

NON-PAPER
for the Ukraine-EU Sub-Committee 1 Meeting on Justice, Freedom and Security
3 June 2016, Brussels

Reform of the judiciary (including prosecution) and law enforcement agencies

Judiciary

On 25 November 2015 the President of Ukraine submitted to the Verkhovna Rada of Ukraine *draft amendments to the Constitution of Ukraine (on judiciary)* (reg. № 3524) prepared by the Constitutional Commission. On February 1, 2016, the Constitutional Court made a positive conclusion on the draft amendments.

On 2 February 2016 the Verkhovna Rada of Ukraine *preliminary approved* the draft Law of Ukraine "On Amendments to the Constitution of Ukraine (on judiciary)."

The draft amendments, inter alia, aim at:

- depoliticizing and ensuring independence of the judiciary (removal of the Verkhovna Rada of Ukraine from the process of appointing judges; permanent appointment of judges on the proposal of the High Council of Justice);
- increasing requirements and professional standards for the judiciary (the introduction of competitive selection procedures in the appointment of judges);
- limiting the immunity of judges (up to the functional);
- building institutional capacity in the system of prosecution, advocacy, and execution of court decisions.

The Verkhovna Rada adopted *the Law of Ukraine «On Ensuring the Right to a Fair Trial»* which provides for a new edition of the Law "On the Judiciary and the Status of Judges".

The Reform Strategy of the judiciary, judicial process and related legal institutions for 2015- 2020 was approved, which had been prepared by the Judicial Reform Council with the expert assistance of the EU-funded project «Support to Justice Sector Reform».

Prosecution

On 12 May 2016 the President of Ukraine appointed *Yuriy Lutsenko as a new Prosecutor General of Ukraine*.

Systemic reforming of the prosecution was launched with the entry into force of the Law of Ukraine "On Prosecution". In 2015 *four-stage open competition for positions of heads of local prosecutors, their first deputies and deputies* was held.

On 15 December 2015 *155 newly appointed local prosecutor's offices started operating* (instead of previously existing 639 prosecutor's offices of rayon level). 652 head of local prosecutor's offices and their deputies were appointed (comparing to 2 550 persons beforehand). As a result of reform the number of prosecutors in Ukraine decreased from 18 500 to 15 000.

The work continues on arranging legislative, organizational and practical support for the activity of the *Inspectorate General of internal investigations and security* at the Prosecutor General's Office of Ukraine.

On 22 September 2015 a *Specialized anti-corruption Prosecutor's office* was established (as an independent unit within the structure of the Office of the Prosecutor General of Ukraine).

On 30 November 2015 the Deputy Prosecutor General of Ukraine – *the Head of the Specialized anti-corruption Prosecutor's office* was appointed based on results of Competition commission's work on selecting anticorruption Prosecutor. Changes to the legislation that ensure its independence were adopted.

As of 21 May the SAP staff includes 24 prosecutors (21 procedural instructors).

Internal Affairs Bodies

As of 7 November 2015 *the Ministry of Internal Affairs operates as a civil body*, which main function is to form a unified state policy in the sphere of internal affairs and coordinate such agencies as National Police, National Guard, State Border Guard Service, State Migration Service, State Emergency Service. The reform of the MoI is carried out with the support of international experts, in particular in close cooperation with the EU Advisory Mission on Civil Security Sector Reform.

The national police was established. The National Police contains the following subdivisions:

- Criminal Police,
- Department of Patrol Police (patrol brigades already operate in 29 Ukrainian cities),
- Department of Police Security,
- Special Police,
- Rapid Operational Response Unit (KORD),
- Pre-trial Investigative Services.

A draft Code of Police Ethics is being finalized.

A draft concept of further reforming of the National Police of Ukraine is being developed in four directions:

- police interaction with the public (community policing);
- control the crowd (crowd management);
- criminal investigation (criminal investigation);
- selection, training (HR policies / education).

State Bureau of Investigation

The Law of Ukraine «On the State Bureau of Investigation» was adopted. The Law establishes the legal basis for the organization and activity of the State Bureau of Investigation as a government law enforcement agency, entrusted with the functions of preventing, detecting, stopping and solving crimes within its competence, namely:

detecting, solving and investigating crimes related to the activity of criminal organizations, terrorism, and particularly serious violent crimes;

preventing, solving and investigating crimes associated with torture and other brutal, inhuman or degrading kinds of treatment and punishment, committed by investigators (detectives) of the National Anti-corruption Bureau, Security Service of Ukraine, internal affairs bodies, as well as prosecutors;

solving and investigating corruption offences and corruption-related crimes, committed by officers of the National Anti-corruption Bureau of Ukraine and prosecutors of Specialized Anti-corruption Prosecutor's Office.

