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The inventory of Ukrainian Legislation and policy on the sectors covered by Action Plan on Justice, Freedom and Security

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I. Freedom

Migration, asylum, border management – Applicable Ukrainian legislation

- The Constitution of Ukraine (Art. 25, 26, 33, 85, 92 etc.)
- The Criminal Code of Ukraine
- The Criminal Procedural Code of Ukraine
- The Code of Ukraine on Administrative Offences
- The Law of Ukraine “On Succession of Ukraine” 12 September 1991, N 1543-XII
- The Law of Ukraine “On Citizenship of Ukraine” 18 January 2001, N 2235-III
- The Law of Ukraine “On State Border of Ukraine” 4 November 1991, N 1777-XII
- The Law of Ukraine “On Refugees” 21 June 2001, N 2557-III
- The Law of Ukraine “On the Procedure of Ukrainian Citizens’ Entry in Ukraine and Departure from Ukraine” 21 January 1994, N 3857-XII
- The Law of Ukraine “On Legal Status of Foreigners and Stateless Persons” 4 February 1994, N 3929-XII
- The Law of Ukraine “On Immigration” 7 June 2001, N 2491-III
- The Law of Ukraine “On Tourism” 15 September 1995, N 324/95-BP
- The Law of Ukraine “On Operative Investigation Activity” 18 February 1992, N 2135-XII
- The Law of Ukraine “On Exclusive (Maritime) Economic Zone of Ukraine” 16 May 1995, N 162/95-BP
- The Law of Ukraine “On Citizens’ Participation in the Protection of Public Order and State Border” 22 June 2000, N 1835-III
- The Law of Ukraine “On Intelligence Bodies of Ukraine” 22 March 2001, N 2331-III
- The Law of Ukraine “On the State Frontier Service of Ukraine” 3 April 2003, N 661-IV
- The Law of Ukraine “On Responsibility for Air Conveyance of Passengers across the State Border of Ukraine without Appropriate Documents for Entry in Ukraine” 10 January 2002, N 2920-III
- Decree of the President of Ukraine on Issues Pertaining to Arrangements for Enforcement of Law of Ukraine “On Immigration” 7 August 2001, N 596/2001
- Decree of the President of Ukraine on Issues of Enforcement of the Law of Ukraine “On Citizenship of Ukraine” 27 March 2001, N 215/2001
- Instruction on Detention of Persons by the State Frontier Service of Ukraine – 15 July 2004, N 886/9485
- Instruction on Procedures of Expulsion of Foreigners and Stateless Persons – 14 January 1998, N 13/2453
- Instructions on Procedures of Acceptance of Applications for Granting Refugee Status – 3 August 2004, N 968/9567
- Resolution on Regulations on the Refugee’s Certificate – 11 October 2002, N 1527
- Resolution on Regulations on the Refugee’s Travel Document for the Purpose of Travelling Abroad – 11 October 2002, N 1526
- Resolution on the Immigration Quota – 26 December 2002, N 1983
- International Conventions

Ukraine participates in the following international and regional initiatives in the field of asylum, migration and border management:

- The 1996 CIS Conference and its Follow up Process
- The Budapest Process
- The International Border Guard Conference (The Siófok Process)
- The Söderköping process

Websites:

<http://www.icmpd.org/>

<http://www.unhcr.org.ua/>

<http://soderkoping.org.ua/>

1. MIGRATION AND ASYLUM

- a) Migration

According to the Law of Ukraine “On immigration”, immigration is arrival in Ukraine or departure from Ukraine, according to the set by the Law procedure, of foreigners and stateless persons for permanent residence. Immigrant is a foreigner or a stateless person who obtained immigration permit and arrived in Ukraine for permanent residence, or, while staying in Ukraine on legal grounds obtained immigration permit and remained in Ukraine for permanent residence.

Immigration permit is issued within the immigration quota. Immigration quota is set by the Cabinet of Ministers of Ukraine as regards to the following categories of immigrants:

- scientists and cultural workers whose immigration corresponds to interests of Ukraine;
- highly-qualified specialists and employees that are highly required in Ukrainian economy;
- the persons who made foreign investment in Ukrainian economy for the amount not less than USD 100 thousand;
- the persons who are a brother or a sister, a grandfather or a grandmother, a grandson or a granddaughter of the citizens of Ukraine;
- the persons who were the citizens of Ukraine earlier;
- immigrant's parents, husband (wife) or his/her minor children;
- the persons who have been living in Ukraine for three years continuously starting from the day of granting to them the refugee status in Ukraine or shelter in Ukraine, as well as their parents, husbands (wives) and minor children who reside together with them.

Immigration permit over the immigration quota is granted to:

- one of the married couple provided that the other one to whom s/he is married for over than two years is the citizen of Ukraine, as well as to children and parents of the Ukrainian citizens;
- persons who are guardians or curators of the Ukrainian citizens, or those who are under guardianship or curatorship of the Ukrainian citizens;
- persons who have the right to obtain Ukrainian citizenship according to the territorial origin;
- persons whose immigration is of state interest for Ukraine.

Applications for granting immigration permit are submitted by:

- persons who permanently reside outside Ukraine – to the diplomatic representations and consular posts of Ukraine abroad at the place of their permanent residence;
- persons who stay in Ukraine on legal basis – to the bodies of the specially authorized central body of executive power on immigration issues at the place of their residence.

It is prohibited to grant immigration permit to:

- the persons condemned to deprivation of liberty for the term exceeding one year for commitment of offence that is considered as crime according to the laws of Ukraine provided that conviction has not been spent or lifted;
- the persons who committed crime against peace, military crime or crime against humaneness and humanity as per international law, or those searched for due to commitment of offence that is recognized as a grave crime according to the laws of Ukraine, as well as those as regards to whom criminal case is initiated provided that preliminary investigation of the case has not been finished;
- the persons ill with chronic alcoholism, toxicomania, drug-taking or infectious diseases the list of which is defined by the central body of executive power on healthcare;
- the persons who wrote deliberately unreliable information in the application for residence permit or submitted faked-up documents;
- the persons who cannot arrive in Ukraine legally, etc.

The diplomatic representation or the consular post of Ukraine shall register immigration visa upon application of the person who permanently resides outside Ukraine and obtained immigration permit. Such visa shall be valid for one year starting from the day of its registration. After the immigrant's arrival in Ukraine s/he shall apply within five working days to the specially authorized central body of executive power on immigration issues at the place of residence with the application for issue of the certificate for permanent residence. The application shall be supplemented with the copy of the applicant's passport document with inserted immigration visa and the copy of decision about granting immigration permit. The specially authorized central body of executive power on immigration issues shall issue the certificate for permanent residence to the immigrant within a week starting from the day of acceptance of the application.

Grounds for cancelling immigration permit:

- if it turns out that the immigration permit was issued on the basis of deliberately unreliable information or faked-up documents that have become invalid;
- the immigrant is condemned in Ukraine to deprivation of liberty for the term exceeding one year and the sentence of court has been enforced;
- immigrant's actions threat national security of Ukraine, and public order in Ukraine;
- it is necessary for the protection of health, rights and legal interests of the Ukrainian citizens;
- immigrant has violated the legislation on legal status of foreigners and stateless persons;
- in other cases envisaged by the laws of Ukraine.

The person may apply repeatedly for granting immigration permit not earlier than a year after adoption of decision about the refusal to grant immigration permit or its cancellation.

Latest Statistics:

The State Frontier Service of Ukraine has reported 44 % increase in 2006 of irregular migrants in Ukraine, in comparison with 2005. Almost 25 800 irregular migrants have been apprehended in the course of 2006, approximately half of whom (18,200 persons) were apprehended at border check points, while 4 800 persons while attempting to enter through green channel control.

The rest have been apprehended directly at the border cross points or in the border regions for violation the rules of stay in Ukraine

The largest numbers of irregular migrants are citizens from former Soviet republics, of which:

9,745 from Moldova (in 2005 - 3,427)
2,604 from Uzbekistan (in 2005 - 1,958)
2,346 from Armenian (in 2005 – 2,179)
2,130 from Azerbaijan (in 2005 – 2,057)
1,255 from Tajikistan (in 2005 - 608)
1,235 from Georgia (in 2005 - 1,123)
1,118 from Russian (in 2005 – 1,452).
475 from Kyrgyzstan (284)
365 from Kazakhstan (273)

Another considerable group of irregular migrants in 2006 originated from South-East Asia, of which:

741 from India (685)
726 from China (1,191)
712 from Turkey (552)
522 from Pakistan (399)
262 from Bangladesh (225)
195 from Vietnam (448)
186 from Palestine (118)

1. MIGRATION AND ASYLUM

- b) Asylum

Ukraine adopted the first Refugee Law in 1993 and started to implement it in 1996. In June 2001, Ukraine adopted a new Refugee Law that included lots of improvements over its predecessor. At the same time it also brought a number of new restrictions, especially strict application deadlines that are not yet in line with international norms and practice. Related structural reforms also led to a suspension of all asylum procedures until the autumn of 2002.

The Law of Ukraine “On refugees” determines the legal status of refugees in Ukraine, the procedure for granting, loss, and deprivation of refugee status and sets forth the state guarantees of protection of refugees.

In January 2002, Ukraine acceded to the 1951 Convention and its 1967 Protocol without any reservations. Thus Ukraine became 143rd state party to the Refugee Convention.

In November 2001 the Draft Law of Ukraine “On the Procedure of Granting Asylum to Foreigners and Stateless Persons in Ukraine” has been proposed for examination in Verkhovna Rada of Ukraine but still hasn’t been adopted.

The Law of Ukraine “On Refugees” determines legal status of a refugee in Ukraine, the procedure for granting, loss, and depriving of the refugee status and sets forth the state guarantees of protection of refugees.

No refugee may be expelled or forcibly returned to the countries where his life or freedom is threatened on account of his race, denomination (religion), ethnic, citizenship (nationality) reasons, and membership of a particular social group or political convictions. No refugee may be expelled or forcibly returned to the countries where s/he may suffer tortures and other severe, inhuman or degrading treatment or punishment, or to such country from where the refugee may be expelled or forcibly returned to the countries where his life or freedom is threatened on account of his race, religion, ethnic, citizenship (nationality) reasons, membership of a particular social group or political convictions.

Ukraine promotes the unity of the refugee families. Family members of a person who was granted the refugee status in Ukraine shall have the right to arrive in Ukraine with the purpose of family reunion and to acquire the refugee status. Refugees shall have the right to free departure from Ukraine for the purpose of reuniting with their families.

The Cabinet of Ministers of Ukraine shall:

- determine the amount of funds allocated for activities on implementation of the Law of Ukraine “On Refugees” in the State Budget of Ukraine;
- approve provisions concerning the refugee certificate, refugee's travel documents for departure abroad and other required documents;
- determine the procedure for issuance of entry visas to family members of the persons who were granted the refugee status in Ukraine, etc.

The competence of the specially authorized central body of executive power for migration shall include the following:

- making decisions on granting, loss and depriving of the refugee status;
- coordination of interaction of other executive bodies in refugee-related issues;
- issuance of certificates confirming the fact of acceptance of appeal for consideration and the fact of appeal to the court;
- establishment and maintenance of temporary accommodation centres for refugees;
- control over implementation of the Law of Ukraine “On Refugees”, etc.

Persons who have the intention of acquiring refugee status and who crossed the Ukrainian border in compliance with the procedures set forth by the legislation of Ukraine shall apply for refugee status to the appropriate migration service body within five working days after their arrival.

Refugee status shall not be granted to a person:

- who committed a crime against peace, war crime or crime against the humankind and humanity as defined in the international legal instruments;
- who was found guilty in committing deeds that conflict with the goals and principles of the United Nations;
- who was granted refugee status or asylum in other country prior to arrival in Ukraine;
- etc.

Processing of documents for resolving the issue of granting refugee status shall be performed based on personal application of a foreigner or a stateless person or lawful representative thereof, submitted to the migration service body in the Autonomous Republic of Crimea, oblasts, the cities of Kyiv and Sevastopol at the place of temporary residence of the applicant. The migration service body to which a foreigner or a stateless person applied for refugee status, shall issue a certificate confirming the fact of application for refugee status, within three working days after the date of its registration, shall conduct personal interview with the applicant, assess information indicated in the questionnaire and other documents and make a decision on processing

the documents for resolving the issue on granting refugee status. The application for refugee status shall be reviewed by the migration service bodies in the Autonomous Republic of Crimea, in oblasts and the cities of Kyiv and Sevastopol within two months after the date of decision on processing the documents for resolving the issue on granting refugee status. If necessary, the review term may be extended by the head of migration service body, upon substantiated request of the officer reviewing the application, although not more than to three months. Decisions on granting refugee status shall be made by the specially authorized central body of executive power for migration within one month after the receipt of the personal file of the applicant and the written conclusion of migration service body that reviewed the application. If required, the term of decision-making may be extended by the head of the specially authorized central body of executive power for migration although not more than to three months.

