

Report No. S/ZZ/JHA/01005



Assessment of the European
Union Phare Programmes

Multi-Country

Thematic Report on
Justice and Home Affairs

By OMAS Consortium

24 September 2001

Controlled copy.....of.....
Signed:.....

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GLOSSARY OF ACRONYMS

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GLOSSARY OF ACRONYMS

AP	Accession Partnership
CAR	Country Assessment Review
CC	Candidate Country (for membership of the EU)
CSD	Commission Services at the Delegation
CSHQ	Commission Services at Headquarters
DG	Directorate General (of the CSHQ)
DIS	Decentralised Implementation System
FM	Financing Memorandum(a)
IPR	Intellectual and Industrial Property Rights
ISPA	Pre-accession instrument for structural policies
NDP	National Development Plan
NPAA	National Programme for the Adoption of the <i>Acquis</i>
OCTOPUS	Joint European Commission and Council of Europe Programme (1996-1998) supporting the fight against organised crime in CEEC and some former Soviet Union countries
OMAS	The Monitoring and Assessment Consortium (not an acronym)
PAO	Programme Authorising Officer
PCM	Project Cycle Management
P&PD	Programme and Project Design
SAPARD	Special Accession Programme for Agriculture and Rural Development
SIS	Schengen Information System
SP	Strategic Plan
TA	Technical Assistance
TAM	Treaty of Amsterdam
TEU	Treaty on European Union
ToR	Terms of Reference

Thematic Report on the European Union Phare Programme

JUSTICE AND HOME AFFAIRS

EXECUTIVE SUMMARY

Introduction

This report has been requested by the European Commission from the OMAS Consortium (OMAS). It is based on a detailed analysis of (Monitoring and Assessment) documentation produced by OMAS from 1996 to 2001, in particular, summaries from the Country Assessment Reviews (CARs) in relation to the ten CCs, in the field of Justice and Home Affairs (JHA). Specific account is also taken of the annual assessment report of the (only) Multi-Beneficiary Programme on JHA.

The scope of *JHA acquis* has been radically altered over time, by constitutional amendments to the various Treaties. Topics that previously fell within the ambit of JHA under the Treaty on European Union (prior to the amendments made by the Treaty of Amsterdam), nevertheless continue to be treated as being within the scope of Phare funding for JHA. They are reflected accordingly in the priorities of the Accession Partnership (AP) and the National Programme for the Adoption of the *Acquis* (NPAA) in the CCs, and can broadly be grouped as (i) border related issues, such as the free movement of persons, visa policy, asylum, immigration; (ii) cross border crime, including drugs smuggling, terrorism, fraud, corruption, organised crime, police and customs co-operation; and (iii) judicial co-operation on both civil and criminal matters.

Analysis of experienced gained, problems identified and results delivered

The most significant conclusions of the Monitoring and Assessment Reports about JHA issues refer to (i) substantive problems and weakness relating to JHA law or policy; (ii) Programming/Programme Design, (iii) Programme Co-ordination/Management, (iv) Contractors/Other Parties' performance, (v) Programme Environment, (vi) Achievement of Objectives, and (vi) Sustainability.

The Monitoring and Assessment Report on the JHA Multi-Beneficiary Programme concluded that the wide range of JHA topics (as reflected in both AP and NPAA priorities) has created some policy fragmentation and/or confusion on the part of CCs. Inter-institutional beneficiary co-ordination is impaired and division of responsibilities between Ministries for implementation of the (broad) *JHA acquis* is unclear in some countries. More attention is paid to "technology" aspects of JHA such as computer systems, databases, intelligence gathering, undercover operation, interception of electronic messages etc. as compared to areas of ethics, fundamental civil rights, transfer and transparency of information, etc. The need for consideration of special assistance in relation to Eastern Border Management has been noted.

It is not possible to draw any significant general conclusions about the performance of individual CCs in the field of JHA based on Phare. This is because the amount of funding varied greatly between different countries (ranging from MEUR 5.2 to 32.0). In addition the range of AP and NPAA priorities chosen for inclusion within various Programmes differed from country to country. The nature of the problems or difficulties in each CC might arguably

also have been different in each case.