On 29 February 2016 the Government established the State Bureau of Investigation. Members of competition commission were approved for selecting the Head and deputies of the State Bureau of Investigation. In April 2016 the Competition Commission started its work.

Preventing and combating corruption

On 26 September 2016 the President of Ukraine approved the personal composition of the *National Council for Anticorruption Policy*. Three meetings of the National Council took place as of May 2016 to discuss the most pressing issues of anti-corruption policy implementation.

On 28 February 2016 *the laws aimed at efficient functioning of main anticorruption bodies* and their financing entered into force, namely:

- on improvement of activity of the National Agency of Ukraine for Detection, Tracing and Management of Proceeds from Corruption and other Crimes;
- on improvement of the procedures for seizure of property and the institute of special confiscation;
- on ensuring of transparency in organization of activity of Special Anticorruption Prosecution to implement IMF recommendations.

All necessary legislation is adopted to back-up the functioning of the newly established anticorruption bodies:

- National Anti-Corruption Bureau of Ukraine (NABU),
- Special Anticorruption Prosecution (SAP),
- National Agency of Ukraine for Corruption Prevention (NACP) and
- National Agency for Detection, Tracing and Management of Proceeds from Corruption and other Crimes.

The State Budget for 2016 allocates the following funding for the bodies involved in preventing and fighting corruption:

- National Anti-Corruption Bureau - UAH 486,7 million;
- Specialized Anti-Corruption Prosecution - UAH 74 million (separate budget line, i.e. funding available specifically for the SAP);
- National Agency for Corruption Prevention - UAH 486,2 million.
- National Agency for Detection, Tracing and Management of Proceeds from Corruption and other Crimes (ARO/AMO Office) – UAH 25,3 million.

National Anti-Corruption Bureau of Ukraine (NABU)

NABU is fully operational and investigates 138 cases. 42 suspicions have been notified. 13 indictments have been forwarded to courts.

In February 2016 the NABU launched a national hotline (0800503200).

Electronic document management system ASKOD was put in place to accelerate internal communications and improve efficiency.

Memoranda on cooperation were signed with:

- EU Advisory Mission on Civil Security Sector Reform;
- Anticorruption Bureau of the Republic of Poland;
- US FBI.

NABU personnel includes 453 employees. Following the results of the selection competition directors of Odessa and Lviv territorial division of NABU were appointed.

Open call for applications to the NABU's Public Control Council was announced.

Selection competition for the recruitment of the personnel to several departments is ongoing. The applicants passed the legislation test. Next steps of the selection procedure are being prepared.

Specialized Anti-corruption Prosecution (SAP)

On 2 December 2015 the Deputy Prosecutor General of Ukraine – Head of the Specialized Prosecution, his First Deputy and Deputy, Head of Department for Coordination of Proceedings, Support of the Indictment and Representation in Courts, heads of 6 units of this department, head of analytical and statistical unit and head of the secretariat were appointed.

On 15 December 2015 the SAP Head approved the rules of procedure for the Open competition for the selection of candidates to SAP prosecutors and on 16 December the completion was announced.

The Law on Amendments to the Law of Ukraine on the Prosecution to ensure transparency in the organization of SAP's activity to implement IMF recommendations entered into force on 28 February 2016. The new procedure for selection and appointment of SAP prosecutors takes into account the new anticorruption legislation. In particular, the Law guarantees publicity of the competition with free media access and its broadcasting on the Internet.

24 staff members (21 procedural instructors) have been appointed.

Call for applications for 21 vacant prosecutor positions will be announced in July 2016. The selection procedure will take into account the new anticorruption legislation which entered into force on 28 February 2016 and was adopted in the framework of implementation of Ukraine's VLAP and IMF commitments.

National Agency for Corruption Prevention (NAPC)

The Cabinet of Ministers of Ukraine established *the National Agency for the Prevention of Corruption* as a central government executive authority with a special status.

There are already 4 NAPC members of 5. The appointment of 4 NAPC members enabled the immediate launch of the National Agency on Prevention of Corruption. The NAPC is operational.