Refugee status is lost if the person:

- voluntarily used protection of the country of which s/he is a citizen (national);
- acquired Ukrainian citizenship or voluntarily acquired previous citizenship, or acquired citizenship of a third country and enjoys its protection;
- voluntarily repatriated to the country, which s/he left or outside the territory of which s/he stayed due to well-founded fear of becoming a victim of persecution;
- was granted an asylum or permit for permanent residence in other country, etc.

Persons who were granted refugee status in Ukraine are legal aliens or stateless persons who stay in Ukraine on legal grounds. Such persons enjoy the same rights and the same freedoms, as well as bear the same duties as the citizens of Ukraine - save the exceptions set forth by the Constitution and the Laws of Ukraine and international treaties approved as binding by the Verkhovna Rada of Ukraine.

The person who was granted refugee status shall have, equally to the Ukrainian citizens, the following rights to:

- labour;
- entrepreneurial activities that are not prohibited by legislation;
- health care, medical treatment and medical insurance;
- rest;
- education;
- freedom of views and denomination;
- legal assistance, etc.

The person who was granted refugee status in Ukraine shall be obliged to:

- notify the local migration service body at the place of residence within ten working days of any change of surname, family composition, marital status, place of residence, facts of acquiring citizenship of Ukraine or other country, asylum or permanent residence in other country;
- get re-registered annually, pursuant to the terms set forth by the local migration service body at the place of residence, etc.

Ukraine shall cooperate with other countries, the Office of the United Nations High Commissioner for Refugees and other international organizations with the purpose of elimination of the reasons for refugees' problems, improvement of their financial conditions and legal status and return of refugees to the country of their nationality (citizenship) or previous permanent residence. International cooperation in the field of finding solutions to refugees' problems shall be performed pursuant to the international treaties of Ukraine approved as binding by the Verkhovna Rada of Ukraine.

2. BORDER MANAGEMENT AND VISA

- a) Border management

The Law of Ukraine “On the State Frontier Service of Ukraine” according to the Constitution of Ukraine determines legal grounds for organization and activity of the State Frontier Service of Ukraine, its general structure, quantity, functions and authorities.

Basic functions of the State Frontier Service of Ukraine are:

- defence of the state border of Ukraine on dry land, sea, rivers, lakes and other reservoirs with the purpose of non-admission of illegal change of its line, ensuring of observation of the regime of state border and border regime;
- participation in the fight against the organized crime and counteraction to illegal migration on the state border of Ukraine and within the controlled border districts;
- protection of foreign diplomatic institutions of Ukraine, etc.

Basic principles of activity of the State Frontier Service of Ukraine are:

- legality;
- respect to and observation of rights and freedoms of a man and a citizen;
- non-affiliation;
- continuity;
- one-man management, collectiveness while making important decisions;
- openness for democratic civic control.

The specially authorized central body of executive power on defence of state border implements the state policy in the field of defence of the state border of Ukraine, directs the State Frontier Service of Ukraine, participates in elaboration and implementation of general principles of legal registration and provision of inviolability of the state border and protection of Ukraine's sovereign rights in its exclusive economic zone.

The State Frontier Service of Ukraine and activity of the specially authorized central body of executive power on defence of state border is managed by the Head of the State Frontier Service of Ukraine. The Head of the State Frontier Service of Ukraine bears personal responsibility for fulfilment of tasks put on the State Frontier Service of Ukraine. The President of Ukraine designates for the post the Head of the State Frontier Service of Ukraine upon submission of the Prime Ministers of Ukraine and dismisses him thereof. The Head of the State Frontier Service of Ukraine has deputies that are designated by the President of Ukraine upon submission of the State Frontier Service of Ukraine.

The personnel of the State Frontier Service of Ukraine consist of military men and employees of the State Frontier Service of Ukraine. The military men are enlisted to the State Frontier Service of Ukraine and do military service thereof on the basis of the Law of Ukraine “On General Military Duty and Military Service”. The authorized officials of the State Frontier Service of Ukraine shall preliminary study the conscripts and pick them out in the military commissariats.

According to the tasks determined by Law the State Frontier Service of Ukraine shall:

- stop any attempts of illegal change of the line of the state border of Ukraine;
- terminate armed conflicts and other provocations on the state border of Ukraine in cooperation with the respective law enforcement bodies;

- participate in conducting territorial defence measures, as well as measures directed at observation of legal regime of martial law and emergency state, etc.

In the event of injury or disease obtained by a military man of the State Frontier Service of Ukraine during fulfilment of official duties or in case of establishment of disability as a result of the above injuries, as well as disability that occurred in the period of doing military service or not later than three months after discharge from the service or after the termination of this period, but as a result of disease or accident that happened during the service, he shall obtain compensation in the amount up to ten-year monetary provision according to the last post that he held, and in case of his death compensation shall be granted to the members of family in amount of twenty monetary provisions according to the procedure and under conditions determined by the Cabinet of Ministers of Ukraine. The family of the dead shall preserve the right to obtain accommodation.

Activity of the State Frontier Service of Ukraine is financed from the State Budget of Ukraine and other sources envisaged by the legislation. Activity of bodies of the State Frontier Service of Ukraine is ensured by the specially authorized central body of executive power on defence of the state border through the state defence order and government procurement of goods, works and services.

The Head of the State Frontier Service of Ukraine shall inform systematically the Verkhovna Rada of Ukraine about the fulfilment by the State Frontier Service of Ukraine of its tasks, observation of the legislation, ensuring of human rights and freedoms and other issues. The Head of the State Frontier Service of Ukraine shall inform systematically the President of Ukraine, the Council of National Security and Defence of Ukraine about the basic issues related to activity of the State Frontier Service of Ukraine and shall annually present to the President of Ukraine report about the activity of the State Frontier Service of Ukraine. Control over economic and financial activity of the State Frontier Service of Ukraine is performed according to the procedure determined by the laws of Ukraine. Supervision over observation of legality in the activity of the State Frontier Service of Ukraine is performed according to the procedure determined by the Constitution and the laws of Ukraine.

Military men and employees of the State Frontier Service of Ukraine make decisions within their authorities independently being guided by the Constitution and the Laws of Ukraine, other normative legal acts and orders of immediate commanders. The order that is obviously criminal shall not be executed. The officials who gave such order shall bear responsibility and compensate damage caused as a result of its fulfilment according to law. For illegal actions or inactivity the military men and the personnel of the State Frontier Service of Ukraine shall bear responsibility according to law. Disobedience or repulse to legal demands of military men and employees of the State Frontier Service of Ukraine, illegal interference in their legal activity results in the responsibility envisaged by law.

2. BORDER MANAGEMENT AND VISA

- b) Visa

On 27 October 2006, the visa facilitation and readmission agreements were initiated at the Ukraine-EU summit in Helsinki. The visa facilitation agreement could be considered the biggest achievement in Ukraine-EU relations of 2006. Ukraine became the second country after Russia that has completed visa facilitation negotiations (Moldova is now at the initial stage of the negotiating process, no talks are underway with any other neighbouring countries so far). Nevertheless, the visa facilitation and readmission agreements will enter into force at the beginning of 2008 at the earliest,

as they still have to be officially signed and ratified. After that, some technical aspects pertaining to implementation of these agreements are to be concurred.

At the initiating the readmission agreement the Ukrainian side managed to get accord on the 2 year-long transition period. Although this term is shorter than the one Ukraine has been seeking, it is longer than the period initially proposed by the European Union. Prior to that, the Ukrainian side indicated that it was discriminatory on the part of EU to demand a 1 year-long transition period in conditions when the 3 year-long period was granted to the Russian Federation. Eventually, the parties reached a compromise that would give the Ukrainian side some additional time to technically develop the relevant infrastructure and conclude negotiations on the readmission agreement with Russia, so that it could enter into force simultaneously with the one concluded with EU thus preventing Ukraine from turning into an accumulator of illegal migrants from third countries.

3. DOCUMENT SECURITY

The Ministry of Justice has elaborated the draft Law of Ukraine “On Change of Name of a Natural person” which has been adopted in the first reading on 6 September 2005. However, it has been dismissed by the Resolution of Verkhovna Rada of Ukraine of 2 November 2006, N 305-V.

The Criminal Code of Ukraine

Article 358. Forgery of documents, seals, stamps and forms, sale of them, use of false documents

1. Forgery of certificate or another document with the purpose of use of it by forger or by another person, sale of such document, production of false seals, stamps or forms of enterprises, institutions and organizations of all ownership forms and also official seals, stamps or forms with the same purpose and sale of them –

punished by fine up to 70 non-taxable limits of incomes of citizens* or by arrest on the term up to 6 months, or by limitation of liberty on the term up to 3 years.

2. The actions foreseen by part 1 of this article committed repeatedly or with previous concert by group of persons –

limitation of liberty on the term up to 5 years or deprivation of liberty on the same term.

3. Use of deliberately false document –

punished by fine up to 50 non-taxable limits of incomes of citizens or by arrest on the term up to 6 months, or by limitation of liberty on the term up to 2 years.

* Non-taxable limit of incomes of citizens is 17 UAH

II. SECURITY

1. THE FIGHT AGAINST ORGANISED CRIME AND TERRORISM

The Criminal Code of Ukraine

Article 255. Creation of the criminal organization

1. Creation of the criminal organization with the purpose of committing the grievous crime or the extra-grievous crime, guidance of such organization, participation in it or in crimes committed by it, assistance in meeting of representatives of criminal organizations or organized groups for working out the plans and conditions of common commitment of crimes, material security of criminal activities or coordination of actions of associations of criminal organizations or organized groups –

deprivation of liberty on the term from 5 to 12 years.

2. The person except organizer or leader of the criminal organization can be exempted from criminal liability for committing crime foreseen by part 1 of this article if he/she voluntarily reports about creation of the criminal organization or participation in it and actively assists to its disclosure.

Article 256. Assistance to the participants of the criminal organizations and concealment of their criminal activities

1. Preliminarily not promised assistance to the participants of the criminal organizations and concealment of their criminal activities by giving premises, depositories, transport, information, documents, technical equipment, money, securities and by other actions –

deprivation of liberty on the term from 3 to 5 years.

2. The same actions committed by official or repeatedly –

deprivation of liberty on the term from 5 to 10 years with the deprivation of right to take up certain posts or to be occupied with some activities on the term up to 3 years.

Article 257. Banditry

Organization of the armed gang with the purpose of attack on enterprises, institutions, organizations or individuals and also participation in such gang or in attack committed by it –

deprivation of liberty on the term from 5 to 15 years with the confiscation of property.

According to Article 1 of the Law of Ukraine “On Organizational Legal Principles of Fight against the Organized Crime” of 30 June 1993, N 3341-XII (with last amendments made on 9 February 2006) the organized crime is a totality of crimes committed due to creation and activity of organized criminal groups.

The system of state bodies which fight against the organized crime is formed by:

- the state bodies specially created for fight against the organized crime (special subdivisions on fight against the organized crime of the Ministry of Internal Affairs and the Security Service of Ukraine);
- the state bodies which take part in fight against the organized crime within the limits of the imposed on them other main functions (bodies of internal affairs of Ukraine and Security Service of Ukraine, except the above mentioned; bodies of the Office of General Prosecutor of Ukraine; customs bodies and bodies of the State Frontier Service of Ukraine; bodies of State Tax Service and State Control Auditing Service; penitentiary bodies and establishments; intelligence body of the Ministry of Defence of Ukraine).

According to Article 6 basic directions of fight against the organized crime are:

- creation of legal basis, organizational, material technical and other conditions for effective fight against the organized crime, organization of international cooperation in this field;
- reveal and elimination or neutralization of negative social processes and phenomena which cause the organized crime and facilitate it;
- prevention of formation of the organized criminal groups;
- prevention of establishment of corrupted relations with officials and public servants, of their involvement in criminal activity etc.

Chapter III of this Law determines authorities of special subdivisions on fight against the organized crime of bodies of internal affairs, Security Service of Ukraine and their staff.

On the basis of Article 13 of the Law during fight against the organized crime special subdivisions on fight against the organized crime in bodies of internal affairs and Security Service of Ukraine shall have the right to use staff and secret agents who are not in the permanent staff. Such agents are introduced in the organized criminal groups under the cover of legend.

For conducting measures on fight against the organized crime special subdivisions in bodies of internal affairs and Security Service of Ukraine have the right to cooperate with participants of the organized criminal groups. A participant of the organized criminal group may be partially or fully freed from criminal responsibility and punishment, if in the course of operational investigation activity, preliminary investigation or court consideration of the cases he promotes reveal of the organized criminal groups and committed by them crimes, bringing the guilty to responsibility, compensation of damage to natural persons, legal entities and state.