The general performance of the Phare Programme in respect of achieving Programme objectives for JHA is to be regarded as “Satisfactory”. Nevertheless, there is certainly room for improvement since a significant minority of assessments were found to be “unsatisfactory”. Future Programmes in JHA might also be encouraged to yield substantial, rather than merely satisfactory benefits. It may be regarded as encouraging that objectives for JHA are largely likely to be achieved, that beneficiary commitment and the programme environment is, in general, satisfactory and that a high level of sustainability is expected for most activities to date. The most common threat to sustainability is the need for future financial/other CC resources to maintain relevant activities or equipment.

Definition of challenges to come in the short and medium term

The primary challenge for Phare is to continue to facilitate the sustainable adoption of the *acquis* by the CCs as fast as practicable. In the field of JHA this is made more difficult because of the very broad and sometimes unconnected range of topics that may be covered. The Commission may consider, in the context of accession negotiations, whether greater or equal emphasis in programme design and/or Phare funding should be devoted to specific areas of JHA *acquis*. For instance, the problems of fighting organised crime or enhancing police co-operation, may warrant special treatment. On the other hand, it may also be important to avoid neglecting other areas (such as in the field of fundamental civil rights) where common minimum standards have yet to be achieved. Further projects related to judicial co-operation in both civil and criminal matters may also be considered of high priority. Projects relating to the Schengen *acquis*, i.e. the free movement of people, may also need to be prioritised.

It appears worthwhile to continue some form of Multi-Beneficiary Programme in JHA, providing certain co-ordination and management issues are addressed. This would facilitate formulation of strategy on JHA in the CCs that may be somewhat fragmented and lacking in coherence. There may also be merit in grouping together countries at the same or similar stage of implementation, rather than requiring all to participate in one large group. Alternatively, certain aspects of the *JHA acquis* could be selected for priority, rather than attempting to cover a substantial amount of the *JHA acquis* in one Multi-Beneficiary Programme.

Recommendations

Various recommendations are made in the Report as regards substantive law/policy on JHA as it affects specific CCs, as well as recommendations affecting specific CCs in respect of programme design, co-ordination and management.

Programming for JHA reveals that not all AP and NPAA priorities have been addressed in all the CCs. Clearly there are limits to both the human and financial resources available. However, it appears that the current design or other methodology may not adequately identify the existence of all relevant gaps in the CC implementation capability in respect of *JHA acquis*. The Commission is arguably best placed to address this through better collaboration and co-operation between officials engaged in accession negotiations, and those concerned with both Phare Programme design and its funding.

The Report also highlights general recommendations concerning implementation, which in

summary are that (i) programming should address NPAA priorities more thoroughly/comprehensively; (ii) projects should more accurately relate to the actual political and institutional structure and capacity in the CC; (iii) there is a specific need for better design practice, with appropriate training being given to the relevant parties; (iv) in particular, indicators of achievement should be designed more carefully; (v) objectives should be adjustable in the light of developments; (vi) in the event of delay, timelines should be adjusted wherever possible; (vii) threats to sustainability should be considered and safeguards put in place in advance; (viii) the Commission should agree precise special conditions/conditionalities and enforce them rigorously; (ix) project planning, particularly the Multi-Beneficiary Programme, should involve better co-ordination with other donors.

Thematic Report on the European Union Phare Programme JUSTICE AND HOME AFFAIRS

PREFACE

This report is one of a series of six Thematic and Ad Hoc Reports¹ to be prepared by the OMAS Consortium, at the request of the Commission Services' Interim Evaluation² Team in DG Enlargement D-3.

The purpose of this exercise is to create a tool for the use of the Commission Services, and for those responsible for the design and implementation of Phare Programmes and Projects in the 10 Candidate Countries (CCs) for membership of the European Union.

Each Thematic and Ad Hoc Report draws on the 418 national Monitoring and Assessment Reports which OMAS has prepared since 1996, as summarised in the 10 Country Assessment Reviews issued for CCs in April 2001,³ as well as on the collective experience of the OMAS management team. They also take account, where appropriate, of the 44 multi-country Reports and 33 Ad hoc Reports prepared by OMAS.