On 28 March 2016 Ms. Natalia Korchak was selected as the Head of the National Agency for Corruption Prevention and Mr. Ruslan Radetskyi was selected as Deputy Head of the NACP. At the same NACP meeting an indicative roadmap for putting of NACP into full operation was adopted.

One more NACP member shall be selected soon. On 29 March 2016 the Selection Committee started its meetings.

On 30 March 2016 the NACP was registered as legal entity. Building was provided.

As of 17 May 38 members of staff were hired and/or transferred from other state bodies.

Call for an application for 167 vacant positions was announced. The applications to be submitted by the end of May.

Draft by-laws necessary for performing functions as well as strategic and annual work plans of the Agency are being drafted; steps are taken to launch the Agency's web-site.

The Law on declaration of assets of public officials was agreed with the European Commission (EC) and entered into force on 18 March 2016.

On 24 February 2016 the Government adopted the decision on free of charge distribution of electronic signature keys to persons who will have the obligation to submit their declarations electronically.

On 15 March 2016 the system for e-declarations was presented to the public by the Ministry of Justice of Ukraine.

The full-scale rollout of the IT system is being tested and is pending the relevant decision of the NACP.

Asset Recovery Office

On 10 November 2015 the Law on the National Agency for Detection, Tracing and Management of Proceeds from Corruption and other Crimes (ARO/AMO Office) was adopted.

The Law that gives the Office active management functions was approved on 18 February as well as the Law on seizure and special confiscation.

Governmental decision on creation of the Agency was adopted on 23 February 2016.

Selection committee was appointed in 30 March 2016.

Sustainability measures:

- In January-February 2 seminars for NABU detectives were organized under the EU-CoE Programmatic Cooperation Framework;
- In April 462 judges attended 21 lectures and 1 seminar focused on fighting corruption, organized by the National School of Judges (in March – 30 lectures were attended by 460 judges and in February 413 judges attended 24 lectures).

Legal cooperation (judicial cooperation in civil and criminal matters)

Ukraine cooperates with EU member states within *54 multilateral and 15 bilateral treaties and conventions*.

As a result of Russian aggression and occupation of the Crimean peninsula, depositories of Council of Europe, the United Nations and the Hague Conventions were informed on *the procedure for application and implementation of Ukraine's commitments* under the relevant conventions, protocols, agreements *regarding the occupied and uncontrolled territories of Ukraine*.

A working group was established to develop *amendments to the procedural codes aimed at providing natural and legal entities with the right to judicial protection in consequence of temporary occupation*.

The depositories of the agreements on mutual legal assistance have been informed that *the documents or requests compiled or published by the occupation authorities of the Russian Federation, its officials and administrative staff of the Autonomous Republic of Crimea and Sevastopol and the illegal authorities of certain areas of Donetsk and Lugansk regions, which temporarily uncontrolled by Ukraine are illegal, null and void and do not issue any legal consequences* regardless whether they are directly or indirectly represented by the authorities of the Russian Federation.

Data protection

Necessary budget resources are allocated for the Data Protection Authority (DPA, Ombudsman's office).

Capacities of the national data protection authority are further strengthened in the framework of European Union - Council of Europe Partnership Cooperation Framework Programme 2015-2017 Project "Strengthening the Ombudsperson's Office operational capacities in Ukraine (ill-treatment in paces of deprivation of liberty, non-discrimination, data protection).

638 complaints were analyzed by the DPA in 2015. 494 complaints were received in 2016.

62 programmed and ad-hoc on-site verifications were conducted by the DPA in 2015.

Sustainability measures:

- Around 800 representatives of the law-enforcement, healthcare and bar sectors attended specialized trainings on data protection.
- Specialized Training Center focused on Data Protection Policy was created in Lviv.
- Twinning Project «Implementation of the best European practices with the aim of strengthening the institutional capacity of the Apparatus of the Ukrainian Parliament Commissioner for Human Rights to protect human rights and freedoms (Apparatus)» will be implemented by a Consortium which includes Seimas Ombudsmen's Office of the Republic of Lithuania, State Data Protection Inspectorate of the Republic of Lithuania, and The Ludwig Boltzmann Institute of Human Rights (Austria).

Preventing and combating organized crime and other illegal activities

Preventing and combating organized crime

National Security Strategy adopted by the President. National Security and Defense Council drafted the *Action Plan on Reforming of the Law Enforcement in Ukraine*.

The *Law on the State Bureau of Investigation* was voted by the Parliament. The Selection committee that will chose the Head of the Bureau is being formed.