Article 15 permits to special subdivisions of bodies of internal affairs and Security Service of Ukraine to use special technical means by prior obtaining the general prosecutor's sanction in cases of:

- control, recording and writing down of conversations and other actions of persons, if there are reasons to consider them participants of the organized criminal activity;
- recording and writing down the fact of telephone conversation between the citizens, sending letter or telegraph message without breaking secret of the telephone conversation, letter or telegraph message;
- ensuring personal, accommodation and property security to the employees of special subdivisions of bodies of internal affairs and Security Service of Ukraine, participants of criminal legal proceedings, their immediate relatives with their consent, in case of danger of causing them harm due to their participation in fight against the organized crime.

Chapter V is devoted to cooperation of special subdivisions on fight against the organized crime and other bodies of state power.

Fight against the organized crime, as well as its material technical provision shall be financed from the State Budget of Ukraine.

Guarantees of rights and legal interests to citizens and legal entities during taking measures on fight against the organized crime are set by Article 22 of this Law.

Control over adherence to laws in the sphere of fight against the organized crime, as well as over spending funds allocated for these purposes shall be carried out directly by the Verkhovna Rada of Ukraine, as well as by the committee of the Verkhovna Rada of Ukraine on fight against the organized crime and corruption.

There is also the **Decree of the President of Ukraine “On system of measures concerning removal of causes and conditions that facilitate criminal manifestations and corruption”** of 9 February 2004, N 175/2004 that defines the protection of human rights and freedoms from criminal assaults especially in the sphere of property, business undertakings, financial, social-labour relations as a foreground direction of activities of the state bodies, above all law enforcement. It approves the measures on removal of causes and conditions facilitating crime and corruption that are foreseen in propositions made by All-Ukrainian Conference. Control under the implementation of this Decree is realized by the Council of National Security and Defence of Ukraine.

TERRORISM

Criminal Code of Ukraine of 2001 (Article 258 “Act of terrorism”)

The Code determines the *Act of terrorism* as use of weapon, set off an explosion, committing of arson or other actions that create danger for life or health of human being or substantial property damage or other grievous consequences with the purpose of breach of public safety, intimidation of the population, provocation of military conflict, international complication or with the purpose of influence on decision-making, on commitment/non-commitment of actions by the bodies of state power or self-government, by officials, public associations, legal entities, or attracting attention of community to some political, religious or other views of guilty (terrorist) and also threat to commit actions mentioned with the same purpose. It shall be punished by imprisonment for the term of from 5 to 10 years; if committed repeatedly or in preliminary agreement of group of persons – imprisonment for the term of from 7 to 12 years; and if it led to death of a human being – imprisonment for a term of from 10 to 15 years or life imprisonment.

The Code also foresees criminal responsibility for involving in committing of the act of terrorism, public appeals to commit the act of terrorism, creation of terrorist group or terrorist organization, assistance in committing the act of terrorism

“Anti-terrorism Action Programme”, approved by Presidential Decree of 3 February 2003 №66/2003

Law of Ukraine “On Fight against Terrorism” of 20 March 2003 № 638-IV (determines the meaning of “terrorism”, “terrorist act”, “terrorist activities”, “terrorist organization” (Article 1), as well as subjects responsible for counteraction to terrorism (Article 4)

Resolution of the Cabinet of Ministers of Ukraine “On the Procedure of Determination of Countries (territories) that do not Participate in International Co-operation on Prevention of and Counteraction to Money Laundering and Financing of Terrorism” of 26 April 2003 №645

Instruction of the Cabinet of Ministers of Ukraine “On the List of Countries (territories) that do not Participate in International Co-operation on Prevention of and Counteraction to Money Laundering and Financing of Terrorism” of 17 July 2003 № 419

Presidential Decree of 22 July 2003 № 740 "On Measures concerning Development of the System of Counteraction to Money Laundering and Financing of Terrorism” that envisages more active participation of Ukraine in international cooperation in fight against terrorism and money laundering

Action Plan On Implementation of the Law of Ukraine “On Fight against Terrorism”, approved by Instruction of the Cabinet of Ministers of Ukraine of 6 August 2003 №494.

Resolution of the Cabinet of Ministers of Ukraine “On Unified State Information System on Prevention of and Counteraction to Money Laundering and Financing of Terrorism” of 10 December 2003 poky № 1896. In December 2004 it was put into experimental operation. On 1 January 2007 it was put into full operation

Law of Ukraine “On Amending Some Legislative Acts of Ukraine (on Preventing Terrorism Propaganda”) of 18 December 2003 № 1268-IV

Resolution of the Cabinet of Ministers of Ukraine ‘On Approving the Procedure of State Control Over International Transfer of Goods of Double Use” of 28 January 2004 №86

Presidential Decree “On Approving the Agreement on Establishment of GUAM Virtual Center on Fight Against Criminality, Distribution of Drugs and against other Dangerous Types of Crimes and on establishment of GUUAM, signed on 4 July 2003” of 1 April 2004 N 386/2004

Resolution of the Cabinet of Ministers of Ukraine “On Approving the Procedure of Social Rehabilitation of Persons who Suffered from Terrorist Act” of 28 July 2004 N982 (adopted to implement Article 20 of the Law of Ukraine “On Fight against Terrorism)

Instruction of the Cabinet of Ministers of Ukraine “On Approving the Concept of Development of the System of Prevention of and Counteraction to Money Laundering and Financing of Terrorism for the Period of 2005-2010” of 3 August 2005 N315 (the Concept aims at approval of Cooperation programme in the sphere of counteraction to money laundering and financing of terrorism between executive power bodies of Ukraine and corresponding foreign competent bodies and at ensuring its implementation

Regulation on Inter-ministerial Group of Ukraine in GUAM Virtual Center on Fight Against Terrorism, Organized Criminality, Distribution of Drugs and against other Dangerous Types of Crimes, approved by Presidential Decree of 18 May 2006 N 413/2006 (Analysis and exchange of information on inter alia counteraction to terrorism is provided within the framework of functioning of Ukrainian segment of GUAM Virtual Center and GUAM Interstate Information-Analytical System)

Resolution of the Cabinet of Ministers of Ukraine ‘On Approving the 2007 Action Plan on Counteraction to Money Laundering and Financing of Terrorism’ of 31 January 2007 №136

Draft Resolution of the Cabinet of Ministers of Ukraine “On Approving the Procedure of Forming the List of Terrorist Organizations and Persons Related to Terrorist Activities” (elaborated by State Security service of Ukraine and State Committee on Financial Monitoring) – is being considered by the Ministry of Justice.

International legislative framework

Law of Ukraine “On Ratification of the Decision on Establishment of Anti-terrorism Center of CIS Participating Countries” of 10 April 2001

International Convention for the Suppression of Terrorist Bombings, 1997 – ratified by Ukraine on 29 November 2001

European Convention on the Suppression of Terrorism, 1977 - entered into force for Ukraine on 14 June 2002

International Convention for the Suppression of the Financing of Terrorism, 1999 – ratified by Ukraine on 12 September 2002

Protocol On Approving the Regulation on the Order of Organization and Implementation of Joint Anti-terrorist Measures on the Territories of CIS Countries” - ratified by Ukraine on 7 April 2004 roky

Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, 2005 – signed by Ukraine of 29 November 2005

Council of Europe Convention on the Prevention of Terrorism, 2005 – entered into force for Ukraine on 12 October 2006

Protocol amending the European Convention on the Suppression of Terrorism, 2003 – entered into force for Ukraine on 23 October 2006

Council of Europe Convention on the Prevention of Terrorism, 2005 – entered into force for Ukraine on 12 October 2006

Protocol amending the European Convention on the Suppression of Terrorism, 2003 – entered into force for Ukraine on 23 October 2006

International Convention for the Suppression of Acts of Nuclear Terrorism, 2005 – ratified by Ukraine on 15 March 2006

Bodies responsible for counteraction to and fight with terrorism (according to Article 4 of the Law of Ukraine “On Fight against Terrorism”)

- Security Service of Ukraine (main body responsible for fight against terrorism)
 - Ministry of Internal Affairs of Ukraine
(Operative information on fight against terrorism is recorded in data base “Scorpion” of the Main Division on Fight Against Organized Crime of the Ministry of Internal Affairs of Ukraine)
- Ministry of Defense of Ukraine
- Ministry of Ukraine on Extraordinary Situations and On Protection of the Population from Consequences of Chernobyl Catastrophe
- State Border Guard Service of Ukraine
- State Department on Enforcement of Punishments
- Division on State Security of Ukraine

The following bodies can also be involved in taking of measures on prevention, reveal and stoppage of terrorist activities:

- External Intelligence Service of Ukraine
- Ministry of Foreign Affairs of Ukraine
- Ministry of Health Care of Ukraine
- Ministry of Energy of Ukraine
- Ministry of Industrial Policy of Ukraine
- Ministry of Transport of Ukraine
- Ministry of Finances of Ukraine
- Ministry of Ecology and Natural Resources of Ukraine
- Ministry of Agricultural Policy of Ukraine
- State Customs Service of Ukraine
- State Tax Administration of Ukraine

Coordination of activities of bodies involved in fight against terrorism is coordinated by the Antiterrorist Center at the Security Service of Ukraine.

Projects:

EC funded – CoE implemented Follow-up Project against Money Laundering and Terrorist Financing in Ukraine (MOLI-UA 2)

Project partner State Committee for Financial Monitoring of Ukraine (SCFM) Budget EURO 5 300 000 €

Duration - 36 months (1 May 2006 – 30 April 2009)

Objectives and expected results

Overall objective: To contribute to the prevention and control of money laundering and terrorist financing in Ukraine in accordance with the European and other international standards and best practices

Project objective 1 To make Ukraine’s legislation compliant with the 3rd EU Directive on the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing, and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism

Output 1 Draft amendments to the relevant legislation prepared in line with the 3rd EU Directive and the Council of Europe Convention (ETS 198).

Project objective 2 To enhance the human capacities of key institutions of the anti-money laundering system of Ukraine (State Committee for Financial Monitoring, law enforcement agencies and judiciary and financial sector regulators/supervisors)

Output 2 The SCFM training strategy elaborated and implemented

Output 3 The SCFM National AML/CTF Training Centre created and operational.

Output 4 The law enforcement agencies and judges have their training plans in investigating money laundering and terrorist financing cases and are able to implement them.

Output 5 Regulators and supervisors of the financial services sector implement basic and further training plans and curricula in international standards and best practices in countering money laundering and terrorist financing.

Project objective 3 To develop the organisational and technical infrastructure of the anti-money laundering and counter terrorist financing system.

Output 6 The International and National AML/CTF Training Centre established and equipped.

Output 7 22 regional offices of the SCFM established and equipped.

Output 8 The Single Information System extended to include the Ministry of Internal Affairs, pension funds and the Ministry of Transport.

www.rada.gov.ua

<http://ssu.kmu.gov.ua/sbu/control>

2. MONEY LAUNDERING, INCLUDING FINANCING OF TERRORISM

The Criminal Code of Ukraine

Article 209. Legalization (laundering) of the proceeds from crime

1. Commitment of financial transaction or conclusion contract with the funds or other property got as a result of commitment of socially dangerous unlawful act that forewent to legalization (laundering) of proceeds, and also commitment of actions directed on concealment or masking illegal origin of such funds or other property or possession of them, the rights on such funds or property, sources of their origin, location, transference and also acquisition, possession or use of the funds or other property got as a result of commitment of socially dangerous unlawful act that forewent to legalization (laundering) of proceeds, –

punished by deprivation of liberty on the term from three to six years with the deprivation of right to take up certain posts or to be occupied with some activities on the term up to two years with the confiscation of the funds or other property got from crime and with the confiscation of property.

2. Actions foreseen by part number one of this article committed repeatedly or with previous concert by group of persons, or in large size, –

punished by deprivation of liberty on the term from seven to twelve years with the deprivation of right to take up certain posts or to be occupied with some activities on the term up to three years with the confiscation of the funds or other property got from crime and with the confiscation of property.

3. Actions foreseen by parts number one and two of this article committed by organized group or in especially large size, –

punished by deprivation of liberty on the term from eight to fifteen years with the deprivation of right to take up certain posts or to be occupied with some activities on the term up to three years with the confiscation of the funds or other property got from crime and with the confiscation of property.