This approach enables a wider view to be taken, which applies across all the CCs, of a particular theme - in this case Justice and Home Affairs (JHA) - than is possible in the context of a sectoral, national, or multi-country analysis. This facilitates the drawing of more far-reaching conclusions and recommendations to be considered.

The intention of the Ad Hoc and Thematic Reports is to identify issues where improvement appears desirable, and to stimulate debate on constructive approaches to JHA for the future, without being prescriptive.

Consequently, the chief audience for this Report is likely to be the Country Teams in DG Enlargement, the Phare Heads of Section and Task Managers in the Commission's Delegations in CC, and the responsible national officers in those countries.

The Report includes in its introduction, an explanation of the factual basis of the Report as well as a brief discussion of the definition and scope of "Justice and Home Affairs". It also explains briefly the methodology by which OMAS has been contractually required to conduct its Monitoring and Assessment of Phare Programmes, which includes examination of JHA. The Report then records and categorises the various conclusions that have been reached in the OMAS Assessments regarding JHA and explains the methodology used in compiling this Report. The underlying or persistent problems are identified and their causes considered. Recommendations are then made for an improved approach by the Commission Services in relation to future Programmes and Projects for JHA matters. They are also aimed at further improving the performance of the CCs in the application and implementation of the relevant *acquis*.

¹ Programme and Project Design, Public Administration Reform, Twinning, SME Development, Civil Society, and Justice and Home Affairs.

² Until April 2001: "Monitoring & Assessment".

³ BG/CAR/00009, CZ/CAR/00010, ES/CAR/00011, HU/CAR/00013, LE/CAR/00014, LI/CAR/00015, PL/CAR/00016, RO/CAR/00017, SR/CAR/00018, SL/CAR/00019.

Thematic Report on the European Union Phare Programme

JUSTICE AND HOME AFFAIRS

THE REPORT

1. INTRODUCTION

1.1 The Thematic Report exercise

1.1.1 This Report is prepared by the OMAS Consortium (OMAS)⁴ at the request of the European Commission and is based on the considerable information and experience gained by OMAS during the period of its contract between 1996 and 30 April 2001, in respect of the Phare Programme Monitoring and Assessment exercise (M&A).

1.1.2 This Thematic Report represents the first attempt to address sectoral and thematic issues, arising from the M&A process, on a *horizontal* basis on Justice and Home Affairs across the whole of the Phare assistance to the CCs.

1.1.3 The interest of an horizontal approach relies on the scale and extent of Phare funding to the CCs and therefore the value of assessing its contribution on a candidate-wide basis.

1.1.4 From its introduction in Poland and Hungary in 1990 until the launch of the pre-accession instruments of ISPA⁵ and SAPARD⁶ in the year 2000, Phare was the EU's sole instrument of financial support to the transition economies of Central and Eastern Europe. Over the period 1990 - 1999, total Phare funding commitments amounted to some 9 Billion EUR. Over the current financing period of 2000 to 2006, the total Phare budget for the 10 candidate countries for EU membership remains the most substantial, at 1,577 MEUR per year. This more than doubles the average annual allocation of 730 MEUR for the 1995-1999 period. In comparison, ISPA funds available total 1,040 MEUR per year, and those for SAPARD 520 MEUR per year.

1.2 Objectives of the Justice and Home Affairs Report

1.2.1 In common with the other Thematic Reports, the JHA Report aims to address the relevant accession issues, analyse the lessons to be learnt from the monitoring and assessment reports, and formulate recommendations to assist the Commission to develop a focussed and clear strategy for the future. They are also aimed at further improving the performance of the CCs in the application and implementation of the relevant *acquis*.

⁴ This Report has been prepared by Dr. Rose D'Sa, formerly Jean Monnet Professor of EC Law (Wales, U.K).

⁵ ISPA - Pre-accession instrument for structural policies.

⁶ SAPARD - Special Accession Programme for Agriculture and Rural Development.

1.2.2 In particular, the Report aims to highlight the strengths, weaknesses and trends in the field of JHA. These include the underlying reasons explaining the extent to which Programmes achieved their objectives.