Ukrainian legislation on *witness protection* is in line with the European standards. Inter-agency working party on improvement of witness protection was created. Methodological assistance is provided by the EUAM and US Marshalls.

On 11 May 2016 UA experts participated in EuroPol conference on Witness Protection (Bucharest, Romania) with the EUAM assistance.

135 organized crime groups were dismantled in 2015, including 4 criminal organizations and 570 persons.

In 2016 60 indictments have been forwarded to courts regarding 188 suspects.

Qualification of a crime as committed by criminal organization/group was confirmed in 92% cases.

Fight against trafficking in human beings

On 7 October 2015 the *Concept of the State targeted Programme on Combating THB till 2020* was approved.

The State Programme of Combating Trafficking in Human Beings – 2020 was approved by the CMU on 24 February 2016.

On 11 January 2016 *the Procedure for Monitoring and Collecting Statistical Information about Victims of Human Trafficking* was approved. The main purpose of the draft act is to improve the procedures for collecting statistical information about victims of human trafficking and monitoring the current situation in this area.

The Ministry of VoT was created under the project “*Countering trafficking of human beings*” finance by USAID. It will contain the information on individuals who received the status of persons suffered from trafficking, disaggregated by age, sex, type of exploitation, country of origin and destination, structure or social organization, which found the victim, assistance provided by the affected persons.

As of 1 May 2016, 203 persons were granted VOT status, including 197 citizens of Ukraine and 6 foreigners.

Destination countries: Russian Federation - 99 cases, Ukraine - 48 cases, Poland - 18 cases, Turkish Republic - 12 cases, the Kingdom of Spain - 5, Czech Republic – 3, Israel – 3, Greece 2, Republic of Azerbaijan - 2 cases, Moldova – 2, Belarus – 2, Serbia – 1, Armenia – 1, France – 1, Italy – 1.

246 THB cases were investigated by the law-enforcement in 2015. 44 cases were initiated in 2016 (27% less).

Tackling illicit drugs

Action plan on the Implementation of the State Policy Strategy on Drugs was approved by the CMU Resolution (No.514-r of 25.05.2015). An updated Action Plan for 2016 was published for public consultations.

The Department for combating drug crime is established in the National Police.

Within six months (since November 2015):

- more than 1 thousand of criminal offenses related to the drug sales uncovered,
- illegal activities of 5 organized groups of drug traffickers stopped,
- about 400 laboratories and drug dens producing synthetic drugs closed up,
- more than 25 international and interregional trafficking channels of illegal drugs and psychotropic substances blocked,
- 250 facts of sale of potent drugs and violation of the rules of narcotic drugs circulation documented.

The priority is given to preventive activities. More than 80 meetings took place on drug preventive topics with pupils done on a weekly basis.

During 2015 - 2016 three meetings of *the Virtual contact center* on analytical assessment of the counter trafficking drugs and psychotropic substances took place (last on 2 April 2016). The Department for combating drug crime of the National police is to join the work of the Virtual contact center.

Sustainability measures:

- 12 bilateral and multilateral consultations, seminars and conference have taken place in 2016 involving representatives of Poland, Germany, Lithuania, Israel, USA, Romania, Great Britain.
- On 1-2 March 2016 seminar on Monitoring of drug situation, practices, and tendencies was organized in Kyiv in the framework of cooperation with the European Monitoring Center for Drugs and Drug Addiction (EMCDDA).

Money laundering and financing of terrorism

The Strategy for the development of the system of prevention and counteraction to legalization (laundering) of proceeds from crime, terrorist financing and the financing of proliferation of weapons of mass destruction for the period until 2020 was approved.

On 11 February 2016 the Government and the NBU approved a *Plan on prevention and counteraction to legalization (laundering) of proceeds from crime, terrorist financing and the financing of proliferation of weapons of mass destruction in 2016*. The Plan aims at implementation of FATF recommendations and EU Directive 2015/849 on the prevention of money laundering and fight against terrorism.

All the *banks* (135) provided to the National Bank the information on their *ultimate beneficiaries*. *Ownership is traced to every physical person*.

On 24 July 2015 NBU Decree on Amendments to certain regulation on *e-money* approved. Debiting/crediting of e-money is allowed only to bank accounts. It also requires an operator of e-money to provide the NBU with the terms of use of e-money which shall also contain provisions on the prevention of legalization (laundering) of proceeds from crime and terrorism financing, and weapons of mass destruction.