Note. 1. According to this article socially dangerous unlawful act that forewent to legalization (laundering) of proceeds is an act for which the Criminal Code of Ukraine foresees the punishment in the form of deprivation of liberty on the term from three and more years (except actions foreseen by articles 207 and 212 of the Criminal Code of Ukraine) or which is recognized as a crime under the criminal law of another state and for which the Criminal Code of Ukraine also foresees the liability and as a result of committing it the proceeds from crime have been got.

2. Legalization (laundering) of the proceeds from crime is considered to be committed in large size if the object of crime is funds or other property to the sum of more than six thousand of non-taxable limits of incomes of citizens.

3. Legalization (laundering) of the proceeds from crime is considered to be committed in especially large size if the object of crime is funds or other property to the sum of more than eighteen thousand of non-taxable limits of incomes of citizens.

Article 209-1. Intentional violation of requirements of legislation on prevention and counteraction of the legalization (laundering) of the proceeds from crime

1. Repeated intentional non-presentation of information about financial operations or repeated intentional presentation of wittingly inauthentic information about financial operations that are subject to internal or obligatory financial monitoring to specially authorized body of executive power on financial monitoring issues, –

punished by fine from two to three thousand of non-taxable limits of incomes of citizens or by limitation of liberty on the term up to two years, or by deprivation of liberty on the same term with the deprivation of right to take up certain posts or to be occupied with some activities on the term up to three years.

2. Illegal disclosure of information that is to be presented to the specially authorized body of executive power on financial monitoring issues by person that got this information in connection with professional or official activity, –

punished by fine from two to three thousand of non-taxable limits of incomes of citizens or by limitation of liberty on the term up to three years, or by deprivation of liberty on the same term with the deprivation of right to take up certain posts or to be occupied with some activities on the term up to three years.

The Law of Ukraine “On Prevention and Counteraction of the Legalization (Laundering) of the Proceeds from Crime” (28 November 2002, N 249-IV) regulates relations in the sphere of prevention and counteraction of the legalization of the proceeds from crime, as well as sets legal grounds for combating financial terrorism.

This Law applies to the relations that deal with obtaining material benefits and are characterized by concealing and disguising illegal origin of money or other material values or rights for them. According to the Law, the necessary condition for recognizing incomes as illegal is the realization of their illegal origin by the individual obtaining them. For this purpose the Law applies to citizens of Ukraine, foreigners and stateless persons, as well as legal entities, their branches, representative offices and other detached departments that perform financial transactions on the territory of Ukraine.

The financial monitoring system has two levels - primary and state. Subjects of primary financial monitoring are (Art. 4):

- banks, insurance and financial institutions;
- payment organizations, members of payment systems, acquiring and clearing institutions;
- commodity, stock and other exchanges;
- professional participants on the market of securities;
- institutes of joint investment;
- gambling facilities, pawn-shops, and legal entities drawing any lotteries;
- enterprises, organizations managing investment funds or non-governmental pension funds;
- communication enterprises and associations, and other non-credit organizations performing money transfers;
- other legal entities, which perform financial transactions according to the legislation.

There is no specific comment to this article that could explain it, however, under the general provisions of the Civil Code of Ukraine, the Commercial Code of Ukraine, the laws on taxation these are legal entities, established pursuant to the Civil Code of Ukraine, state, communal and other enterprises, set up in accordance with the Commercial Code of Ukraine, as well as other legal entities that carry out commercial activity and are registered according to the established by law procedure.

According to the Law, subjects of state financial monitoring are (Art. 4):

- central bodies of executive power and the National Bank of Ukraine, which, according to the law, regulate and supervise activities of legal entities that perform financial transactions;
- a specially authorized body of executive power in the sphere of financial monitoring - a government body of the state administration, which functions within the Ministry of Finance of Ukraine (hereinafter referred to as the Authorized Body).

Subjects of primary financial monitoring shall (Art. 5):

- identify individuals performing financial transaction that is subject to financial monitoring;
- reveal and register financial transactions that are subject to financial monitoring according to the present Law;
- provide the Authorized Body with the information about financial transaction that is subject to obligatory financial monitoring within three working days after the moment of its registration;
- assist subjects of state financial monitoring in issues related to performing analysis of financial transactions that are subject to financial monitoring;
- save documents related to identification of individuals who have performed financial transaction that is subject to financial monitoring according to the present Law;
- fulfil other functions envisaged by the present Law.

The subject of primary financial monitoring shall identify individuals performing financial transactions which are subject to financial monitoring according to the present Law on the basis of submitted originals or appropriately verified copies of financial documents. Identification of resident natural persons and legal entities is performed with the help of such data (Art. 6):

- for natural persons: data about their last name, name and patronymic, date of birth, series and number of passport (or other identification document), date of issuance and the body issuing it,

place of residence, identification number according to the State Register of Natural Persons - payers of taxes and other mandatory payments;

- for legal entities: data on their name, legal address, state registration, identification code according to the Unified Register of Enterprises and Organizations of Ukraine, requisites of the bank where its current account has been opened and the number of bank account.

The subject of primary monitoring establishes the following data for identification of legal entities and natural persons:

- for natural persons: last name, name, patronymic, series and number of passport (or other identification document), date of issuance and the body issuing it, citizenship, place of residence or place of temporary stay;

- for legal entities: full name, location and requisites of the bank, where its account has been opened and the number of bank account.

Financial transaction is subject to obligatory financial monitoring, if the amount of the transaction equals or exceeds UAH 80,000, or equals or exceeds the amount in foreign currency which is equivalent to UAH 80,000 and has one or more of the below attributes:

- transfer of money to an anonymous account abroad and reception of money from an anonymous account abroad;

- purchase of checks, travelling checks or other similar payment tools for cash;
performance of financial transactions with securities in cases, when at least one of the parties is a natural person or a legal entity that comes from a country, which does not take part in the cooperation in the sphere of prevention and counteraction of the legalization (laundering) of the proceeds from crime.

3. EUROPOL & EUROJUST

EUROPOL

In October 2004 the President of Europol got the mandate to conduct negotiations with Ukraine and sign with Ukraine Strategic Cooperation Agreement.

April 2005 - the first visit of delegation of Ukraine to Europol office (Hague) to participate in introductory seminar for non-EU countries. During the visit non-formal negotiations on signing of Strategic cooperation agreement, which does not foresee exchange of personal data, began.

Since summer 2005 both parties consider the draft agreement (there is permanent exchange of proposals to the text). The process of signing was delayed by adoption by Europol MSs of a new approach on exchange confidential data with third countries. Thus the model draft Strategic Cooperation Agreement was revised by Europol side. By now such revised model agreement has not been approved yet by Europol governing board. When approved it will be transmitted to Ukrainian side for consideration.

EUROJUST

1-2 June 2006 (Hague) – latest negotiations between Eurojust and Ukraine on co-ordination of draft Cooperation agreement between Ukraine and Eurojust. Both parties agreed then that it was

necessary to create first appropriate legislative framework in Ukraine in accordance with European standards related to personal data protection. The need to create based on such legislative framework effective system of data, including personal data, protection was stressed during negotiations.

In this respect the Law of Ukraine “On Personal Data Protection” was adopted on 9 January 2007 by the Verkhovna Rada of Ukraine. But on 30 January 2007 the President of Ukraine used his right of veto in its respect.

Thus the Resolution of the Verkhovna Rada of Ukraine “On revision of the Law of Ukraine On Personal Data Protection” was adopted on 22 February 2007. By now the draft Law “On Personal Data Protection” has being considered by the Verkhovna Rada Committee on education and science.

Since 28 February 2007 the draft Law of Ukraine “On Ratification of European Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, and Additional Protocol to the Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows” is being considered by the Secretariat of the President of Ukraine.

3. HUMAN TRAFFICKING

Main legislative acts in this sphere:

The Complex Programme on Prevention of Violations of Law for 2007-2009, approved by the Cabinet of Ministers of Ukraine Resolution #1767 of 20 December 2006. It foresees measures on counteraction to organized criminality and is aimed at preventing the appearance of conditions facilitating commitment of crimes, as well as at improvement of legislative framework concerning law-enforcement activities, ensuring of protection of Constitutional rights and freedoms of a person, preventing of crimes related to trafficking in human beings, improvement of work on social adaptation of persons released from prisons;

State Programme on Counteraction to Trafficking in Human Beings for the Period up to 2010, approved by the Resolution of the Cabinet of Ministers of Ukraine №410 of 7 March 2007 (aims at creation of conditions to counteract the trafficking in human beings and criminal activities related to it, raise of effectiveness of disclosure of such crimes and reveal of criminals who committed them, envisages measures on reintegration of victims of trafficking.

The list of the most important measures to be taken to implement the Programme:

- to guarantee legal protection to the victims of human trafficking;
- to supervise the observance of the rights of adopted children;
- to introduce the newest methods of investigation in the sphere of counteraction to human trafficking into practical activities of legal mechanism;
- to improve legislative regulation in the sphere of tourism, model business and intermediary activity on job placement abroad;
- to create the unified national system of registration of persons who committed crimes related to human trafficking;

- to include the issues on counteraction to human trafficking into the educational programmes for children and youth;
- to provide mass media campaign on counteraction to trafficking in human beings;
- to insure the functioning of the centres for rehabilitation of persons who suffered from human trafficking;
- improving the quality of providing social services for victims of human trafficking.

Central State power and local self-government bodies will implement the Programme Responsibility; international and public organizations dealing with counteraction to human trafficking will also be involved.

The State Budget of Ukraine foresees 1 469 700 UAH for its implementation.

The Criminal Code of Ukraine of 2001 (Article 149 “Trafficking in person or other illicit transaction concerning the transfer of persons”)

The Code determines “trafficking in human beings” as *“The sale or another paid transfer of a person, as well as any other illegal transaction with respect to a person, concerning the legal or illegal transfer of that person via the state border of Ukraine, with or without that person’s consent, with the aim of further sale or paid transfer of that person to another person(s) for sexual exploitation, use in porno business, engagement in criminal activities, debt bondage, adoption for commercial purposes, use in armed conflict, or the exploitation of the labour of that person”*. The punishment for such actions will be the imprisonment for the term of three to eight years.

And the same acts, if committed against a minor, several persons, repeatedly, by a group of offenders at prior collusion, with abuse of official powers, or if committed by a person, upon whom a victim was materially or otherwise dependent shall be punished by imprisonment from five to twelve years with or without confiscation of property.

And if these acts are committed by an organized group, or if such acts aim at the transfer of minors abroad or preventing their return to Ukraine, or with the aim of seizing tissue of a victim for transplantation or forced donorship, or if these acts resulted in grievous consequences, they shall be punished by imprisonment from eight to fifteen years with confiscation of property.

This Article fully corresponds to the provisions of the Protocol to Palermo Convention and of the Convention of Rights of the Child

In January 2006 the Law of Ukraine “On Introduction of Changes to the Criminal Code of Ukraine on Improvement of Responsibility for Trafficking in Human Beings and Involving in Prostitution” was adopted. The Law introduces changes in the Criminal Code of Ukraine in the spheres that concern trafficking in human beings or any other illegal agreement in respect of a person. It separately foresees punishment for souteneurship and involvement in prostitution.

Decree of the President of Ukraine “On Measures on Further Strengthening of the Law Order, Protection of Rights and Freedoms of Citizens” #143 of 18 February 2002 that determines that fight against trafficking in human beings as one of the priority directions in activities of law-enforcement bodies.

Model Regulation on Rehabilitation center for victims of trafficking in human beings, approved by the Cabinet of Ministers of Ukraine Resolution of 27 July 2003 № 987 (*by now in Ukraine there are 6 rehabilitation centers (more likely to be shelters) managed by different Ukrainian NGOs, and 1 Medical rehabilitation Center for 13 persons, supported by IOM Mission in Ukraine*).

Presidential Decree “On Approval of the Agreement on Establishment of GUAM Virtual Center on Fight Against Criminality, Distribution of Drugs and against other Dangerous Types of Crimes and on establishment of GUUAM, signed on 4 July 2003” of 1 April 2004 N 386/2004.

Regulation on Inter-ministerial Group of Ukraine in GUAM Virtual Center on Fight Against Terrorism, Organized Criminality, Distribution of Drugs and against other Dangerous Types of Crimes, approved by Presidential Decree of 18 May 2006 N 413/2006 (*Analysis and exchange of information on inter alia counteraction to trafficking in human beings is provided within the framework of functioning of Ukrainian segment of GUAM Virtual Center and GUAM Interstate Information-Analytical System*).

Inter-ministerial Council on Counteraction to Trafficking in Human Beings

Created by the Cabinet of Ministers of Ukraine Resolution # 766 of 5 June 2002 and chaired by the Ministry of Family, Youth and Sport. High level of the Council (deputy ministers) proved its inefficiency and thus inter-ministerial expert group was created to improve inter-ministerial operative cooperation on counteraction to human trafficking. Since 2004 it meets regularly.

