

(Acts adopted under Title VI of the Treaty on European Union)

EU ACTION PLAN ON JUSTICE AND HOME AFFAIRS IN UKRAINE

(Text approved by the Council on 10 December 2001)

(2003/C 77/01)

I. CHALLENGES AND STRATEGIC AIMS

1. Develop partnership and practical cooperation between the European Union, its Member States and Ukraine in the field of justice and home affairs;
2. Develop with Ukraine the principles of rule of law, access to justice, independence of the judiciary and good governance, on which the objective of the European Union to establish an Area of Freedom, Security and Justice is based;
3. Establish an appropriate legislative framework for effective cooperation in the field of justice and home affairs, in line with international and EU standards and to work to ensure the efficient implementation and application of such standards;
4. Increase awareness of human rights and rule of law and promote transparency;
5. Ensure the ratification and full implementation of the international instruments of particular importance in the field of combating illegal migration, organised crime and corruption;
6. Improve the management of migration issues and use appropriate measures in the fields of border management, readmission and visa, in order to avoid that the Ukraine territory is increasingly used for illegal immigration and transit of illegal migrants into the territory of the European Union;
7. Combat cross-border organised crime in particular trafficking in human beings, drugs, stolen vehicles, high taxed goods and nuclear material, as well as money laundering;
8. All relevant instruments of this plan should be used to address the threat of international terrorism;
9. Improve the co-ordination of assistance programmes of the Member States and the EU to reflect the priorities of the cooperation;
10. Consider the enlargement process and its impact on the region;
11. Neighbouring Candidate countries may be involved in relevant aspects of this Action Plan, as considered appropriate;

12. The priorities noted in the present plan are not to be considered as an exhaustive list. As need arises other JHA-activities can be inserted into the remit of the Scoreboard.

II. FRAMEWORK

- The objective of the European Union to develop an area of freedom, security and justice as specified in Title IV of the Treaty establishing the European Community and Title VI of the Treaty of the European Union, the Action Plan on Organised Crime, approved by the European Council at Amsterdam in June 1997 (in particular recommendation 4 thereof) as well as the Action Plan on Justice and Home Affairs agreed by the meeting of the European Council in December 1998 in Vienna;
- the conclusions of the Tampere European Council of October 1999;
- the conclusions of the report on external relations on justice and home affairs issues endorsed by the European Council at Feira in June 2000;
- the Common Strategy on Ukraine approved during the session of the European Council in Helsinki in December 1999; the conclusions of the EU/Ukraine Summits as well as the Cooperation Councils and in particular the Joint Report January 2000 on Illegal Immigration and Trafficking in Human Beings;
- 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, whose structure should play a key role in the development of the cooperation; reference should also be made to the progress already achieved within the framework for dialogue established under this agreement;
- the EU Drugs Strategy 2000 — 2004, endorsed by the European Council in Helsinki, December 1999, and the EU Action Plan on Drugs 2000 — 2004, endorsed by the European Council in Feira, June 2000;
- conclusions of European Council of 21 September 2001 and resolutions of Security Council of United Nations 1373/01 and 1267/01 of September 2001;

— the work on Justice and Home Affairs by the relevant PCA Subcommittee.

the State border service and the customs authorities for the period up to 2005;

III. AREAS OF COOPERATION

1. Migration and asylum

— Approximation of Ukrainian legislation on asylum and refugees to the EU norms and standards, implementation of UN Convention relating to the status of refugees 1951 and 1967 Protocol relating to the status of refugees, including the right to seek asylum and respect for the principal of non-refoulement. Approximation of the system of state authorities responsible for implementation and realisation of legislation on asylum and refugees to the EU norms and standards.

— pursuing a more vigorous integration policy aimed at enhancing non-discrimination in economic, social and cultural life and developing measures against racism and xenophobia;

— rendering expert legal assistance to Ukraine authorities in drafting or amending its current legislation on foreigners, asylum, immigration and refugees;

— supporting the efficient management of migration flows, also by rendering consultative, financial and expert assistance for establishment of State Migration Service of Ukraine and promotion of its activities, in particular, to increase professional level of relevant staff through study of foreign experience and internship in relevant services of EU countries dealing with modern migration policy;

— assessing the scale of illegal migration via Ukraine and monitoring of migratory movements and examination of possible participation of Ukraine in a system of early prevention of illegal migration;

— improving cooperation regarding the readmission of own nationals, persons without nationality and third country nationals, with a view to conclude a readmission agreement between Ukraine and the European Community.