On 2 September 2015 new *unit focusing on the coordination of investigations into money laundering and terrorism financing* was created in the structure of the Department of Supervision in Criminal Proceedings of the General Prosecutor's Office and specialized prosecutors defined at regional level.

In 2015 384 investigations of money laundering and 120 investigations of terrorism financing were launched. 24 organized groups involving 101 persons were dismantled. Approx 5.5 billion UAH were frozen. 55 indictments on money laundering and 10 indictments on terrorism financing were forwarded to courts.

Sustainability measures:

- On 22-25 March 2016 training on tracing and recovery of unlawful assets and proceeds from crime was organized by the EUAM for the personnel of National Police, NABU, Security Service and State Fiscal Service.

Border management, migration and asylum

Integrated border management

Ukraine-EU Readmission agreement is implemented effectively. In 2014 342 readmission requests, in 2015 – 452 readmission, in the 1-st quarter of 2016 – 120 requests were received by the State Migration Service. All requests were processed.

4 priority *border crossing points* have been connected to *Interpol databases*. All BCP will be connected in 2016.

Strategy of State Border Guard Service development was approved by the CMU. An implementation plan is being drafted.

Concept of Integrated Border Management was approved by the Cabinet of Ministers of Ukraine on 28 October 2015.

Virtual contact center for integrated border management is operational. EUAM Ukraine participates in the meetings of the Center. Last meeting of the Center took place on 12 April 2016.

Annual analysis of risks at external borders is in place. In 2016 joint risk analysis was conducted with border guard services of Hungary (22-24.03.2016), Slovakia (28.04.2016) and Moldova (26.04.2016)

Sustainability measures:

- 18-22 February 2016 – seminar for analysts under the Eastern European Borders initiative.
- 18-22 April 2016 – training on concepts, instruments and methods of risk analysis.
- In April 2016 language training for 148 officers involved in border management started.

Migration management

The *Law on External Labor Migration* was adopted on 5 November 2015.

Special units charged with fighting against illegal migration were *created* in the Administration of the SMS and its regional bodies. In 2015 the *structure* of the SMS was *optimized* and the staffing of the relevant units responsible for migration control has been increased. Staff was increased by 500 people. SMS staff permanently *upgrades* their level of knowledge of *foreign languages*. System of *the secondary legal aid* is used to gain translators from and *to specific languages*.

The *Migration profile* for 2014 has been completed and published on the SMS website in April 2015. The Migration profile for 2011 – 2015 has been completed and published on the SMS website on 13 May 2016.

From 27 August 2015 the *Analytical Contact Center* started producing weekly *reports on monitoring migration processes*, which have been published in the dedicated section of the SMS web-site.

Asylum

Ukraine provides the *free secondary legal aid* to all persons, including those applying for international protection, *on 1 July 2015*, 100 local centers for secondary legal aid were created (from 3 to 9 local centers in every region of Ukraine).

In 2015 the database *Foreigners. Refugees* was created in the SMS. Special software was developed to integrate the databases of the former State Committee of Ethnicities and Religions into the new software. The access to the database was granted to regional SMS offices from 17 August 2015.

On 19 May 2016 Law on *Improving Provisions on the Judicial Protection of Foreigners and Stateless Persons and Settlement of Certain Issues Related to Combating Illegal Migration* was adopted.

The law envisages periodical (every 3 months) judicial review of the forced expulsion cases regarding the persons detained in Migrant accommodation centers to determine the effectiveness of the activities of identification, documentation and forced expulsion; the presence of newly emerged conditions/information that prevent the forced return of a foreigner.

The food standards for the provision of food at the centers for temporary stay of foreigners and centers for accommodation of refugees were upgraded. The new standards are not linked to financial limits and envisage justified amount of *calories* to be consumed by a person daily.

Reconstruction of refugee accommodation center in *Yahotyn (Kyiv region)* was completed. Migrant accommodation center in *Mykolayiv* region was completed in November 2015.

National School of Judges carries *trainings* for judges, focused on migration and asylum issues.

Biometrics

122 border check points have been equipped to carry out first-line control using biometrics (fingerprints). 97 (29 already in 2016) *BCPs* have been equipped to carry out second line control using fingerprints. All remaining *BCPs* will be biometrics-capable by the end of 2016.

9.5 million *records* of the old SMS data base have been *integrated* to the Unified State Demographic Register.