Body responsible for fight against human trafficking – **Ministry of Internal Affairs of Ukraine**

International cooperation:

Analysis and exchange of information on *inter alia* counteraction to human trafficking is provided within the framework of functioning of Ukrainian segment of GUAM Virtual Center and GUAM Interstate Information-Analytical System.

Ukraine also participates in implementation of the Interstate Programme of Common Actions on Counteraction to Criminality for 2005-2007, approved in September 2004 by decision of the Council of CIS Participating Countries.

Ukraine permanently participates in interstate operation on counteraction to trafficking in human beings in Eastern and Western Europe “Sunflower”, organized by Europol (Ukraine is invited).

International legislative framework for Ukraine:

United Nations Convention against Trans-national Organized Crime, Palermo 2000 – 3 June 2004 entered into force for Ukraine;

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Trans-national Organized Crime, Palermo 2000 – 3 June 2004 entered into force for Ukraine;

Council of Europe Convention on Actions against Trafficking in Human Beings, 2005– Ukraine signed it in November 2005, the Ministry of Justice is drafting the Law on its ratification.

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography - ratified by Ukraine on 3 April 2003

Projects:

IOM's Counter-Trafficking Programme in Ukraine commenced in 1998. The programme is built upon a systematic approach which focuses on three integrated and phased components of this phenomenon, and contributes to the efforts of the authorities and civil society to combat trafficking in human beings, especially women and children, from, to and within the country.

1. **Prevention and Advocacy** by dissemination of information to further increase public awareness;

[some of the achievements: 5 nation-wide trafficking prevention information campaigns and 40 micro-campaigns including counter-advertisements and pre- and post-campaign researches conducted by IOM and more than 75 civil society organizations partnering with IOM; Support to national toll-free trafficking prevention telephone hotline and 19 regional hotlines provided, including funding and regular training for staff and volunteers. 28,000 hotline callers have been assisted in 2004-200; 28 trainings for journalists to increase awareness of the issue, as well as training about how to protect victim's rights when covering court cases have been conducted].

2. **Prosecution and Criminalization** by supporting executive (especially law enforcement), legislative and judicial structures to act more effectively against crimes of trafficking in persons.

[some of the achievements: over 50 law enforcement trainings have been conducted. A manual dealing with organ trafficking has been developed. Ukrainian officials participated in over 50 networking visits to 23 European countries to share experiences and develop contacts with counterparts, with IOM support.]

3. **Protection and Reintegration** by providing assistance and support to victims of trafficking who are returning to their countries of origin, both directly and via partner Non-Governmental Organizations (NGOs).

[some of the achievements: over 4000 victims of trafficking have received reintegration assistance from 2000 through 2007; Medical Rehabilitation Centre (one of existing four in Europe by now) was established in 2002 and has assisted over 1000 victims of trafficking; 6 shelters opened in the regions for victims of trafficking and run by IOM partner NGOs; Best practice guidelines on the health care of trafficked persons published.]

International Labour Organization implements since 12 April 2007 the project “**Counteraction to Trafficking in Human Beings by means of Instruments of Labour Market**” for Ukraine and Moldova, funded by EC and Irish Republic. The Project's Budget – 1 million Euro, implementation period – 2 years.

La Strada – Ukraine: The Ministry of Justice of Ukraine officially registered the International Women's Right Centre – La Strada Ukraine in March of 1998 (registration #1010).

Since 1997, La Strada-Ukraine received financial support from the European Commission, the “Vidrodzhennya” Fund, the Open Society Institute, the Friedrich Ebert Fund, the Organization for Safety and Cooperation in Europe and the Organization for Democratic Institutions and Human Rights, USAID, the United States, British, Finnish and French embassies in Ukraine, Anti-Slavery International, the London School of Hygiene and Tropical Medicine, and the Austrian government among other governments and charitable organizations.

In January 2005 the Ministry of Ukraine on Youth and Sport Affairs together with the International Women’s Rights Center “La Strada – Ukraine” within the UNICRI “Action program against trafficking in minors for sexual purposes” with the support of ECPAT International launched a project “**Development of a National Referral System for Providing Assistance to Children Suffered from Commercial Sexual Exploitation in Ukraine**”. The project is generously funded by the Directorate General for the Development Cooperation of the Italian Ministry of Foreign Affairs.

Denmark - Danish Programme Against Human Trafficking - Implementing Partners: IOM, OSCE and La Strada.

Region: Eastern and South Eastern Europe Countries: Belarus, Bulgaria, Moldova, Romania, Ukraine

Sector: Public Administration/Governance Agencies: Locally present international and non-governmental organisations

Duration: 3 years Starting date: December 2005 Overall budget: 29,4 million DKK

The Danish Programme Against Human Trafficking will work primarily through international organisations and non-governmental organisations in Belarus, Moldova and Ukraine. In addition a regional component that also will include Bulgaria and Romania will be co-ordinated by an international organisation. Consultations with stakeholders (including governments in the countries concerned) suggest the importance of focusing on supporting prevention and protection efforts, notably through the enhancement of existing co-operation and service delivery mechanisms, strategic planning, the further development of methodologies and good practice, the delivery of specialised training and regional aspects of the above; The overall programme objective is to support national authorities, international organisations and non-governmental organisations to combat trafficking through appropriate prevention, law enforcement and protection/assistance measures. The programme has four immediate objectives: (1) strengthened national counter trafficking strategies and referral mechanisms; (2) strengthened capacity of national authorities and NGOs to respond to developing needs in the areas of prevention and protection; (3) increased awareness amongst vulnerable groups and access to relevant migration information; and (4) strengthened international and regional co-operation on approaches to counter trafficking.

Sweden SIDA – IOM. Combating Trafficking in Human Beings, “Phase out”

No/Date of approval: 2006-11-01 (2006-005798), Project period: October 2006 – March 2010

Implementing agency: IOM Mission in Ukraine Sida contribution: 15 000 000 SEK

Project brief: This project is a continuation of all previous “Combating Trafficking in Women: Ukraine” projects. The project will particularly focus on phase-out insuring sustainability of counter-trafficking initiatives in Ukraine and their national ownership, as well as the empowerment and participation in decision-making of all of the stakeholders in Ukraine. In this way, IOM Kyiv intends to provide for a responsible, well-timed and effective phase-out of international funding for anti-trafficking measures in Ukraine.

Statistics on cleared crimes related to trafficking in human beings: (since 1998 when criminal responsibility for trafficking in human beings was firstly introduced in Ukraine in the former Criminal Code of Ukraine):

Revealed crimes related to trafficking in human beings:

1998 - 2,
1999 - 11,
2000 - 42,
2001 - 90,
2002 - 169,
2003 - 289,
2004 - 269,
2005 - 415,
2006 – 344,
2007 – 252 (first half of the year)

During this period 23 organized criminal groups related to trafficking were liquidated, 9 of them were transnational.

www.iom.org.ua
www.lastrada.org.ua
<http://www.stoptrafficking.org.ua>
www.ukraine-eu.mfa.gov.ua
www.kmu.gov.ua/mvs/control
www.icps.kiev.ua

4. DRUGS

Main legislative acts on counteraction to Illegal Drugs Circulation:

The Law of Ukraine “On Measures to Counteract Illegal Circulation of Drugs, Psychotropic Substances and Precursors and Abuse of Them” of 15 February 1995 determines the system of measures directed against illegal circulation of drugs in Ukraine. It also determines rights and duties of legal persons and citizens due to application of this Law.

Bodies involved in fight against illegal circulation of drugs (according to this Law):

Ministry of Internal Affairs of Ukraine;
State Security Service of Ukraine (SBU);
General Prosecutor’s Office of Ukraine;
State Customs Service of Ukraine;
State Border Guard Service of Ukraine;
Ministry of Health Care of Ukraine (to counteract abuse of drugs)

The Law determines **the following counteraction measures against illegal circulation of drugs:**

controlled supply (envisages admission under control and operative supervision of import into Ukraine, export from Ukraine or transit through its territory of drugs. The procedure for conducting controlled supply is determined by the Customs Code of Ukraine and legal act of the State Customs Service of Ukraine, the Ministry of Internal Affairs of Ukraine, the State Security Service of

Ukraine, the State Frontier Service of Ukraine, which shall be agreed with the General Prosecutor's Office of Ukraine and the Ministry of Justice of Ukraine.);

operative procurement (conducting transactions on purchasing drugs. The procedure for conducting operative procurement is determined by legal act of the Ministry of Internal Affairs of Ukraine, the State Security Service of Ukraine, which shall be agreed with the General Prosecutor's Office of Ukraine and the Ministry of Justice of Ukraine);

confiscation (applies to drugs that are found in illegal trafficking and to the equipment used for their illegal production. Their elimination is performed according to the procedure, established by legal act of the Ministry of Internal Affairs of Ukraine, the State Security Service of Ukraine, the General Prosecutor's Office of Ukraine, the Ministry Health of Ukraine, the Ministry of Justice of Ukraine and the Supreme Court of Ukraine.);

inquiries of law-enforcement bodies on placement of funds, received from illegal circulation of drugs (banks, credit, customs, financial and other institutions, enterprises, organizations regardless of ownership forms shall provide information and documents on transactions, accounts, deposits, internal and foreign economic agreements of legal entities and citizens);

inspection of the citizen's vehicles, cargos and personal belongings;

suspension or seizure of activities of objects of mass presence of citizens, where drugs are used or sold (such objects are restaurants, cafes, bars, casinos, videos, discos, etc.)

conducting administrative supervision over individuals released from the places of deprivation of liberty (this measure is applied to the persons who were condemned to deprivation of liberty for one of the crimes connected with illegal circulation of drugs).

At the same time, the Law envisages the following counteraction measures against abuse of drugs:

- detection of the persons who abuse of drugs illegally;
- medical examination of the persons who abuse of;
- freewill treatment of people suffering from drug abuse;
- compensation of expenses for medical examination or treatment;
- forced treatment of people suffering from drug abuse;
- consideration of materials in court about sending persons to forced treatment from drug abuse;
- early release from forced treatment from drug abuse;
- extending the term of forced treatment from drug abuse;
- limiting the rights of a person suffering from drug abuse for the period of forced treatment.

Criminal Code of Ukraine of 2001 contains *Chapter XIII "Crimes related to circulation of drugs, psychotropic substances, their analogues and precursors and other crimes against public health"*. Articles 305-324 of this Chapter are devoted to the crimes in this sphere.

For example Article 307 determines that illegal production, purchase, storage, transportation, sending or sell of drugs, psychotropic substances, their analogues and precursors shall be punished by the term of imprisonment of from 3 to 8 years with confiscation of these prohibited substances. If the crime is committed repeatedly – imprisonment period will from 5 to 10 years with confiscation of these substances and if committed by the organized group – imprisonment period

will be from 8 to 12 years with confiscation of these prohibited substances. Other Articles of this Chapter are related to smuggling in drugs, stolen or narcotic substances, forced use of drugs, illegal public use of drugs and others.

Article 67 of the Criminal Code determines that commitment of a crime by a person who is being under the effect of used drugs is an aggravating circumstance.

Resolution of the Cabinet of Ministers of Ukraine “On Approval of the State Programme of Realization of the State Policy in the Sphere of Fight against Illicit Circulation of Drugs, Psychotropic Substances, their Analogues and Precursors for 2003-2010” of 4 April 2003 # 887

Resolution of the Cabinet of Ministers of Ukraine “On Establishment of the Committee on Control over Drugs” of 11 September 2003 N 1446 (established within the Ministry of Health Care of Ukraine)

Presidential Decree “On Approval of the Agreement on Establishment of GUAM Virtual Center on Fight Against Criminality, Distribution of Drugs and against other Dangerous Types of Crimes and on establishment of GUAM, signed on 4 July 2003” of 1 April 2004 N 386/2004.

Regulation on Inter-ministerial Group of Ukraine in GUAM Virtual Center on Fight Against Terrorism, Organized Criminality, Distribution of Drugs and against other Dangerous Types of Crimes, approved by Presidential Decree of 18 May 2006 N 413/2006 (*Analysis and exchange of information on inter alia counteraction to illegal drugs circulation is provided within the framework of functioning of Ukrainian segment of GUAM Virtual Center and GUAM Interstate Information-Analytical System*).

Law of Ukraine “On Amending the Law of Ukraine “On Circulation of Drugs, Psychotropic Substances, their Analogues and Precursors”, of 22 December 2006 (shall come into effect on 1 January 2008). The Law determines legal and organizational bases of the State Policy On Drugs, Psychotropic Substances and Precursors Circulations in Ukraine, determines the order of State control over it and powers of executive power bodies, rights and obligations of natural and legal persons in the sphere of drugs, psychotropic substances and precursors circulation.