1.3 Scale of OMAS activity in the field of Justice and Home Affairs

1.3.1 This Report is based on a detailed review and assessment of available OMAS documentation produced during its consortium contract, in particular relevant extracts in the field of Justice and Home Affairs (JHA) from the Country Assessment Reviews (CARs) in relation to the ten Candidate Countries (CCs): Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Romania, Slovak Republic, Slovenia and Poland.

1.3.2 Further information has been derived from the fourteen assessment reports prepared by OMAS (one for each CC, with the exception of Poland, Romania and the Slovak Republic, for which there were two assessments) in respect of JHA matters⁷.

1.3.3 This Report also takes account of the one assessment report available in respect of (the only) Multi-Beneficiary Programme on Justice and Home Affairs (ZZ-9625 and ZZ-9910).

1.4 Definition and scope of Justice and Home Affairs

1.4.1 The scope of topics covered by the *acquis communautaire* for Justice and Home Affairs is very wide, and has been radically altered over time, by constitutional amendments to the various Treaties.

1.4.2 The European Union (EU) was established by the Treaty on European Union (TEU), which entered into force on 1 November 1993. It is based on a three pillar structure. The third pillar is concerned with Justice and Home Affairs.

1.4.3 The subsequent Treaty of Amsterdam (TAM) which entered into force on 1 May 1999, amended the TEU, the Treaties establishing the European Communities (including the EC Treaty) and certain related acts.

1.4.4 Although the TAM did not eliminate the three pillar structure of the EU, it modified the content of each pillar. In particular, it removed some content from the Justice and Home Affairs third pillar, and moved it to the first EC pillar (see Title IV).

1.4.5 In particular, the TAM brought the *Schengen acquis* within the Union framework.⁸ The various parts of the *Schengen acquis* are assigned by the Council (and subject to the jurisdiction of the European Court of Justice) to either the first or third pillars.⁹

1.4.6 The new Title IV of the EC Treaty¹⁰ (which is transferred from the Justice and Home Affairs third pillar of the EU), concerns polices related to the free movement of persons such as visas, asylum, immigration and also judicial co-operation in civil matters.

⁷ See Annex 1.

⁸ By a Protocol to the Amsterdam Treaty: see further, Eighteenth Annual Report on Monitoring the Application of Community Law (2000), COM (2001) 309 final, Volume I, Brussels, 16.7.2001 at p. 113. The U.K. and Ireland are not bound by this *Schengen acquis* as long as they wish not to be, and special provision is also made for Denmark.

⁹ By Decision 1999/436/EC of 20 May 1999; O.J. L 176, 10.7.1999.

¹⁰ Articles 61-69 EC.

1.4.7 Thus the TAM narrowed the scope of the third pillar to cover only criminal issues. The third pillar is now entitled “Provisions on police and judicial co-operation in criminal matters,” both being intended to establish “an area of freedom, justice and security”.

1.4.8 The programmes that have been assessed in the 10 CCs began at varying dates between 1996 and 1999, and ended between 1999 and 2001.¹¹ They have therefore been undertaken during the period when the amendments made by the Treaty of Amsterdam were taking effect.

1.4.9 Nevertheless it appears that, in general, the topics that previously fell within the ambit of Justice and Home Affairs under the TEU, (prior to the amendments made by the TAM), continue to be treated as being within the ambit and framework of Phare funding for JHA. They are also reflected accordingly in the priorities of the Accession Partnership (AP) and the National Programme for the Adoption of the *Acquis* (NPAA) in the CCs, and can broadly be grouped as follows:

- Border related issues, such as free movement of persons, visa policy, asylum, immigration;
- Cross border crime, such as drugs smuggling, terrorism, fraud, corruption, organised crime, police and customs co-operation;
- Judicial co-operation on civil and on criminal matters.

2. ANALYSIS OF EXPERIENCE GAINED, PROBLEMS IDENTIFIED AND RESULTS DELIVERED

2.1 Methodology for this Report

2.1.1 The Monitoring and Assessment methodology (see Annex 5) has been broadly followed in the preparation of this Thematic Report. Thus the Conclusions in this Report address issues such as programme design, co-ordination and management, as well as the achievement of objectives and sustainability. The Recommendations address issues such as management and design.