2 890 198 passports have been processed as of 19 May 2016 out of which 1 390 079 biometric ones.

In 2016 Ukraine started issuing *new biometric ID cards*. 78 582 ID cards were processed as of 19 May out of which 77 597 biometric ones.

IT network of the SMS has been connected to the protected communication *network of the Ministry of the Interior*, thus enabling automated checks of restrictions on leaving the territory of Ukraine (convictions, debts, court proceedings etc.), when processing passport applications.

The abuse of the change of name has been excluded. Mandatory obligation of civil registry offices to notify the SMS of a *name change* by a person and automatic invalidation of the travel document if a person has changed his/her name. Individual has 1 month to change passports (internal and international).

Sustainability measures:

- On 14-18 March 2016 – training on the procedures of second-line control.
- On 4-9 April 2016 – training on new technics of detection of forged travel documents.

Regarding the issues of territorial application of a number of multilateral international treaties of Ukraine

In June 2014 the Ministry of Justice of Ukraine and the General Prosecutor's Office of Ukraine raised the issue at the governmental level on inability to fulfil Ukrainian commitments in accordance with a range of international bilateral and multilateral treaties in the sphere of judicial cooperation in criminal and civil matters, ensuring security and fighting terrorism due to Russian aggression against Ukraine and occupation of the Autonomous Republic of Crimea and Sevastopol as well as lack of effective control of Ukraine at the separate districts of Donetsk and Luhansk regions.

To avoid negative consequences for Ukraine concerning potential accusations of nonfulfilment of international treaties, party of which is Ukraine, the Ukrainian side informed 58 depositaries of important international multilateral treaties in mentioned spheres (UN depositaries – 16, depositaries of Netherland – 8, CoE depositaries – 29, CIS depositaries – 2, IMO depositaries – 1, USA depositaries, UK, the Russian Federation – 2) that since 20 February 2014 for the period of temporarily occupied part of the territory of Ukraine due to Russian military aggression and until full resumption of constitutional order of Ukraine at the Crimea and Sevastopol as well as at the separate districts of Donetsk and Luhansk regions application and fulfilment of Ukrainian commitments in accordance with appropriate international instruments are limited and can not be guaranteed.

In this regard there are following main arguments:

1. In February 2014 the Russian Federation launched military aggression against Ukraine and occupied the territory of Ukraine – the Crimea and Sevastopol city, and today has actual control on separate districts of Donetsk and Luhansk regions of Ukraine. These actions of the Russian Federation are a rough violation of the UN Charter and a threat to international peace and security. The Russian Federation as a state-aggressor and state-invader is fully responsible for its actions under international law.
2. UN General Assembly Resolution A/RES/68/262 of 27.03.2014 confirmed the sovereignty and territorial integrity of Ukraine within its internationally recognized borders. The UN also called on all states and international organizations to not recognize any change of the status of the Crimea and Sevastopol.
3. In the context of implementation of the relevant multilateral treaties, documents or requests drawn up or published by the occupation authorities of the Russian Federation and by its officials in the Crimea and Sevastopol as well by the illegal authorities of separate districts of Donetsk and Luhansk regions of Ukraine, which are temporarily not controlled by Ukraine, are illegal, invalid and do not create any legal consequences regardless of being presented directly or indirectly within the authorities of the Russian Federation.
4. The act of provisions of relevant multilateral treaties (in case of presence) on direct affairs do not spread on the territorial bodies of Ukraine in the Crimea and Sevastopol as well as separate districts of Donetsk and Luhansk regions of Ukraine, which are temporarily not controlled by Ukraine.

5. The appropriate order of affairs on implementation of multilateral instruments involving the Ukrainian side is determined by central government authorities of Ukraine in Kyiv.

The MFA of Ukraine continues to analyse information of central government authorities on possible problems in fulfilment of Ukrainian commitments in accordance with a number of international intergovernmental treaties in other spheres (the CMU Resolution No. 442-r of 14.05.2015).

**Regarding visas issued to persons living in
the Crimea and separate districts of Donetsk and Luhansk regions of Ukraine**

Schengen visas for Ukrainian citizens - residents of temporarily occupied territory of the Crimea and separate districts of Donetsk and Luhansk regions of Ukraine, are issued by foreign diplomatic and consular institutions in accordance with general practice and in the case of presence of all documents, required for issuing such visas to Ukrainian citizens.

The main precondition to apply for a visa is to be holder of the passport of citizen of Ukraine for travelling abroad.

