate in the applicant's country. The nationals of the following Countries (cfr http://www.poliziadistato.it/pds/ps/immigrazione/allegati/obbligo_Visa_ingresso.pdf) are required to obtain a visa.

The nationals of the following Countries (cfr http://www.poliziadistato.it/pds/ps/immigrazione/allegati/esenti_Visa_ingresso.pdf) are exempt from the obligation of an entry visa for **stays of a maximum duration of 90 days, for tourism, mission, business, invitation and sports competition.**

For stays of longer duration (more than 90 days) on whatever ground, all foreigners must always be equipped with a visa, even if nationals of Countries which are not subject to the requirement of a visa for transit or short stay.

Types of Visa

There are 20 types of entry visa, as well as the requirements and conditions for obtaining them: adoption, business, medical cures, diplomatic, following family, sports competition, invitation to stay, independent work, employed work, mission, religious grounds, re-entry, elective residence, family reunion, study, airport transit, transit, transport, tourism, working holiday.

UNIFORM SCHENGEN VISAS

Visa type A: airport transit

Visa type B: transit

Visa type C: short stay or travel for up to 90 days, with one or more entries.

Visa type D: stays longer than 90 days.

VISAS FOR A LONG STAY OR “NATIONAL”

Valid for stays of over 90 days with one or more entries, in the Schengen State territories, where the Representation (in this case Italy) issued the Visa, and for any transit (for no longer than five days) across the territory of Schengen States.

RESIDENCE PERMITS

A foreigner who enters Italy legally must **within eight working days apply** for a residence permit, which must have identical grounds to that shown on the Visa Visa, at

- **post offices** in the case of residence permits for adoption, custody, independent work, special category work preVisas art. 27 Testo Unico Immigration, employed work seasonal work, missions, religious grounds, elective residence, scientific research, study, professional training apprenticeship, tourism;
- **the relevant territorial main police station (Questura)** in the case of a residence permit for: business, medical cures, sports competitions, humanitarian grounds, political asylum, non-citizen status, invitation to stay;
- **Immigration Help Desk (Sportello unico per l’immigrazione) for the relevant area** in the case of a residence permit for: work as employee and family reunion. In the case of work as an employee, at the *Sportello Unico per l’immigrazione*, the foreigner will execute the contract, take and compile the appropriate forms, and subsequently arrange to deliver it to the relevant post office to be sent. Similarly, a foreigner holding permission (*nulla osta*) for reuniting with family will take and compile the appropriate forms at the *Sportello Unico* and subsequently arrange to deliver it to the relevant post office to be sent.

Renewal of the residence permit must be applied for by the foreigner at a main police station (*Questura*) for the province or the competent post office, at least:

- Ninety days prior to expiry for a residence permit valid for 2 years;
- Sixty days prior to expiry for a residence permit valid for 1 year;
- Thirty days prior to expiry in other cases.

In every case renewal will be for a period not exceeding the double of the original permit issued, save as limits may be otherwise established in the Testo Unico and implementation Regulation

In order to obtain the grant of a residence permit, the foreigner must in every case present:

- The application form;

- Passport, or other equivalent currently valid document, with the relevant entry visa, where required, plus a photocopy of the document itself
- 4 identical and recent passport format photographs;
- A revenue stamp (marca da bollo) for € 14,62 .

The necessary documentation according to the type of residence permit requested.

The **duration** of the residence permit is as prescribed in the entry Visa:

- Up to three months for visits, business and tourism;
- Up to six months for seasonal work and up to nine months for seasonal work in sectors which require such an extension;
- Up to one year for following a course of study or professional training, obviously with documentation;
- Up to two years for independent work, work as employee not on fixed term contract and for family reunion.

The residence permit granted on grounds of work as employee, independent work and work in the family may also be used for the other activities allowed.

Permits granted for purposes of study and training may be converted, prior to their expiry into residence permits for purposes of work, subject always to the quotas established for the flow of entries.