2.1.2 However, in relation to both the Conclusions and Recommendations, this Report also attempts to take a broader perspective. It therefore includes consideration of substantive problems or weaknesses in relation to the JHA *acquis* that have emerged, and which are documented in particular, in the summaries relating to JHA in the CARs.

2.1.3 This broader perspective is taken so as to comply with the aims of the Report, as reflected in the ToR. Whilst the M&A template did not require to record and document individual substantive JHA issues of law or policy, such substantive issues relating to JHA have been included in this Report wherever possible, relevant and helpful.

2.2 Conclusions reached about JHA in OMAS Assessments

¹¹ See further, Annex 2.

2.2.1 The conclusions that have been reached by OMAS Assessors about JHA issues that appear to be most significant or relevant when examined in an horizontal context, across all the candidate countries (including the single multi-beneficiary programme for JHA)¹², can be categorised under the following headings (discussed in further detail below):

- Substantive problems and weakness relating to JHA law or policy;
- Programming/Programme Design;
- Programme Co-ordination/Management;
- Contractors/Other Parties performance;
- Programme Environment;
- Achievement of Objectives;
- Sustainability.

A tabular summary of these conclusions is at Annex 3.

Substantive problems/weakness

2.2.2 The conclusions reached on substantive issues do not purport to be comprehensive, because the M&A template does not require substantive problems relating specifically to JHA law or policy and/or implementation of the *acquis* to be recorded as a specific item.

2.2.3 Nevertheless, it appears, particularly from consideration of the (one only) Multi-Beneficiary Programme, that the wide range of JHA topics, (as reflected in both AP and NPAA priorities) has created some policy fragmentation and/or confusion on the part of CCs.

2.2.4 In particular, inter-institutional beneficiary co-ordination is impaired and division of responsibilities between Ministries for implementation of the (broad) *JHA acquis* is unclear in some countries.¹³

2.2.5 It also appears, in relation to the Multi-Beneficiary Programme, that increasing attention may be given to “technology” aspects of JHA such as computer systems, databases, intelligence gathering, undercover operation, interception of electronic messages etc. However, less attention appears to be given in areas of ethics, fundamental civil rights, transfer and transparency of information, etc.

2.2.6 A specific need for improved co-ordination of assistance in relation to Eastern Border Management in Poland has also been noted.

Programming/Programme Design

2.2.7 A common conclusion in a majority of countries was that some objectives are over-ambitious. Very often, there were no indicators of achievement or these were missing entirely, were inadequate e.g. without baselines or quantified levels of improvement to be achieved, or without timetables for that achievement.

¹² Report No. R/ZZ/JHA.00087 Multi-Beneficiary Programme, JHA, Annual Assessment Report for Assistance funded under ZZ-9625 and ZZ-9910, OMAS Consortium Central Unit, 25.10.00.

¹³ See Annex 3.

2.2.8 Several other kinds of design deficiencies have been recorded in the vast majority of countries e.g. objectives not being supported by relevant activities. (The extent and nature of generic design deficiencies are discussed in a separate Thematic Report (Programming and Project Design, S/ZZ/GTA/01001) and are therefore not considered in further detail here).

2.2.9 There is some evidence of deficiency with regard to failure to ensure that special conditions/conditionality (e.g. beneficiary commitment to funding) are applied and/or implemented fully.

2.2.10 Despite the above weaknesses generally related to design, it appears that in the vast majority of CCs, the objectives in respect of JHA in the Programmes under assessment were largely achieved or are likely to be achieved.

Programme Co-ordination/Management

2.2.11 In nearly every country, there was evidence of (various kinds) of delay adversely affecting the Programme. These varied from delays to commencement such as failures to agree Terms of Reference, to other delays which impeded implementation, such as in drafting technical specifications or in the delivery of translations necessary for implementation of relevant training activities.

2.2.12 A very frequent failure was also that of ineffective co-ordination and/or management between relevant beneficiary bodies. These also appeared likely to adversely affect co-ordination with other Phare programmes and donors. This in turn raises issues of duplication of effort and / or resources.