2. Border management and visa

— Development of a system of efficient, comprehensive border management (i.e. border control and border surveillance) on all Ukrainian borders and examination of possible participation of the State border service in a system of early prevention of illegal migration;

— support for Ukraine in implementation of its Action Programme aiming at the maintenance of a state border regime and a border zone regime and the development of

— support of Ukraine's efforts to reform the border guards troops in order to create a law enforcement agency, working as the professional body responsible for border management;

— support for an efficient border management by rendering consultative, financial and expert assistance for the establishment of a State border service of Ukraine and promotion of its activities, in particular, to increase professional level of relevant staff through study of foreign experience and internship in relevant services of EU countries dealing with modern immigration policy;

— intensify and facilitate present cross-border cooperation of Ukraine with the EU, Candidate countries and third countries concerned;

— continuation of a dialogue on visa issues;

— continue dialogue to prevent illegal immigration into the European Union and Ukraine;

— examination of the possibility to support Ukraine efforts to issue secure travel documents in conformity with international standards and to detect false travel and identity documents.

3. Organised crime

— Ratification and full implementation of the international instruments, which are of particular importance in combating organised crime and corruption, and the ratification and full implementation of international instruments for the protection of human rights;

— the following Conventions are of particular importance:

— 1950 European Convention on human rights, ratified by Ukraine 11 September 1997,

— 1977 European Convention on the Suppression of Terrorism signed by Ukraine 8 June 2000,

— 1981 European Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data,

— 1990 European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, signed by Ukraine 29 May 1997, entry into force 1 May 1998,

- 1995 Agreement on Illicit Maritime Shipments that implement Article 17 of UN Convention on Illicit Traffic of narcotic Drugs and Psychotropic Substances,
 - 1988 UN Convention on Illicit Traffic of Narcotic Drugs and Psychotropic Substances,
 - 1999 European Criminal Law Convention on Corruption, signed by Ukraine 27 January 1999,
 - 1999 European Civil Law Convention on Corruption, signed by Ukraine 4 November 1999,
 - 2000 UN Convention against Transnational Organised Crime and the Additional Protocols supplementing the UN Convention, signed by Ukraine 12 December 2000 (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; Protocol against the Smuggling of Migrants by Land, Sea and Air);
 - support of Ukraine's efforts against money laundering, in particular by the creation of an Financial Intelligence Unit (FIU), which meets the standards of the Council of Europe Convention, the 40 recommendations of the FATF as well as the standard of those of the Egmont Group;
 - assistance to Ukraine's fight against drug trafficking, including the trafficking of essential chemicals and precursors, and against drug abuse in particular in the field of prevention and rehabilitation, as well as trafficking of, vehicles fire arms, nuclear material and smuggling of high taxed goods;
 - provision of assistance to Ukraine's efforts in combating trafficking in human beings and smuggling of illegal migrants, as well as assistance to develop activities and measures to prevent trafficking in human beings and to reintegrate victims of this traffic.
- conclusion of negotiations of a UN Comprehensive Convention on fight against terrorism;
- cooperate further on eradicating the sources of the financing of terrorist activities, *inter alia*, by:
 - promoting the implementation and enforcement of the UN Convention for the Suppression of the Financing of Terrorism;
 - taking the necessary measures for freezing assets of persons identified by the Sanctions Committee set up under Resolution 1267/01 of the Security Council;
 - encouraging progress of ongoing work of FATF, as well as the OECD work on third country offshore-centres;
 - promoting cooperation with third countries on fight terrorism along the lines mentioned above.

3.1. Terrorism

- Develop EU-Ukraine cooperation and where possible, improve bilateral cooperation on the fight and prevention of terrorism. Specific issues to be addressed include:
 - cooperate to reinforce the role of the UN in the multi-lateral fight against terrorism; ensure the implementation of UNSCR 1373/01 of 28 September 2001 on anti-terrorism; to promote the adherence and full implementation of all relevant international conventions, as well as to endeavours for an early

3.2. Judicial cooperation

- Adoption of appropriate legislation and measures for the development of arrangements under which judicial cooperation can be offered and obtained from other States;
- ratification and full implementation of the international instruments which are of particular importance for enhanced judicial cooperation, e.g.:
 - 1959 European Convention on Mutual Assistance in criminal Matters and 1978 Additional Protocol ratified by Ukraine 16 January 1998,
 - 1957 European Convention on Extradition, 1975 and 1978 Additional Protocols ratified by Ukraine 16 January 1998, entry into force 9 June 1998;
- establishment of a network of contact points for a rapid exchange of information on mutual legal assistance and judicial cooperation, the coordination of proceedings related to cross border offences, the facilitation of collection of evidence, the provision of specialised assistance. Central contact points will be identified by Ukraine. Links will be established by the Ukrainian judicial authorities with their counterparts in the MS;
- elaboration of a manual on judicial cooperation between EU MS and Ukraine and a statement of good practice in relation to such cooperation;

- ensure protection of persons, for example by witness protection schemes, who cooperate with the judicial process in order to encourage persons to break away from criminal organisations.