The MFA constantly has informed the competent foreign authorities on the stance to no issue visas to holders of Russian passports for travelling abroad, issued to residents of temporarily occupied territory of Ukraine – the Crimea (after 16.03.2014).

The MFA also expects on approval of guidelines for consular officials on non-recognition of passports, issued by the illegitimate authorities of the Crime and separate districts of Donetsk and Luhansk regions, and on the procedure for visa issuing to persons leaving at these territories.

During the last period the MFA has not received complaints from individuals or legal entities of Ukraine on problems with visa issuing to the EU Member States or refusals for reasons of being residents of the Crimea or separate districts of Donetsk and Luhansk regions.

The Ukrainian side expects consistent adherence by EU Member States diplomatic missions of obligations in accordance with the UN General Assembly Resolution A/RES/68/262 of 27.03.2014 on the Territorial Integrity of Ukraine and taking into account the Law of Ukraine No. 1207-VII on Securing the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine of 15.04.2014. The Article 9 of the Law envisages that any documents or legislation acts, issued by illegally established authorities, are invalid and do not create any legal consequences.

**Information on ships carrying flags of EU Member States,
which entered closed ports of Autonomous Republic of Crimea and**

25.07.2014 – 28.04.2016

European Union			
Malta			
1.	8116180	GOODNESS (dry-cargo)	MFA Verbal note to the MFA of Malta No. 630/24-300-5098 dated 02.12.2014
2.	248000643	FXH IKARUS (pleasure craft)	MFA Verbal note to the MFA of Malta No 630/24-300-2303 від 17.08.2015 р.
3.	9198783	BORAY	Date of entry: 15.12.14
4.	9006320	ILSE	Date of entry 19.08.14

Italy

1.	9003043	SYN ATLAS (tanker)	MFA letters No. 630/21-300-4354 dated 02.10.2014, № 630/6128-110-155 dated 23.01.2015 UA MFA Verbal Note to the MFA of Italy No. 630/24-300-5097 dated 02.12.2014
2.	8716954	ROBUR (PO-PO) (flag was changed to Russian)	MFA letters No. 630/21-300-4354 dated 02.10.2014, No. 630/6128-110-155 dated 23.01.2015 UA MFA Verbal Note to MFA of Italy No. 630/24-300-5097 dated 02.12.2014
3.	9003079	SYN MAIA	Date of entry: 24.05.15

Republic of Cyprus

1.	8611659	IONAS (ferry)	UA MFA letters No. 630/21-300-3654 dated 28.07.2014, No. 630/61221-300-3818 dated 14.08.2014, No. 630/21-300-4335 dated 30.09.2014 p., UA Embassy in Cyprus Verbal Notes No 816 dated 28.07.2014, No. 1121 dated 02.10.2014
2.	8611532	OLYMPIADA (passenger Ro-Ro)	UA MFA letters No. 630/21-300-3654 dated 28.07.2014, No. 630/61221-300-3818 dated 14.08.2014, No. 630/21-300-4335 dated 30.09.2014, UA Embassy in Cyprus Verbal Notes No. 816 dated 28.07.2014, No. 1121 dated 02.10.2014

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Hellenic Republic

1.	7814046	KRITI I (passenger)	UA MFA letter No. 630/6125-110-3042 dated 15.10.2015
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Portugal

1.	6602898	OCEAN MAJESTY	UA MFA Letter No.630/21-300-4215 dated 19.09.2014 UA Embassy to Portugal Verbal Note 61211/22-012-1736 dated 22.09.2014
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United Kingdom of Great Britain and Northern Ireland

1.	235105944	LEGEND (sailboat)	UA MFA Verbal Note No. 630/23-300-2381 dated 21.08.2015
2.	235112578	AGIOS NIKOLAOS	UA MFA Verbal Note No. 630/23-300-3080 dated 19.10.2015
3.	235059155	TATIANA K	UA MFA Verbal Note No. 630/23-300-3080 dated 19.10.2015
4.	235077635	MISS CHOCOLATE	UA MFA Verbal Note No. 630/23-300-3080 dated 19.10.2015
5.	235113311	HAVANA	UA MFA Verbal Note No. 630/23-300-3080 dated 19.10.2015
6.	235100841	LADY ANASTASIA (pleasure craft)	UA MFA Verbal Note No. 630/23-300-1819 dated 25.06.2015
7.	235080213	PRINCESS OF CRIMEA (pleasure craft)	UA MFA Verbal Note No. 630/23-300-1819 dated 25.06.2015
8.		EVEREST	<i>(new entry)</i>

