

## **Revised EU-Ukraine Action Plan on Freedom, Security and Justice**

### **Challenges and strategic aims**

- A. Cooperation between the EU and Ukraine in the field of Justice and Home Affairs is already advanced and contributes to the strengthening of their partnership within the framework set by the EU – Ukraine Partnership and Co-operation Agreement (PCA) and the overall EU – Ukraine Action Plan as endorsed by the EU – Ukraine Co-operation Council on 21 February 2005 (hereafter referred to as the 2005 EU – Ukraine Action Plan).

The EU Action Plan on Justice and Home Affairs in Ukraine of 12 December 2001 laid the foundations for this cooperation by providing for a wide range of activities, covering border management and visa, migration and asylum, the fight against organised crime and terrorism as well as the strengthening of the judiciary, the rule of law and good governance. It has become the Freedom, Security and Justice part of the 2005 EU-Ukraine Action Plan, and is accompanied by a Scoreboard to monitor its implementation.

Following the enlargement of the European Union on 1 May 2004, the EU and Ukraine now for the first time share a common border and, as direct neighbours, face common challenges in the fight against organised crime, terrorism and other illegal activities which are of cross-border nature.

In accordance with its provisions, the JHA Action Plan should be reviewed to strengthen, in concrete ways, the partnership between the EU and Ukraine and to take stock of progress made in the light both of the development of the EU's area of Freedom, Security and Justice and of the new shared border.

- B. This cooperation, carried out on the basis of common values as set out in the PCA and in the preamble and section 2.1 of the 2005 EU-Ukraine Action Plan, must reflect the balance between security, on the one hand, and justice and freedom on the other. The revised Action Plan on Freedom, Security and Justice has been developed taking into account:

- The provisions of the Partnership and Co-operation Agreement (PCA) between the European Union and its Member States and Ukraine of 16 June 1994 that entered into force in March 1998;
- The 2005 EU-Ukraine Action Plan as endorsed by the EU-Ukraine Co-operation Council on 21 February 2005;
- The EU Hague Programme adopted by the European Council on 4 November 2004, and its Action Plan on 16 June 2005;
- The Strategy for the External Dimension of JHA: Global Freedom, Security and Justice, adopted by the General Affairs and External Relations Council on 12 December 2005;

The main challenges and strategic aims for this cooperation are the following:

- Strengthen partnership and practical cooperation between the European Union, its Member States and Ukraine in the field of freedom, security and justice;
  - Support Ukraine's effort to consolidate democracy, protecting human rights and fundamental freedoms. Promote the strengthening of stability and effectiveness of state institutions concerned, as a basis for consolidating rule of law more generally;
  - Continue work with Ukraine to ensure the application of the principles of rule of law, independence and efficiency of the judiciary including access to justice and good governance;
  - Ensure the ratification and full implementation of the international instruments of particular importance in the area of justice and home affairs;
  - Continue to establish an appropriate legislative framework for effective co-operation in the field of freedom, security and justice, in line with international and EU standards and to work to ensure the efficient implementation and application of such standards;
  - Enhance efforts on institution building and implementation, and involve, when appropriate, civil society including relevant NGOs and private sector actors;
- C. This revised Action Plan sets out a number of agreed areas and objectives for cooperation and implementation:
- **Freedom:** Improve the management of migration, including asylum and the fight

against illegal migration; facilitate human contacts and travels while strengthening cooperation in the fields of border management and document security.

- **Security:** Combat terrorism and organised crime, including through law enforcement cooperation, in particular trafficking in human beings and smuggling of migrants, drugs and other restricted or prohibited goods, corruption, document fraud, as well as money laundering and other illegal activities.
- **Justice:** Reform the judiciary in order to ensure its independence, impartiality and efficiency and strengthen EU-Ukraine judicial cooperation in civil and criminal matters.

## **II. Freedom**

### **1. Migration and asylum**

#### **Migration**

- Develop an appropriate legislative framework related to migration management;
- Establish the State Migration Service of Ukraine in order to ensure an adequate intra-agency cooperation at central, regional and local levels through the combination of existing structures;
- Conclude the EC-Ukraine readmission agreement with a view to entry into force at the same time and parallel implementation with the EC-Ukraine Agreement on facilitation of the issuance of visas; monitor implementation of the readmission agreement in the joint readmission committee under this agreement;
- Discuss statistical key data and information on migration management, including illegal migration and best practices;
- Assess the scale of illegal migration via Ukraine and monitor migratory movements. Elaborate risk assessment and participate in international assessments on flow of illegal migrants of relevance for Ukraine and systems of early prevention of illegal migration;
- Ensure appropriate conditions in detention centres for illegal migrants; ensure compliance with European standards of the administrative legislation in respect of persons detained for illegally crossing the Ukrainian border; ensure appropriate judicial control over all decisions on detention longer than 72 hours;
- Examine with EU Member States and the Commission possibilities for cooperation to

improve the management of migration flows, including the assessment of statistics and measures to fight illegal migration;