International legislative framework

Agreement between the Government of Ukraine and the Government of UK on mutual assistance in fight against illegal drugs circulation – ratified by Ukraine on 1 November 1996
UN Single Convention on Narcotic Drugs, 1961 - entered into force for Ukraine on 10 October 2001

1972 Protocol on Amendments to the UN Single Convention on Narcotic Drugs of 1961 – Ukraine acceded it on 2 November 2000

Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 – entered into force for Ukraine on 27 November 2001

Agreement on Illicit Traffic by Sea, implementing Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1995 - entered into force for Ukraine on 19 December 2006

International activities:

Participation of Ukrainian law-enforcement bodies on annual basis in international operative-preventive operation “Miraz” on fight against trans-border organized criminality and “Purpur”, “Channel” and “Topaz” on counteraction to illegal drug circulation.

1 June 2007 (Brussels) – first meeting of Ukraine –EU Troika on counteraction to illegal drug circulation

EUBAM Mission: facilitates joint operation of law-enforcement bodies of Ukraine and Moldova (by now 3 operations were conducted) aimed at strengthening cooperation in counteraction inter alia to smuggling in drugs.

Results of the 3-d operation: revealed 46 cases of smuggling, 21,5 kg of drugs were confiscated. It was the first operation with participation of EU officials, FRONTEX, OLAF, SECI.

To date the issue on Ukraine’s full membership in the Council of Europe Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (Pompidou Group) that will provide Ukrainian experts with additional possibilities to study international experience in counteraction to illegal drug circulation and abuse of drugs.

Ukraine also takes efforts to acquire membership in European Monitoring Center on Drugs and Drugs Addiction (EMCDDA).

Projects

Sweden SIDA Children at risk: Children with disabilities and Drug and alcohol problems of teenagers

No/Date of approval: 2006-07-04 (304/02)

Project period: May 2002 – June 2007

Implementing agency: Lunconsult AB

Local counterparts: Ministries of Lab. and Soc. Aff., Edu., Health and Internal Affairs

Sida contribution: 10 000 000 SEK

Project brief: The project aims to introduce and develop new methods on how to work with disabled children and young people with alcohol and drug problems. Activities include study trips to Sweden, analysis of existing systems and methods, and practical work in expert teams in Sweden and Ukraine.

The BUMAD (Belarus, Ukraine and Moldova against Drugs) Programme (in Ukraine – since July 2003) -initiated and financed by the European Commission (EC). The budget of its first stage is € 2,200,000. The programme’s main objective is the reduction the intensity of drug trafficking both inside the three countries and from their territory to the EU member states. Within the framework of BUMAD project National Drugs Observatory was established in Ukraine.

Statistics

2006 – 119 channels of smuggling in drugs, 3 drugs laboratories and 32 organized criminal groups dealing with illegal drug circulation were liquidated; 970 crimes in this sphere were cleared, total sum of seized drug substances is 472 490 grams;

2007 (first quarter) - 6 organized criminal groups dealing with illegal drug circulation and 8 channels of smuggling in drugs were liquidated; 142 crimes in this sphere were cleared

www.kmu.gov.ua/mvs/control

www.ukraine-eu.mfa.gov.ua

www.bumad.un.kiev.ua

www.eubam.org

5. CUSTOMS (LAW ENFORCEMENT ASPECTS)

The Customs Code of Ukraine (of 11 July 2002, entered into force on 1 January 2004, with the last amendments of 9 January 2007) defines the foundation and implementation principles of customs practice in Ukraine, and regulates economic, organizational, legal, personnel and social aspects of the activities of the Customs Service of Ukraine. The Code aims to secure the protection of Ukraine's economic interests, to create favourable conditions for the development of its economy, to protect the rights and interests of subjects of entrepreneurial activity and citizens, as well as to ensure adherence to Ukrainian customs-related legislation.

Section I “General Provisions” of the Code outlines foundations of customs practice, principles of customs regulation, structure and organisation of activities of the Customs Service of Ukraine, procedure for giving information and consultations on customs matters, issues of international cooperation in this area.

Section II “Customs Control” of the Code highlights procedures of organisation and conduct of customs control.

Section III of the Code outlines the procedure of the customs clearance, declaration rules and procedures.

Sections IV and V are dedicated to the rules and procedure for movement of goods and vehicles through the customs border of Ukraine, procedures governing movement of goods through the customs border of Ukraine with different means of transport.

Section VI “Disposal of Goods, Which are under Customs Control” defines the rules governing movement of goods and vehicles between customs authorities, transit shipments, storage of goods and vehicles at customs warehouses, disposal of goods, vehicles and funds.

Section VII regulates business activities associated with rendering services in declaring goods and vehicles and transportation of goods being moved across the customs border of Ukraine and under customs control.

Section VIII determines the customs regime for goods and vehicles, which are moving through the customs border of Ukraine pursuant to the Code the following types of customs regime shall apply in accordance with the purpose of the movement of goods through the customs border of Ukraine:

- 1) import;
- 2) re-import;
- 3) export;
- 4) re-export;

- 5) transit;
- 6) temporary entry (exit);
- 7) customs warehouse;
- 8) special customs zone;
- 9) duty free shop;
- 10) processing within the customs territory of Ukraine;
- 11) processing outside the customs territory of Ukraine;
- 12) extermination or destruction;
- 13) refusal for the benefit of the State.

Section IX highlights specific features of the passage and taxation of goods moved through the customs border of Ukraine by the citizens.

Section X stipulates the rules of control over movement through the customs border of Ukraine of goods containing intellectual property objects.

Section XI defines the concepts of the goods customs value and outlines goods customs value determination methods. The customs valuation of goods imported into the customs territory of Ukraine is applied through the following methods:

- transaction value of imported goods (method 1);
- transaction value of identical goods (method 2);
- transaction value of similar (analogous) goods (method 3);
- deductive value (method 4);
- computed value (method 5);
- reserve method (method 6).

Sections XVII-XIX of the Code are dedicated to the issues of preventing smuggling and violations of customs rules, responsibility for such actions and court proceedings in cases of violation of customs rules.

Section XX determines the legal status of employees of customs authorities, specialized customs institutions and organizations, their rights and duties.

6. CORRUPTION

Main legislative acts:

Law of Ukraine On Civil Service of Ukraine” of 16 December 1993 N 3723-XII (Article 16 “Limitations related to civil service” stating that a civil servant may not take actions envisaged by Articles 1 and 5 of the Law of Ukraine “On Fight against Corruption”)

The Law of Ukraine “On Fight against Corruption” of 5 October 1995, N 356/95 (determines legal and organizational principles of prevention of corruption, disclosure and stopping of its displays, renewal of legal rights and interests of natural and legal persons, as well as removal of consequences of corruptive acts. According to the Law *“Corruption”* shall mean activity of the persons, empowered to implement functions of the State, aimed at illegal use of authorities given to them, for the receipt of material welfares, services, privileges or other advantages.

According to the Law commitment by a person empowered to implement functions of the State of any corruption acts, if it does not contain *corpus delicti*, results in administrative responsibility in a form of penalty.

Criminal Code of Ukraine of 2001 contains *Chapter XVII “Crimes in the sphere of Official Activities”* – it foresees the following corruptive acts that contain *corpus delicti*:

Article 364. Abuse of power or official position - punished by correctional job for the term up to 2 years or by arrest on the term up to 6 months, or by limitation of liberty for the term up to 3 years with the deprivation of the right to hold certain posts or to be occupied with some activities on the term up to 3 years. Maximum punishment for such crime shall be deprivation of liberty for the term of from 5 to 12 years with the deprivation of right to take up certain posts or to be occupied with some activities for the term up to 3 years and confiscation of property.

Article 365. Exceeding power or official permissions - punished by correctional job for the term up to 2 years or by limitation of liberty for the term up to 5 years, or by deprivation of liberty for the term of from 2 to 5 years with the deprivation of right to take up certain posts or to be occupied with some activities for the term up to 3 years. Maximum punishment for such crime shall be deprivation of liberty for the term of from 7 to 10 years with the deprivation of right to hold certain posts or to be occupied with some activities for the term up to 3 years.

Article 368. Acceptance of bribe - punished by fine from 750 to 1500 non-taxable minimum of incomes of citizens or by deprivation of liberty for the term of from 2 to 5 years with the deprivation of right to hold certain posts or to be occupied with some activities for the term up to 3 years. Maximum punishment for such crime shall be deprivation of liberty for the term of from 8 to 12 years with the deprivation of right to hold certain posts or to be occupied with some activities on the term up to 3 years and confiscation of property.

Article 369. Bribe - punished by fine from 200 to 500 non-taxable minimum incomes of citizens or by limitation of liberty on the term from 2 to 5 years. Maximum punishment for such crime shall be deprivation of liberty for the term of from 3 to 8 years with the confiscation of property or without it.

Resolution of the Cabinet of Ministers of Ukraine “On Measures on Improvement of Qualification of Employees of State Power Bodies and local Self-government Bodies on Fight against Corruption” of 2 June 2003 N 828

Presidential Decree “On the System of Measures on Removal of Causes and Conditions that Facilitate Criminal Displays and Corruption” of 9 February 2004 N 175

Presidential Decree “On Concept on Overcoming Corruption in Ukraine “On the way to Honesty” of 11 September 2006 N 742/2006. It describes the character features of corruption in Ukraine and lists possible corruption risks, determines measures aimed at solving the problem of ensuring Honesty both in executive power bodies and in judicial system; it also underlines the role of civil society and mass media in prevention of and counteraction to corruption. The Concept contains separate Chapter on punishment for corruptive actions as well as the mechanism for realization of the Concept.

Instruction of the Cabinet of Ministers of Ukraine “On Approving the Action Plan on Implementation of the Concept on Overcoming Corruption in Ukraine “On the way to Honesty” for the period up to 2010” of 15 August 2007 N 657 (this document was considered by the Council of Europe experts and also takes into account GRECO recommendations upon the monitoring conducted in Ukraine.

Draft laws of Ukraine “On Responsibility of Legal Persons for Commitment of Corruptive Offences”, “On Grounds of Prevention and Counteraction to Corruption” and “On Amending some Legislative Acts of Ukraine in view of Responsibility for Corruptive Offences” were approved by the Verkhovna Rada of Ukraine on 12 December 2006 in general.

Control over implementation of laws in the sphere of fight against corruption is carried out directly by the Verkhovna Rada of Ukraine, as well as by the Committee of the Verkhovna Rada of Ukraine on Fight against Organized Crime and Corruption (Article 16 of the Law of Ukraine “On Fight against Corruption”). Supervision over the implementation of laws in the sphere of fight against corruption is performed by the Prosecutor General of Ukraine and prosecutors empowered by him (Article 17 of the Law of Ukraine “On Fight against Corruption”).

Bodies responsible for the fight against corruption (Article 4 of the Law of Ukraine “On Fight against Corruption”):

- the Ministry of Internal Affairs of Ukraine;
 - tax militia;
 - the Security Service of Ukraine;
 - bodies of the Office of Public Prosecutor of Ukraine;
 - Military Service of the Rule of Law at the Armed Forces of Ukraine,
- other bodies and subdivisions, which are created for the fight against corruption pursuant to the current legislation. (Art. 4)

International legal acts:

European Civil Law Convention on Corruption, 1999 – ratified on 19 September 2005 (entered into force for Ukraine on 1 January 2006)

United Nations Convention against Corruption, 2003 – ratified on 18 October 2006

European Criminal Law Convention on Corruption, 1999 – ratified on 18 October 2006

Additional Protocol to the Criminal Law Convention on Corruption, 2003 - ratified on 18 October 2006 – *(these three international legal acts will enter into force for Ukraine when the set of draft legal acts related to counteraction to corruption, preliminary approved by Verkhovna Rada of Ukraine on 12 December 2006, is adopted).*

Agreement on Cooperation of General Prosecutor Offices of countries participating in CIS on fight against corruption – entered in force for Ukraine on 25 April 2007

Having ratified European Civil Law Convention on Corruption Ukraine became acceded to the **Council of Europe Group of States against Corruption (GRECO)**. The official delegation of Ukraine (chaired by representative of the Ministry of Justice) to participate in GRECO meetings was approved by Presidential decree of 20 February 2006 # 33.

As far as GRECO was established to provide mutual monitoring of observation of the Council of Europe Guiding principles against corruption on 20-24 November 2006 GRECO evaluation mission to Ukraine provided in Ukraine first and second stages of monitoring (special attention during the monitoring was paid to elaboration of anti-corruption policy in the sphere of civil service).