Dwelling: Anyone who, on whatever basis, provides lodging or has a foreigner as a guest, even as a relative, or undertakes their support on whatever ground, or else grants the ownership or the benefit of real property located on Italian property, is obliged to notify this in writing **within forty-eight hours**, to the local public security authorities (*questura, commissariato, carabinieri*). This notification must contain details of the declarant, those of the foreigner, the passport and the exact location of the building granted to the foreigner or in which the latter is a guest or renders service. **Foreigners are bound to notify the entries and amendments on the official registers kept in Italy upon the same conditions as Italian citizens.**

Residence permit > Independent work activities

Independent work means an industrial, professional, artisan or commercial activity, or else where one desires to incorporate a capital or personal company or assume company office.

Requirements:

- Application, completed and signed by the applicant.
- Photocopy of the whole passport or equivalent document
- Sufficient resources for the conduct of the activity intended to be undertaken in Italy.
- Possession of any entry in rolls or registers.
- Certification by the competent authority that there is no impediment to the grant of authorisations or licences for such activity.
- Demonstration of the availability of suitable lodging.

- Holding of an annual income above the minimum level specified by the law for exemption from contribution to health care. The income may be substituted by a guarantee by Italian or foreign entities or persons legally resident in Italy.

Grant of visa: Having checked satisfaction of the requirements, and after permission from the Ministry of Foreign Affairs, of the Ministry of the Interior and if applicable the relevant Ministry for the activity the foreigner wishes to undertake in Italy, the Italian embassy or consulate grants the entry Visa for independent work with an express stipulation of the activity to which it relates. Such Visa must be granted or denied within one hundred and twenty days of presentation of the application and related documentation and must be used within one hundred and eighty days of the date of grant.

Part Two: The Moldavian national as lawyer in Italy

Preamble:

- *Implementation of D.P.R. 394/99;*
- *Implementation regulation for the Consolidated Text on Immigration (Testo Unico sull'immigrazione): D.Lgs. n. 286 of 25 July 1998.*

Professionals holding a professional title conferred in a Country **not** belonging to the European Union may present an application for recognition of that title - for professions within the sphere of the Ministry of Justice – for the purposes of carrying on the corresponding profession in Italy. In particular, as well as Community citizens, also any foreign citizen who requests it may seek recognition of his or her professional title pursuant to European Directives 89/48/CEE and 92/51/CEE, and the implementing Italian Legislative Decrees n. 115/92 & n. 319/94, thanks to the clear provisions of D.P.R. 394/1999.

Application of the European directives in cases of recognition of professional titles conferred outside the European Union involves certain further formalities in terms of documentation which must be presented, as appears from the application form (http://www.giustizia.it/professionisti/domanda_extra_com_b.htm).

Where in examining individual recognition requests gaps emerge in terms of knowledge of fundamental matters relating to the development of a certain profession in Italy, it is possible that the professionals will be asked to undertake a compensatory measure - *misura compensativa* – consisting of an aptitude test which has the purpose of filling those gaps.

The possible knowledge of certain subjects by the applicants – both in the form of study and of professional experience – will be taken into consideration, if duly documented, for the purposes of any reduction in the extent of the compensatory measures.

The recognition application form differs according to whether the request itself is presented by a foreign citizen legally resident in Italy or a foreign citizen who sends it from abroad and intends to use the recognition of the professional title for the purposes of obtaining an **Entry Visa for independent work in Italy**.

In the latter case, the foreigner must request the Ministry of Justice for a declaration that there are no impediments to the grant of a qualifying title for the practice of a professional activity pursuant to art. 39 of D.P.R. 394/99

(http://www.giustizia.it/professionisti/domanda_extra_com_b.htm).

The declaration shall be issued when all conditions and criteria provided by the law have been met for the grant of the requested qualifying title, in particular, in order to obtain such declaration, the foreigner must produce the same documentation requested of those who, having already obtained an entry Visa and resident in Italy, present application for recognition of the professional title.

Once having obtained the Visa for legal entry to Italy, the Moldavian citizen desiring to enter practice as a lawyer - *avvocato* – must ensure his or her holding of other requisites, amongst which evidently the residence permit “*permesso di soggiorno*” granted by the Ministry of the Interior through its police agencies on the ground (*Questure*), always on the basis of appropriate and documented professional demands or private life.