- Increase participation in regional and international migration-related cooperation networks and fora;

## **Asylum**

- Implement the 1951 UN Convention relating to the status of refugees and i.a. its 1967 Protocol, including the right to seek asylum<sup>1</sup> and respect for the principle of 'non-refoulement' by all countries in accordance with European standards and in cooperation with UNHCR where appropriate;
- Develop further legislation on asylum in accordance with European standards and in cooperation with UNHCR where appropriate;
- Improve procedures related to treatment of applications on refugee status and asylum in accordance with European standards;
- Register and document efficiently all asylum seekers and refugees;
- Resolve issues related to subsidiary, humanitarian and temporary protection by adopting and implementing relevant legislation;
- Improve the conditions in reception centres for asylum seekers;
- Support, where appropriate, the objectives above, including through the pilot Regional Protection Programme;

## **2. Border management and visa**

### **Border management**

- Adopt, develop and implement an integrated border management strategy;
- Enhance inter-agency cooperation among State authorities involved in border management, including the clear division of responsibilities and competencies of all agencies. Strengthen the institutional and administrative framework and the capacity to implement border controls as well as improving border surveillance;

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<sup>1</sup> As implicit in the instruments mentioned and explicitly stated in the 1950 Universal Declaration of Human Rights, Article 14 (1).

- Improve the existing legal framework and procedures of integrated border management in particular at border crossing points;
- Support the process of delimitation and demarcation of Ukrainian borders that are presently not demarcated according to international standards;
- Support the setting up of a system of mobile Border Guard units, both at the border and covering the in-land territory;
- Continue support for improvements of border crossing points, in particular through exploring the advantages of a joint use of infrastructure;
- Review recruitment procedures for the State Border Guards Service and existing staffing system. Reduce as quickly as possible the use of conscripts for carrying out border management tasks;
- Develop basic and specialised training for staff involved in border management functions;
- Strengthen cooperation on issues regarding border management and improve cooperation between the units on the common border. Facilitate the exchange of information by introducing a system of joint contact offices;
- Develop working arrangements on operational cooperation with FRONTEX, including evaluation, analysis and management of risks;
- Continue cooperation with Moldova on border issues and with the EU Border Assistance Mission on the Ukraine-Moldova border;
- Engage actively in, and ensure practical follow-up to, the trilateral expert talks on border related issues involving Ukraine, Moldova and the European Commission;

## **Visa**

- Conclude the EC-Ukraine Agreement on facilitation of the issuance of visas with a view to entry into force at the same time and parallel implementation with the EC-Ukraine readmission agreement; recognise that the introduction of a visa free travel regime for the citizens of Ukraine is a long term perspective;
- Encourage EU Member States to apply the common consular instructions as regards the documents to be submitted when applying for short-stay visas;
- Establish an online connection between the Ministry of Foreign Affairs, border crossing points, the Ministry of Interior and diplomatic missions and consular posts abroad,

supported by a National Visa Register;

- Implement decisions already taken on limiting the number of documents accepted for entry into Ukraine by citizens of third countries;

### **3. Document security**

- Promote Ukrainian efforts to ensure the issuance of secure travel documents and the development of issuing procedures corresponding to the minimum security standards adopted by the EU;
- Prosecute persons using multiple identities;
- Promote the introduction of machine-readable passports and travel documents and encourage further harmonisation of their security features, including biometric identifiers based on ICAO standards;
- Increase the use of the Interpol database on lost and stolen blank and issued travel documents (ASF-STD) by national law enforcement agencies;

## **III. Security**

### **1. The fight against organised crime and terrorism**

- Ensure implementation of the UN Convention against Transnational Organised Crime and its protocols on smuggling of migrants and trafficking in persons;
- Sign, ratify and implement the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime;
- Ensure implementation of all 13 UN counter-terrorism conventions and protocols as well as relevant UN Security Council resolutions, including UNSCR 1373, 1540, 1267, 1566 and 1624;
- Encourage a regular dialogue on the fight against terrorism within the existing structures;
- Conclude and implement a strategic agreement with Europol, in order to enhance cooperation to fight against organised crime. As an important step towards a Europol-Ukraine operational agreement, ratify and implement the Council of Europe Convention

of 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data;