Projects:

Project against corruption in Ukraine - UPAC

Co-funding: **European Commission/Council of Europe**

Implementation: **Council of Europe**

Project partners: Ministry of Justice, Council of National Security and Defence, Office of the Prosecutor General, Ministry of Interior and other institutions represented in the Steering Committee

Duration: 36 months

Contract: joint management agreement

Budget: 1750 000 EUR (1.5M Eur - EC contribution)

Beneficiary agencies: Council of National Security and Defence, Ministry of Justice (MoJ), Ministry of Interior, General Prosecutor's Office (GPO)

Overall objective: to contribute to the prevention and control of corruption so that it no longer undermines the confidence of the public in the political and judicial system, democracy, the rule of law and economic and social development in Ukraine.

Specific objectives:

- To improve the strategic and institutional framework against corruption in Ukraine
- To enhance capacities for the prevention of corruption
- To strengthen the anti-corruption legal framework and effective and impartial enforcement of the criminal legislation on corruption

UK Funding - Productive Role of Opposition Forces (PROOF)

December 2006 – March 2008 £ 19,335 – GOF RE allocation Co-funding - £ 10,500 from DDPB £ 4,500 from Sponsored Visits. **Purpose:** To strengthen democratic government in Ukraine through more constructive interaction between political forces; to strengthen the parliamentary process in Ukraine; to strengthen trust in parliamentary procedures among deputies and the public.

Activities:

- Study tour. Five selected Ukrainian MPs will travel to the UK for two days to gain first hand experience of the processes of government and opposition participation in the UK.
 - International Workshop. A targeted and action oriented one day workshop for a total of 25-30 participants on the theme of the productive role of the political opposition in government. The workshop will be aimed at developing a series of concrete measures for improving the cooperation between opposition and government, which will then be published and distributed.
- Expert consultation. Based on the results and recommendations elaborated during the workshop expert consultations will be available.

Sweden SIDA Civil Society – Funding channelled via organisations associated with Swedish political parties.

Centre Party International Foundation (CPIF) established cooperation with Reform and Orders Party, Public Order Party, Yulia Tymoshenko Bloc and European party (conference in Kyiv); Swedish International Liberal Centre (SILC) cooperates with the liberal party Pariya Narodnyj Poryadok (Donetsk region), Swedish Social Democratic Party (Oskarshamn regional unit) with Socialist Party of Ukraine and Social Democratic Party of Ukraine (Kharkiv, Zhytomyr and Nizhyn), Olof Palme International Centre with Socialist Party of Ukraine and Social Democratic Party of Ukraine (central level); LO-trade union Arvika-Eda with the Socialist Party of Ukraine (in Odessa region); Olof Palme International Centre with the Socialist Party of Ukraine and its youth organizations, Swedish Social Democratic Party (Blekinge regional unit) with the Socialist Party of Ukraine (Donetsk), CEE Network for Gender Issues with East-European women's organizations, connected with social or social democratic parties; Jarl Hjalmarson Stiftelsen with Our Ukraine.

Danish Neighbourhood Programme: Civil Society Development Programme in Ukraine

Sector: Civil Society, Implementing Agencies: **OSCE and Ukrainian CSOs**, Duration: February

2006 – December 2007 (23 months), Start of implementation: February 2006, Overall Budget Frame: 15.5 million DKK **Identified Assistance** The overriding objective of the Danish Neighbourhood Programme is to contribute to promoting open and democratic societies founded on the rule of law and based on stable political and economic developments in the EU neighbouring countries to the east and southeast, with the aim of perpetuating the momentum in the continuing enlargement process and avoiding unnecessary divisions in Europe. The key areas in the present Civil Society Development Programme in Ukraine will be support for development of democratic processes and respect for human rights through the strengthening of civic participation and the development of civil society. This initiative will, therefore, give importance to the direct civic involvement, support to civil society organisations and promotion of networks. The main recipients will be Ukrainian CSOs working directly or indirectly for human rights, and transparency and accountability.

- The overall and immediate objectives

The following overall objective will be targeted:

- A strengthened civil society that promotes open and democratic societies founded on the rule of law and based on human rights and transparency & accountability.

The immediate objectives will be:

- Increase civic mobilisation at the regional/local levels;
 - Increase interaction between civic groups and in particular/local authorities;
 - Strengthen public awareness of human rights and transparency and accountability in governance processes;
 - Strengthen civil society capacity for advocacy;
- Increase sustainability of civil society.

IRF – Soros Foundation, Rule of Law Programme - 2007/09. *Human Rights - Access to information*. In 2005-2006 IRF has run successful campaign on access to public information. Our partners sent informational requests to state bodies, won cases versus state bodies and officials (including President of Ukraine), made publicly available hidden Decrees of Cabinet of Ministers. This activity aimed at transparency of state bodies will be realized in cooperation with the OSI Information Program. IRF will make wider such public campaign in 2007-2009. Priorities:

- Monitoring of the implementation of legislation on freedom of access to information
- Prevention of the illegal concealment of information valuable to the public, including impact litigation.

Netherlands Big Matra projects Logo East (QE 9357)

Project goal: Improving the quality of local and regional government in Romania, Bulgaria, Turkey, Ukraine, Serbia and Montenegro. Twinning trainings, seminars: management and service provision, ethics and integrity, citizen participation, municipal management, etc.

Executing agencies: **Vereniging van Nederlandse Gemeenten (VNG)**

Counterparts in Ukraine: **Association of Ukrainian Cities and Communities (AUC)**

Implementing period: 2 years

Budget: EUR 7.999.998

Netherlands Big Matra projects Democratisation of Dniester River Basin Governance (QE 15245)

Project goal: Democratising river governance of the transboundary Dniester River Basin involving local communities, local authorities and local NGOs in Moldova, Transdnestrria and Ukraine

Executing agency: **Women in Europe for a Common Future - WECF**

Counterparts in Ukraine: Eco-Tiras (Moldova), Ecospectrum (Moldova, Transdnistria),
Mama-86-Odessa
Implementing period: 3 years
Budget: EUR 696,188

III. Justice

1. JUDICIARY

Concept for the improvement of the judiciary in order to ensure fair trial in Ukraine in line with European standards...

The Law of Ukraine “On Judicial System of Ukraine” of 7 February 2002, N 3018-III (with last amendments of 22 February 2007) shall define:

- legal grounds for organization of judicial power and administration of justice in Ukraine;
- the system of courts of general jurisdiction and basic requirements to the corps of professional judges;
- the system and procedure for performing judges’ self-government, as well as the general procedure for activities of courts.

This Law establishes that state power in Ukraine shall be exercised on the basis of its division into legislative, executive and judicial power. Bodies of judicial power shall exercise their authorities exclusively on the basis, within the limits and according to the procedure envisaged by the Constitution of Ukraine and laws of Ukraine.

Judicial power shall be exercised by way of administering justice in the form of civil, commercial, administrative, criminal, as well as constitutional legal proceedings. Legal proceedings shall be undertaken by the Constitutional Court of Ukraine and courts of general jurisdiction.

In administering justice, a court shall ensure the protection of human and civil rights and freedoms, rights and interests of legal entities and public and state interests, which are guaranteed by the Constitution of Ukraine and Ukrainian laws, on the basis of the rule of law.

Ukraine’s judicial system is made up of courts of general jurisdiction and the Constitutional Court of Ukraine. Courts of general jurisdiction form the unified system of courts. The Constitutional Court of Ukraine is the single body of constitutional jurisdiction in Ukraine. The judicial system ensures access to justice for each individual according to the procedure established by the Constitution of Ukraine and Ukrainian laws. Establishment of emergency and special courts shall not be allowed.

Justice in Ukraine shall be administered exclusively by courts. It shall not be allowed to delegate the functions of courts, as well as appropriate these functions by other bodies or officials. Court of the first, appeal and cassation instances shall operate in Ukraine for the purpose of ensuring comprehensive, complete and objective consideration of cases, and legality of court decisions. Nobody can be deprived of the right to participate in the consideration of their case according to the procedure determined by procedural law in a court of any level.

Consideration of cases in courts shall be open, except for cases envisaged by procedural law. Participants of a court consideration and other individuals present at an open court sitting shall have the right to take notes. Consideration of cases in a closed court sitting shall be allowed by a court decision in cases envisaged by procedural law.

According to the Constitution of Ukraine, the system of courts of general jurisdiction is designed on the principles of territorial division and specialization.

The system of courts of general jurisdiction is made up from:

- local courts;
- courts of appeal and the Court of Appeals of Ukraine;
- the Court of Cassation of Ukraine;
- highest specialized courts;
- the Supreme Court of Ukraine.

The first appointment for the position of a professional judge for a five-year period shall be performed by the President of Ukraine on the basis of a recommendation by a relevant qualification commission of judges upon proposal of the Highest Council of Justice. All other judges shall be elected without a time-limit by the Verkhovna Rada of Ukraine on the basis of recommendations provided by the Highest Qualification Commission of Judges of Ukraine upon proposal of the Head Judge of the Supreme Court of Ukraine.

People's assessors shall be Ukrainian citizens who, in cases determined by procedural law, settle cases together with professional judges ensuring direct public participation in the administration of justice according to the Constitution of Ukraine.

Jurors shall be Ukrainian citizens who, in cases envisaged by procedural law, shall be involved in the administration of justice, ensuring direct public participation in the administration of justice according to the Constitution of Ukraine.

According to the Law, people's assessors can be engaged in the administration of justice in some cases. People's assessors shall have the same rights as professional judges in the settlement of all issues related to considering a case and delivering a court decision.

For the purpose of forming the corps of professional judges, the Law envisages establishing qualification commissions within the judicial system of Ukraine. Members of qualification commissions of judges shall exercise their authorities on a voluntary basis. For the period of sitting on such commissions, they should also be released from fulfilling their service duties at their main place of employment with the preservation of their average salary.

The ground for allowing an individual to fulfil their duties of a professional judge shall be their successful passing of a qualification examination. Qualification examination is a certification of an individual who is willing to be recommended for the appointment to the position of a judge for the first time.

Qualification examination shall reveal the knowledge and the level of professional training of a candidate for the position of judge, the degree of their readiness to administer justice in the area of jurisdiction of a relevant court.

To resolve issues relating to internal activities of courts, Ukraine shall have judicial self-government, which means independent collective settlement of the above-mentioned issues by professional judges.

Judicial self-government is one of the most important guarantees for ensuring independence of courts and judges. The tasks of judicial self-government shall be:

- ensuring organizational unity for operation of bodies of judicial power;
- strengthening independence of courts and protecting them from any interference with their activities;
- participating in the identification of personnel, financial, material and technical and other needs of courts and overseeing the adherence to the established norms for supporting the above-mentioned needs;
- agreeing the appointment of judges for positions in courts of general jurisdiction, the appointment of judges to the Constitutional Court of Ukraine and judges to the Highest Council of Justice and election of judges to the qualification commissions of judges;
- encouraging judges and personnel of the judicial system;
- exercising control over the organization of activities of courts and other structures in the system of judicial power.

The highest body of judicial self-government shall be the Convention of Judges of Ukraine.

All courts in Ukraine shall be financed at the expense of the State Budget of Ukraine. Functions of the key manager for funds the State Budget of Ukraine with respect to financial support of judicial activities shall be performed by:

- the Supreme Court of Ukraine, the Constitutional Court of Ukraine, highest specialized courts - with respect to financial support for activities of judicial institutions;
- the State Judicial Administration of Ukraine - with respect to supporting activities of all other courts of general jurisdiction, as well as activities of qualification commissions of judges of all levels, bodies of judicial self-government and the state judicial administration.

The State Judicial Administration of Ukraine is the central body of executive power that provides organizational support for activities of courts of general jurisdiction, as well as other bodies and institutions of judicial system according to the Law.

For the purpose of resolving issues on supplying courts with qualified judges and judicial personnel, the Academy of Judges of Ukraine shall operate under the State Judicial Administration of Ukraine. The Academy of Judges of Ukraine is a state higher educational institution that provides training, re-training and advance training for judges and judicial personnel.

2. Judicial cooperation
- a) Criminal matters

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2. Judicial cooperation
- b) Civil matters

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3. Detention and imprisonment

The main legal acts that regulate this sphere are:

- The Criminal Procedural Code of Ukraine (28 December 1960, N 1001-05, entered into force on 1 April 1961, last amendments made on 24 May 2007)
- The Criminal Executive Code of Ukraine (11 July 2003, N 1129-IV, entered into force on 1 January 2004, last amendments made on 7 February 2007)
- The Law of Ukraine “On the State Criminal-Executive Service of Ukraine” (23 June 2005, N 2713-IV, entered into force on 20 July 2005, last amendments made on 3 November 2006)
- The Law of Ukraine “On the Social Adaptation of Individuals that Served a Sentence in the Form of Custodial Restraint or a Term in Prison” (10 July 2003, N 1104-IV, entered into force on 8 February 2004, last amendments made on 18 January 2005)
- The Law of Ukraine “On Ratification of Protocol N 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment” (13 September 2001, N 2689-III, entered into force on 13 October 2001)
- The Law of Ukraine “On Ratification of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment” (24 January 1997, N 33/97-BP, entered into force on 14 February 1997)

The Criminal Procedural Code of Ukraine is intended for determination of criminal proceeding. The task of criminal judicial proceedings is protection of rights and legal interests of natural persons and legal entities who participate in it, as well as fast and full crime detection, disclosure of the guilty and ensuring of accurate application of the law in order to bring to criminal responsibility each who has committed crime and not to punish any innocent person.