So far as the profession of lawyers is concerned, the choice to practise the legal profession in Italy must be co-ordinated, not only with the general rules already described, but also with the laws for the recognition of foreign professional titles as fully laid out in art. 39 & 49 of DPR 394/1999.

In particular:

A) Recognition of professional titles

1. The application for recognition must be addressed to the appropriate Italian Ministry for the profession for which recognition is being requested. The applications must be sent directly by those concerned to those Ministries (by post or through an agent attorney in Italy), at any time of the year. In the case of the legal profession, it is necessary to send the application to: Ministero della Giustizia – Settore Internazionale Reparto II – Ufficio III – Direzione Generale della Giustizia Civile – Dipartimento per Affari di Giustizia - Via Arenula n. 70 – 00186 – Roma (<http://www.giustizia.it>).

N.B. All the documentation requested under A), B) & C) must be duly translated and/or sent directly in Italian.

2. The applicant must present the request together with the following documents:

- a. Certificate of nationality or authenticated photocopy legalised with the Hague Apostil of the national passport;
- b. Certificates, diplomas or other titles of study which attest to the standard of training;
- c. Certificate showing the training course history (including the examinations taken) in a plain copy accompanied by Italian translation and Apostil;

d. Where the profession is regulated in the Country where conferred, a certificate issued by the relevant body dated not more than three months previously showing that the applicant is entitled to exercise the profession in the Country of origin, with the relevant certificate of registration with the professional order, if such registration constitutes a fundamental requirement for access to and/or practice of the profession. The said certificate must also contain a declaration that the applicant has not been in the past, nor is he currently, the subject of disciplinary proceedings

e. Where instead the profession is not regulated, the applicant must demonstrate the acquisition of at least two years of professional experience over the last ten years in the sector for which recognition is being requested. This is attested by any relevant professional experience conducted, with as detailed as possible an explanation, issued by the public or private entity where it was performed. Where dealing with the practice of a liberal profession, the activity must be demonstrated with suitable tax certification.

f. “*Dichiarazione di Valore*” a declaration of validity issued at the seat of the relevant Italian consular diplomatic authority in the Country where the title was issued for which recognition is requested;

g. Criminal record certificate, not more than three months old, issued by the competent public security authorities for the Country where the professional title was acquired;

h. Two fiscal stamps.

B) Document to be presented to obtain the “*Dichiarazione di Valore*”

Academic titles conferred abroad do not have legal validity in Italy (art. 170 del R.D. n. 1592/1933¹). Arts. 170 & 332 of the same Decree provide for the holders of foreign academic titles the possibility of requesting their equivalence with the corresponding Italian titles. By virtue of the autonomy accorded to Universities and academic authorities, they have power to evaluate whether the titles conferred abroad may bear correspondence in the Italian system of higher education. The competent Authorities for the recognition of such titles are the faculty boards - *Consigli di Facoltà* - of the corresponding university courses, so the recognition occurs at the individual location campus chosen by the candidate. The application must be addressed to the Rector (*Rettore*) of a faculty or academy whose charter includes a course of studies comparable to that completed abroad.

In order to obtain the declaration of validity from the Italian Embassy in Bucharest for the purposes of:

- Petition of Equivalence
- Recognition of a professional title

¹ In fact, the cited source of law has never been repealed. Regio decreto 31 agosto 1933, n. 1592 (in Suppl. ordinario alla Gazz. Uff., 7 dicembre, n. 283). – Approval of the Consolidated Text of law on higher education should now be considered superseded as a result of the subsequent legislation in the sector. Vedi d.p.r. 11 luglio 1980, n. 382; d.p.r. 4 marzo 1982, n. 371; d.p.r. 10 marzo 1982, n. 162; l. 29 gennaio 1986, n. 23; d.l. 2 marzo 1987, n. 57, conv. in l. 22 aprile 1987, n. 158; l. 9 maggio 1989, n. 168; l. 30 novembre 1989, n. 398; l. 19 novembre 1990, n. 341; l. 29 luglio 1991, n. 243; l. 2 dicembre 1991, n. 390; art. 5, l. 24 dicembre 1993, n. 537; d.lg. 16 aprile 1994, n. 297; d.m. 4 ottobre 1994, n. 771; d.p.r. 1° febbraio 1996, n. 167; art. 17, l. 15 maggio 1997, n. 127; d.m. 21 luglio 1997, n. 278; d.p.r. 2 dicembre 1997, n. 491; d.p.r. 27 gennaio 1998, n. 25; d.m. 3 febbraio 1998, n. 21.