- Encourage exchange of technical, operational and strategic information between EU Member States and Ukraine law enforcement agencies, while respecting data protection requirements;
- Make necessary national arrangements for systematic cooperation between police, customs, border guards, intelligence and security services, with a view to preventing and suppressing cross border criminal activities;
- Increase use of EU Member States' law enforcement liaison officers in Ukraine in the fight against organised crime; increase use of Ukrainian law enforcement liaison officers in EU Member States;
- Build up the capacity of law enforcement authorities by developing structures and procedures for improved information exchange in crime investigations through organising remote access to information resources using the Interpol network;
- Provide sufficient assistance to victims and witness protection to encourage persons to break away from criminal organisations and cooperate within the judicial process;
- Cooperate in combating new crime areas, e.g. information and communication technology related to crime, in particular child pornography. Encourage EU Member States to support in building capacity to deal with other forms of high tech crime;

## **2. Money laundering, including financing of terrorism**

- Further implement relevant legislation in line with international (e.g. Financial Action Task Force), European and EU standards;
- Continue interaction of Financial Intelligence Units (FIU) of the EU Member States and Ukraine in line with relevant Egmont Group standards;
- Cooperate further to prevent use of financial systems for the purpose of money laundering and to fight terrorist financing, through the implementation of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime as well as the UN Convention for the Suppression of the Financing of Terrorism;
- Strengthen the capacities of state regulators to provide regulation and effective oversight over financial intermediaries and representatives of non-financial professions;

- Continue exchange of information on suspicious financial transactions related to money laundering and terrorist financing between the FIUs of EU Member States and the Ukrainian counterpart, taking into account the need for appropriate data protection requirements;
- Continue to provide support for the training of judges, prosecutors, customs officers, judicial and law enforcement staff and other specialists in financial monitoring;
- Continue to cooperate within the Moneyval committee of the Council of Europe to ensure continuing high standards in the mutual evaluation process of all members and in typologies work;

### **3. Human Trafficking**

- Promote cooperation, including exchange of statistical data and experience, with Europol and interested Member States as well as cooperation in international and regional law enforcement efforts to combat trafficking in human beings, especially trafficking in women and children;
- Implement the State Anti-Trafficking Programme by assigning responsibilities to the relevant agencies;
- Support the creation of a permanent secretariat ensuring the regular operation of the Inter-Agency Coordinating Council for the Prevention of Trafficking of Human Beings;
- Promote a child sensitive approach against child trafficking and implement the UN Convention on the Rights of the Child and other relevant international instruments;
- Provide necessary professional skills to relevant authorities via specialised training;
- Promote preventive and information campaigns on trafficking in human beings aimed at groups at risk and the general public;

### **4. Drugs**

- Promote international and internal efforts, and coordinate activities within existing fora and particularly the UN framework, to combat the global threat of drug trafficking and prevent and treat drug addiction, inter alia through the signature and ratification of relevant international agreements;
- Increase cooperation in the field of combating illegal drug trafficking based on a

strategic agreement between Europol and Ukraine;

- Implement the national strategy for the fight against trafficking in drugs, including the development of a balanced approach focusing on supply, demand and harm reduction in line with the EU Drug Strategy and Action Plans;
- Support the creation of a coordinated inter-institutional National Drug Intelligence System, improving data collection, training experts in epidemiology and strengthening community policing;
- Promote cooperation between competent bodies of Ukraine, relevant NGOs and international organisations with a view to tackling social aspects of the drug problem, including prevention, treatment and rehabilitation of drug users;
- Increase cooperation in preventing production and trafficking of synthetic drugs and in preventing the diversion of precursors;
- Encourage cooperation and sharing of strategic information between law enforcement agencies in the EU and Ukraine;

## **5. Customs (law enforcement aspects)**

- Subject to the necessary legislative reform, take steps towards the adoption and implementation of a legal framework enabling the Customs authorities to carry out complete investigations in criminal matters;
- Consolidate and expand channels of information exchange between Ukraine and EU Customs services and the European Anti-Fraud Office (OLAF) with a view to improving coordination and increasing the effectiveness of joint efforts in matters of customs enforcement;
- Implement the concept dealing with risk assessment, risk analysis and risk management;
- Implement the principle of risk-based customs controls;

## **6. Corruption**

- Ratify and implement the Criminal Law Convention of the Council of Europe, Additional Protocol to the Criminal Law Convention and UN Convention against Corruption;

- Support the efficient functioning of the special body responsible for the fight against corruption;
- Implement the new anti-corruption strategy substantially reducing the level of corruption along the lines recommended by experts of the Council of Europe;
- Cooperate with NGOs, in particular Transparency International, and with civil society including private sector actors to ensure the effectiveness of measures taken against corruption; ensure the existence of an independent institution, which can receive complaints and initiate proceedings against mismanagement and corruption of public administration;