British Overseas Territories

9.	319050100	TT KISS (pleasure craft)	Cayman Islands UA MFA Verbal Note No. 630/23-300-2381 dated 21.08.2015
10.	1012672	KISS	Cayman Islands UA MFA Verbal Note No. 630/23-300-3080 dated 19.10.2015
11.	319050500	INDY	Cayman Islands UA MFA Verbal Note No. 630/23-300-3080 dated 19.10.2015
12.	319740704	AMPHITRITE (pleasure craft)	UA MFA Verbal Note No. 630/24-300-171 dated 26.01.2015
13.	378111761	DREAM ON II (pleasure craft)	British Virgin Islands
14.	348000006	MERI II (pleasure craft)	Montserrat

Bulgaria

1.	8899720	LPG/C BRIZ (tanker)	UA Embassy of Ukraine in Bulgaria No. 6133/22-012-622 dated 03.09.2015
2.	8012853	POLARIS (LPG tanker)	UA Embassy of Ukraine in Bulgaria verbal note (tbc)

Regarding the illegal border crossing in the Crimea and Donbas

Movement in 37 border cross points and checkpoints across the state border in the uncontrolled areas temporarily suspended by the decision of the Ukrainian government (since June 2014).

Since 2015 30 thousand people have illegally entered Russian territory through these areas.

Administrative liability is entailed for such actions by folding protocols on administrative offenses. Cases of such offenses are sent to the court for consideration.

To stop illegal crossing of the state border of Ukraine in temporarily uncontrolled areas of Ukrainian-Russian state border the following actions should be taken:

- to restore control by the Ukrainian authorities over this part of border;
- to open logistic centers near the contact line;
- to adopt the draft law «On amendments to some legislative acts of Ukraine concerning the cases of administrative violations in the border area» (reg. # 4114).

Regarding the state of implementation of the Agreement between the Ukraine and the EU on the facilitation of the issuance of visas

The provisions of the Agreement between Ukraine and the EU on the facilitation of the issuance of visas generally are fulfilled by consular posts of EU Member States. During the current period of 2016 the MFA almost has not received any complaints from individuals and legal entities of Ukraine on unjustified refusal on visa issuing.

The MFA monitors the adherence by the EU diplomatic missions and consular posts of their legal commitments under the “upgraded” Agreement. In this regard the Mission of Ukraine to the EU monthly sends mentioned information to the EC.

The Ukrainian side considers the application of "upgraded" Agreement as an important element to approach the key goal – the EU lifting of visas for Ukrainian citizens.

As of May 2016 the following main problems on visa issuing by EU diplomatic missions in accordance with the Agreement remain valid:

1) the extension of waiting time for submission of documents to diplomatic mission or consular posts of the EU Member States as well as to Visa Centers (Poland, Czech Republic).

According to paragraph 2.1.2 of the Recommendations “in general, appointments should be fixed within a reasonable period of time. The Joint Committee will monitor this issue carefully”.

In accordance with paragraph 5 of Article 6 of “upgraded” Agreement, an appointment for submission of documents should be made usually during two weeks from the time of appeal.

Meanwhile, the registration at the web-site www.visapoint.eu to submit document for visa issuing by the electronic system is actually impossible in the Czech embassy and consular posts in Ukraine. There is a similar situation with the submission of documents to the Polish visa centers (Lviv, Ivano-Frankivsk).

2) lack of possibility to submit applications for visa issuing directly to consular posts or consular divisions of the EU diplomatic missions in Ukraine, which use the services of the Visa Centers.

According to paragraph 15 of the Preamble to the Visa Code (Regulation (EC) No 810/2009) “EU Member State has decided to cooperate with an external service provider, it should maintain the possibility for all applicants to lodge applications directly at its diplomatic missions or consular posts”.

As of May 2016 the opportunity to apply for visa directly to consular posts remains only in some of the Scandinavian countries and Greece, Slovakia, Slovenia, Portugal.

Thus, a problem to enhance technical possibilities of consular departments of the EU Member States in Ukraine remains at this stage.

3) increasing refusal rate from 1.97 to 3.5% (in Polish Consulate in Vinnytsya this figure reached 12%).

4) requests to submit redundant quantity of additional documents confirming the travel purpose, financial ensuring, connections with the country of nationality and so on.