IT IS NECESSARY to supply the following documents:

- 1) Written request addressed to the Consular Chancery indicating the reasons for seeking the Declaration of Validity;
- 2) Diploma of baccalauréat (*maturità*);
- 3) Diploma/Certificate of Degree (*Diploma de Licenta*) in original with one photocopy;
- 4) Report (*pagella* or *foaie matricola*) in original with one photocopy;
- 5) Analytical programme with description of the courses followed with description of the courses followed which must correspond exactly with those listed in the report – original;
- 6) Legalisation and translation of all the documents shown at items 2, 3, 4 e 5 in accordance with the following procedure:
 - a) Authentication of the originals through the relevant State Entity (Inspectorate of Schools, Ministry of Education and Research, etc.) and legalisation with Apostil at the Préfecture (*Prefettura*);
 - b) Authentication of photocopies of the diplomas and report executed by a Notary Public and legalisation with Apostil at the court (*Tribunale*);
 - c) Translation into Italian of all documents executed by a sworn translator and legalised with Apostil at the court;
- 7) Declaration by the Rector or Deacon of the University, certifying as follows:
 - whether dealing with a private or public institution (if private one must specify whether legally recognised or else details of the law of accreditation);
 - date of conferment of the title, passing of final thesis and marks noted;
 - if the course of study was followed at the principal campus of the University, the Rector or Deacon must specify the nature and particular type of the course (e.g.. Ordinary Course for general students, or else a special course with intensive or reduced timetable for working students, distance learning, etc.) as well as the training institute and address at which the same was effectively carried out;
 - if the title was granted following special courses or even ordinary courses but in a satellite location, the Rector or Deacon must specify:
 - a) The specific nature of the course (ordinary, special, evening, etc.)
 - b) The convention contracted-out relationship between the University and the study centre;
 - c) If and what legal recognition the subsidiary or private contracted-out centre may have with the relevant Rumanian authority;

- d) The method of teaching supervision exercised by the parent University over the satellite subsidiary or private contracted-out centre;
 - e) The value of the title granted through special courses or at satellite locations or private contracted-out centres, both for the purposes of pursuit of further studies and for professional practice
- 8) Further documents only for the Declaration of Validity for professional purposes
- 9) Two photographs (only for registration at the Italian Universities)
- 10) One photocopy of the passport

C) Recognition of the title of Moldovan lawyer

After having completed the administrative procedures described at letters A) & B), the Italian Ministry of Justice, having considered the opinion of the national bar entity *Consiglio Nazionale Forense*, and checked the compliance of the academic and professional curriculum of the applicant will arrange to issue a Decree of recognition of the professional title of Moldovan lawyer for the purposes of registration and practice of the profession in Italy.

The said recognition is, however, frequently subject to the application of “compensatory measures”, suited to harmonise the foreign with Italian professionalism.

The compensatory measures consist briefly in passing an aptitude test on subjects expressly indicated in the ministerial decree.

The candidate, in order to be allowed to take the aptitude test, must present a petition on legal bond paper to the Consiglio Nazionale Forense, attaching authenticated copy of the decree.

The commission, set up at the Consiglio Nazionale Forense, is convened by the president to meet and fix the timetable for setting the examination test.

The applicant is given notice, at the address indicated in the petition, of the convening of the Commission and of the timetable fixed for the tests.

The written test consists in the conduct of an exercise. The oral test concentrates on discussion of brief practical questions.

It must be recalled that the candidate may enter this second examination only if he or she has successfully passed the written test.

In conclusion, the successful performance and accomplishment of the activities set forth at items A), B) & C) will confer upon the Moldovan lawyer a legal title to practise the legal profession in Italy.