#### **IV. Justice**

##### **1. Judiciary**

*(The objectives of this chapter are based on and refer to the 2005 EU-Ukraine Action Plan, in particular its chapter on Democracy, rule of law, human rights and fundamental freedoms).*

- Encourage Ukraine's efforts to ensure impartiality, independence and competence of judges; implement the strategy on judicial reform entitled "Concept for the improvement of the judiciary in order to ensure fair trial in Ukraine in line with European standards";
- Review the appointment system for the Constitutional Court in line with the recommendations of the Council of Europe's Venice Commission;
- Support Ukraine's efforts to establish a system of administrative courts;
- Increase the capacity of the court system to deal with its workload and strengthen administrative capacity;
- Improve access to justice and establish a proper legal aid system;
- Introduce special training for judges and candidate judges; improve the recruitment system and career of judges, based on objective criteria to enhance their independence, impartiality and efficiency; consider development of a Judicial Code of ethics; establish an independent commission to handle disciplinary proceedings for judges;
- Take decisive steps in reform of the prosecution system in accordance with the relevant Council of Europe Action Plan;

- Support the functioning of a national Ukraine electronic database of all court decisions;
- Support the creation of a single, strong and independent professional bar association;
- Enhance the professional training for judges, prosecutors and law enforcement officials with a special focus on human rights in accordance with the European Convention on Human Rights;

## **2. Judicial cooperation**

### *Criminal matters*

- Adopt the amended Criminal Procedural Code of Ukraine and develop other legislative measures promoting judicial cooperation with other states;
- Ratify and implement the international instruments which are of particular importance for enhanced judicial cooperation, e.g. the second protocol to the European Convention on Mutual Assistance in Criminal Matters;
- Establish a network of contact points for a rapid exchange of information on mutual legal assistance and judicial cooperation related to cross border offences;
- Develop cooperation based on the contact points established in Eurojust and the Ukraine General Prosecutor's Office and conclude the agreement between Eurojust and Ukraine;
- Continue co-operation aimed at elaboration of appropriate draft laws, necessary for ratification of the Rome Statute of the International Criminal Court; sign and ratify the Agreement on Privileges and Immunities of the International Criminal Court;

### *Civil matters*

- Promote the practical functioning of legal assistance in civil matters by fully implementing the Hague Convention on Taking of evidence (1970) and the Hague Convention on Service of documents (1965);
- Promote cooperation in protection of rights of children, including by exploring the possibility to accede to international conventions on i.a. parental responsibility, adoptions, enforcement of alimonies and maintenance decisions as well as testaments and inheritances;

- Ensure implementation of the 1980 Hague Convention on the Civil Aspects of International Child Abduction;

### **3. Detention and imprisonment**

- Encourage Ukraine's reform of its penitentiary system in line with the European Prison Rules (Council of Europe Recommendation No. R(87)3 of 12 February 1987 in the amended version of 11 January 2006) and take decisive steps to address the issue of ill-treatment of persons in law enforcement custody;
- Continue the reform of the penitentiary system of Ukraine, including improvement of conditions in pre-trial centres and prisons;
- Regulate the treatment, conditions and rights of all detained persons by the same legislation;
- Ensure full implementation of juvenile justice standards in line with relevant European standards;
- Implement European Committee for the Prevention of Torture (CPT) recommendations;
- Enhance the human rights training of law enforcement and prison staff; review the need to renew the curriculum for professional training of prison staff and to improve the standard of prison facilities;
- Provide access to human rights organisations to detention centres, including a role in the efforts to improve the human rights within the penal system;
- Improve re-socialisation and aftercare in particular for juveniles, through offering vocational training and support for families;

### **V. Implementation**

1. Based on this Action Plan, a JLS Scoreboard will be set up in consultation with the Ukrainian authorities as a tool for implementation, monitoring and definition of annual priorities. The Scoreboard will be a "living" document to be updated at least once a year. Priority areas will be reviewed by the JLS Sub-Committee and JHA Ministerial Troika.
2. The Sub-Committee 6 on Justice, Freedom and Security will meet at least once a year

to discuss monitoring and evaluation of the implementation of the Action Plan, as reflected in the Scoreboard.

3. The EU-Ukraine JLS Ministerial Troika, which has met annually since 2002, will continue to discuss the implementation of the JLS Action Plan and consider priorities.
  4. The JLS-group in Kiev consisting of representatives of the EU Member States (JLS attachés, liaison officers, consular staff) and the European Commission could meet regularly to discuss matters contained in this Action Plan.
  5. EU financial assistance will be available to support activities identified in the present document. Assistance will be granted within existing priorities. From 2007 new external assistance instruments will increase the flexibility substantially.
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