Under the CPC of Ukraine the inquest body may detain the person who is suspected in commitment of crime for 72 hours. After the expiration of this time the inquest body shall:

- 1) release the detained person, if the suspicion that s/he committed crime has not been confirmed;
- 2) release the detained person and chose as regards to him/her a measure of restraint, which is not connected with holding under arrest;
- 3) bring the detained person to the judge with petition on choosing as regards to him/her a measure of restraint in the form of taking under arrest.

The measures of restraint are as follows:

- 1) recognizance not to leave;
- 2) personal bail;
- 3) bail of public organisation or labour collective;
- 4) pledge (the amount of pledge is set taking into account the circumstances of case by the body that applied the measure of restraint);
- 5) taking under arrest (holding under arrest for the period of pre-trial investigation shall not exceed two months; the term of arrest on the basis of grounded decision may be prolonged);
- 6) supervision of the commanders of a military unit;
- 7) detention of the suspected.

The Criminal Executive Code of Ukraine regulates the procedure and conditions of criminal sentences execution and serving for protection of interests of individual, society and state by creation of conditions for correction and re-socialisation of the condemned, prevention of

commitment of new crimes by the condemned and by other persons, as well as prevention of tortures and inhuman or such that humiliates dignity treatment of the condemned. The tasks of the Criminal Executive Code of Ukraine are determination of: principles of criminal sentences execution, legal status of the condemned, guarantees of protection of their rights, legal interests and duties; the procedure of application influence measures to them with the purpose of correction and prevention of antisocial behaviour; system of bodies and establishments for sentences execution, their functions and procedure of activity; supervision and control over criminal sentences execution, participation of public in this process; as well as regulation of procedure and conditions of criminal sentences execution and serving; release from sentence serving, assistance to the persons released from punishment, control and supervision over them. The Code is divided into General and Special Parts.

Pursuant to General Part of the Code, criminal executive legislation, execution and serving of sentences shall be based on the principles of inevitability of execution and serving sentences, legality, justice, humanism, democracy, equality of the condemned before law, mutual responsibility of the state and the condemned, differentiation and individualisation of punishments execution, effective use of coercive measures and stimulation of loyal to law behaviour, combination of punishment with correctional influence, as well as participation of public in stipulated by law cases in activity of bodies and establishments for execution of sentences.

The condemned shall enjoy all rights of a human being and a citizen except limitations inscribed by the laws of Ukraine and the CEC of Ukraine and set by sentence of the court. The condemned shall have the right to personal safety.

Bodies for execution of sentences shall be the State Department of Ukraine for Execution of Sentences, its territorial management bodies, criminal executive inspection.

The institutions of sentence execution are: arrest houses, criminal executive establishments, special educational establishments (educational colonies). Criminal executive establishments are divided into open criminal executive establishments (correctional centres) and closed criminal executive establishments (correctional colonies). Correctional colonies are divided into colonies of minimum, middle and maximum safety level. Correctional colonies of minimum safety level are divided into colonies of minimum safety level with the facilitated terms of holding and colonies of minimum safety level with general conditions of holding. Within the scopes determined by the CEC and laws of Ukraine, criminal sentences shall be also executed by the State Executive Service, military units, guardhouses and disciplinary battalion. Territorial management bodies, criminal executive inspection, arrest houses, correctional centres, correctional and educational colonies shall be organised and liquidated by the State Department of Ukraine for Execution of Sentences, and military units, guardhouses and disciplinary battalion – by the Ministry of Defence of Ukraine.

State Executive Service executes punishments in the form of penalty and confiscation of property in cases and procedure stipulated by this Code and laws of Ukraine. Criminal Executive Inspection executes punishments in the form of deprivation of right to hold certain posts or carry out certain activity, social works and correctional works. Arrest houses execute punishments in the form of arrest. Correctional centres execute punishments in the form of limitation of freedom in relation to the persons condemned for crimes of small and middle gravity, as well as to the condemned, who were sentenced in compliance with articles 82, of a 389 of the Criminal Code of Ukraine. Correctional colonies execute punishment in the form of imprisonment for a certain term or lifelong imprisonment. Isolation wards perform the functions of correctional colonies of minimum safety level with general conditions of holding and of correctional colonies of middle

safety level in relation to the condemned that do economic service. Educational colonies execute punishment in the form of imprisonment for a certain term in relation to the condemned minors.

Supervision of prosecutor over adherence to laws during execution of criminal sentences in bodies and establishments of sentences execution shall be carried out by the General Prosecutor of Ukraine and subordinate to him public prosecutors in accordance with the Law of Ukraine "On Office of General Prosecutor". Activity of bodies and establishments for sentences execution shall be under departmental control of high management bodies and officials of the State Department of Ukraine for Execution of Sentences.

Special Part of the CEC of Ukraine consists of four chapters. Chapter two of the Code is devoted to the procedure of execution of sentences which are not connected with deprivation of liberty. So, it sets the procedure of execution of punishment in the form of penalty, consequences of avoidance to pay penalty, procedure of execution punishment in the form of deprivation of military, special title, rank, status or qualification degree, in the form of deprivation of right to hold some posts or carry out certain activity, sets responsibilities of criminal executive inspection as regards to execution of punishments in the form of deprivation of right to hold some posts or carry out certain activity, duties of the condemned to punishment in the form of prohibition to deprivation of right to hold some posts or carry out certain activity. This chapter also sets the procedure of execution punishment in the form of social works, conditions of serving such punishment, duties of owner of enterprise, institution, organization or authorized by him body in the place where the condemned person serves punishment in the form of social works. Criminal executive inspection may apply warning in the form of written forewarning about bringing to criminal responsibility for violation of conditions of serving punishment in the form of social works, as well as for violation of public order therein the condemned was brought to administrative responsibility. Pursuant to Article 41, punishment in the form of correctional works shall be applied on enterprise, in institution, organisation regardless of ownership form on the working place of the condemned. This part also determines conditions of serving sentence in the form of correctional works, procedure of calculation of the term of punishment, duties of owner of enterprise, institution, organisation or authorised by him body in the place where the condemned person serves sentence in the form of correctional works. Article 47 sets the procedure of execution sentence in the form of official limitations for military men and Article 48 – the procedure of execution sentences in the form of confiscation of property.

Article 50 points out that the persons condemned to arrest shall serve sentence, as a rule, in the place of conviction in arrest houses, and military men – on guardhouses. The condemned to punishment in the form of taking into custody shall be kept in isolated conditions with separate holding of men, women, minors and the condemned, who earlier served sentence in the places of imprisonment. The condemned may do unpaid works connected with improvement of conditions of arrest houses and everyday living conditions of the condemned or in additional works for providing arrest houses with food.

Chapter three of the CEC of Ukraine is devoted to the questions of execution of punishment in the form of imprisonment. Type of colony where condemned to imprisonment will serve sentence shall be determined by the State Department of Ukraine for Execution of Sentences. Men and women, minors and adults shall be kept separately in colonies. Those who are condemned for the first time shall be held separately from those who served sentence in the form of imprisonment before. Condemned to imprisonment shall serve the whole term of sentence in one correctional or educational colony, as a rule, within administrative territorial unit where s/he permanently resided before conviction.

Regime in correctional and educational colonies is set by law and other normative legal acts procedure of sentence execution and serving, which ensures isolation of the condemned, permanent supervision over them; fulfilment of put on them duties; exercise of their rights and legal interests; safety of the condemned and the personnel; separate keeping of different categories of the condemned; different conditions of keeping of the condemned depending on the type of colony; change of terms of holding of the condemned. In order to stop illegal actions and prevent causing by these persons harm to the surroundings and themselves, physical strength, special devices, strait jacket and weapon shall be used in relation to the imprisoned, if they physically resist to the personnel of colony, maliciously do not perform personnel's legal requirements, show disorderly conduct, participate in mass disturbances, capture of hostages or commit other violent actions, as well as in case of escape from guard.

The condemned shall have the right to acquire food and first-need things for the money earned in colonies by clearing transaction. Condemned men older than 60 years old, women over 55 years old, disabled of groups I and II, pregnant women who have children in child-care establishments at correctional colonies, minors and the condemned who stay in medical preventive establishments of places of imprisonment shall have the above right also for the money obtained by orders, at the expense of pensions and other incomes. The condemned shall have the right to receive in book-posts, packages, parcels, as well as without limitation to acquire literature through book selling network, writing facilities, subscribe newspapers and magazines for money which they have on their personal accounts.

The condemned shall have the right to short meetings - up to four hours long and long meetings - up to three days and nights. Short meetings shall be with relatives or other persons in presence of representative of colony. Long meetings shall be given with the right of joint living and only with close relatives (married couple, parents, children, foster parents, adopted children, own brothers and sisters, grandfather, grandmother, grandchildren). Long meetings may also be provided for the spouse who lived together as one family, but was not married provided that they have common minor children. Services for use of rooms for short and long meetings shall be paid by the condemned, their relatives or other persons from own funds.

Condemned to imprisonment shall work in the places and on works which are determined by the administration of colonies. The condemned shall be engaged in socially useful labour taking into account available production capacities, sex, age, ability to work, health condition and specialty. As a rule the condemned shall be engaged in labour on enterprises, in workshops of colonies, as well as on state or private enterprises, if the required conditions of protection and isolation are provided. For the persons who serve sentence in the form of imprisonment working week shall not exceed the norm of working time which is set by the labour legislation. Time of beginning and end of work (shift) shall be determined by the administration of the colony. The condemned shall be freed from work on week-ends, holidays, days-off, which are determined by labour legislation. The time free from basic labour activity and fulfilment of obligatory measures, envisaged by daily schedule for the condemned in colony, shall be their spare time.

Colonies shall provide for moral, legal, labour, aesthetic, physical, sanitary hygienic education of the condemned, as well as other types of education that help to establish with the condemned such viewpoint which corresponds to legal norms and requirements of socially useful activity. Freedom to profess any religion or express beliefs related to attitude towards religion shall be limited only in the part that is necessary for ensuring isolation and public security. The limitations are established by the CEC of Ukraine.

Chapter four of the CEC of Ukraine is devoted to execution of sentence in the form of life-long imprisonment. Condemned to life-long imprisonment shall serve sentence in correctional colonies of maximum safety level. The condemned who serve sentence in the form of life-long imprisonment shall be placed in camera-type rooms, as a rule, for two persons and wear clothes of set pattern. On application of the condemned and in other necessary cases in order to protect the condemned from possible encroachments on his/her life from the part of other condemned, prevent commitment crime by him/her or if there is respective medical conclusion on the basis of resolution of the head of colony s/he may be kept in solitary cell.

Chapter five of the CEC of Ukraine determines the procedure of discharge from serving sentence and aid to the persons who are freed from serving sentence, control and supervision over them. Grounds for discharge from serving sentence shall be serving the term of sentence appointed by court, the law of Ukraine on amnesty, pardon act, cancellation of court decision and closing of criminal case, end of prescription term for execution of sentence, grant of parole from serving sentence, disease, other grounds stipulated by law. Persons who have served the sentence shall bear responsibilities and enjoy rights which are established for the Ukrainian citizens with limitations envisaged for the persons who have previous convictions. Such limitations shall be stipulated only by law.

Administrative supervision shall be set as regards to the persons indicated in Article 3 of the Law of Ukraine “On Administrative Supervision over the Persons that are freed from the Places of Imprisonment”. Supervision shall be set on the basis of resolution of judge in the procedure stipulated by Article 5 of the above Law.

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According to the resolution of the Cabinet of Ministers of Ukraine of 17 May 2007 the Ukrainian penitentiary institutions have been turned to the competence of the Ministry of Justice that was aimed at making inmates' conditions more humane.

There are 180 penitentiary institutions in Ukraine, including 131 colonies, 19 settlement-colonies, eleven penitentiary institutions for juveniles, 33 custodies, five medical-labour corrective facilities and 21 hospitals, in which about 200,000 citizens are being kept.

Subordinating Ukraine's penitentiary system to the Ministry of Justice was among the nation's commitments in joining the Council of Europe.