3.3. Law enforcement cooperation

- Exchange of technical, operational and strategic information between EU MS and Ukraine law enforcement agencies in accordance with their relevant provisions in the field of organised crime, taking into account the need to ensure that legislative and other measures are put in place so that appropriate confidentiality and data protection requirements are satisfied as to exchange of data;
- identification of national Ukrainian authorities at operational level (contact points) in order to exchange information with EU Member States' law enforcement authorities;
- arrangements to establish direct cooperation among law enforcement and prosecution authorities, including the establishment of joint investigative teams in relation to specific crimes;
- make necessary national arrangements for more systematic co-operation between police, customs, intelligence and security services, with a view to prevent and suppress criminal activities having ramifications on the territories of the other party;
- increased use of exchange of liaison officers;
- development of comparable methods of risk analysis to guide law enforcement and crime preventive actions;
- exchange of information about suspicious transactions reports may, in appropriate cases, take place between the FIUs of EU Member States and the corresponding competent Ukraine authority, taking into account the need to ensure that legislative and other measures are put in place so that appropriate confidentiality and data protection requirements are satisfied in relation to information provided to the Ukrainian authorities;
- increase training to promote knowledge and skills of Ukrainian law enforcement staff to EU standards;
- as provided for in the EU common strategy on Ukraine, cooperation between Europol and the competent Ukrainian agencies will be developed in accordance with the Europol Convention and the relevant Council decisions.

4. Strengthening the judiciary, rule of law and good governance

- Support for Ukraine efforts to establish on a constitutional basis an impartial, independent and competent judiciary, equipped with the necessary procedural guarantees to fulfil its role;
- training of Ukrainian judges with special focus on human rights, personal data protection, civil law, the organisation and administration of justice and international law;
- support for Ukraine's reform of its general and administrative courts and its penitentiary system, in accordance with the Constitution of Ukraine and new legislation of Ukraine on judicial organisation;
- establishment of national Ukraine databases of significant judicial decisions concerning criminal cases and legal proceedings;
- fight against and prevention of corruption by reduction of factors that stimulate or facilitate corruption in Ukraine;
- promotion of principles of good governance notably through:
 - amendment of the legislative framework to make it more efficient, updated and adequate, in line with European standards,
 - strengthening of institutions, improvement of inter-agency coordination and data sharing,
 - reforms of the public service with emphasis on comprehensive, updated and adequate approaches,
 - transparency and accountability of decisions and administration. Access to legislation and decisions of higher courts,
 - Coordinated fight, including punitive measures, against corruption related activities and enterprises,
 - promotion of partnership with civil society to ensure the effectiveness of measures taken against corruption,
 - Establishment of an ombudsman, or independent institution, against mismanagement and corruption of public administration.

IV. IMPLEMENTATION (INSTRUMENTS AND MEANS)

1. A scoreboard will be set up in consultation with Ukrainian authorities as a tool for implementation, monitoring, evaluation and definition of annual priorities;
 2. Monitoring and evaluation of the implementation of the Action Plan, as reflected in the scoreboard shall be entrusted to the relevant PCA Subcommittee. The Subcommittee will meet at least once a year, and if necessary on an ad hoc basis to discuss specific issues. Annual priorities will be agreed at aforementioned meetings;
 3. Not later than the end of 2005, the EU Council should review the operation of this Action Plan and may decide to carry out further reviews in relation to this matter;
 4. Representations of the European Commission and the EU Member States in Kyiv (JHA-attachés, liaison officers, consular staff) should meet regularly to discuss matters contained in this Action Plan. As the representatives of the Ukrainian Mission to the EU in Brussels have an important role in implementation of the Action Plan, joint meetings should take place from time to time. In addition to exchange relevant information, the JHA-attachés should have the opportunity to consider the implementation of the Action Plan and to put forward proposals for strengthening the process. Consideration should also be given to further deployment of Ukrainian liaison officers in EU Member States;
 5. Involve of parliament, the mass media and the public in general in order to increase awareness among political leaders (parliament, government) and citizens;
 6. Ensure that the standards established by international conventions are being observed with an emphasis on implementation;
 7. Appropriate participation of Ukraine in EU and Member States programmes;
 8. Use of the Tacis programme for supporting Ukrainian efforts.
-