2.2.13 Lack of co-ordination was found to be a significant feature particularly in relation to the Multi-Beneficiary Programme, where this was a constant feature at programme level (i.e. between different components). As a result Programmes were ineffectively co-related with each other or the TAIEX Programmes.

2.2.14 The failures of co-ordination in the Multi-Beneficiary Programme went beyond beneficiary bodies within respective CCs. It also affected the network of contact points created in the CC, the participating EU Member States, and Pre-Accession Advisers. The latter were found to be largely unaware of the Horizontal Programme and/or bi-lateral activities on JHA in respect of their own countries. This is serious because the PAAs are likely to develop strategies for institutional strengthening and/or National Action Plans in their sectors.

2.2.15 The lack of effective co-ordination at Multi-Beneficiary Programme level is further exacerbated by the breadth of topics covered by JHA. For instance, these range from issues to do with organised crime, which is clearly a significant problem, to other areas which also require strategic consideration, but are as diverse and varied as policing, judicial co-operation, fundamental civil rights, and free movement of people. The activities funded also range widely from the purchase of computer equipment to the provision of training.

2.2.16 As regards management, there were nevertheless generally satisfactory conclusions, particularly as regards beneficiary commitment.

Contractors/Counterpart/Other Parties performance

2.2.17 In general, the performance of all parties, including contractors, PAAs and individual experts as well as the CCs themselves was satisfactory.

2.2.18 Of the various Programmes that involved Twinning Partners, performance also appears to have been generally satisfactory.

Programme Environment

2.2.19 It is significant that in relation to JHA, the “programme environment”, (which relates to factors outside the Programme activities but which influence implementation, e.g. the absence of strategic plan, legislation, Government support or high staff turnover) appears, in general, to be satisfactory.

2.2.20 The above finding is reversed, however, when considering the Multi-Beneficiary Programme. The sector is described as being crowded with assistance models and assistance providers, each providing different models of “best practice,” in competition for “customers,” but often in ignorance of each other.

2.2.21 The JHA environment is also characterised by the complexity of the underlying legal framework and there is some evidence of a lack of minimum common standards in some fields. In general, there appear to be a multiplicity of activities being implemented in the sector, which is also a source of confusion for the beneficiaries. This situation is also referred to under discussion of Co-ordination/Management, above.

Achievement of Objectives

2.2.22 The OMAS M&A exercise establishes whether Phare support fell within the relevant AP and NPAA priorities on JHA. The M&A exercise is not, however, specifically designed to examine whether other priorities should have been included or the reasons for their exclusion. Nevertheless, it is still possible to draw some broad conclusions from the M&A exercise, about the extent of coverage of the AP and NPAA priorities for JHA.

2.2.23 In a significant majority of CCs, it appears that Phare support was of significant benefit in relation to some, i.e. a limited number of, JHA priorities.

2.2.24 This suggests that a number of AP and NPAA priorities have been necessarily omitted from the scope of Phare funding in each CC (or did not require attention) but the reasons for this cannot be assessed from the M&A exercise alone.

2.2.25 Given the broad range of possible JHA topics, it is unsurprising that in only one country (Romania) were Phare activities regarded as having been directed at most of the priorities of the AP and NPAA.

2.2.26 The conclusions relating to achievement of objectives suggest that, in general, and for the vast majority of CCs, the achievement of both immediate and wider objectives is satisfactory.

2.2.27 The generally satisfactory achievement of objectives is supported by the overall rating of achievement of Programme Achievements. For instance, 8 of the 14 JHA reports that have been written by OMAS¹⁴ rated the Programmes under assessment as “Satisfactory” in the sense that they are expected to achieve most of their major objectives and to yield satisfactory benefits without major shortcomings.

2.2.28 The remaining 6 JHA reports rated the relevant Programmes as “Unsatisfactory” in the sense that they are expected not to achieve most of their original/revised objectives nor yield substantial results.

2.2.29 No Programmes in the JHA sector were found to be either “Highly Satisfactory” or “Highly Unsatisfactory”.

Sustainability

2.2.30 A significant finding in the vast majority of CCs was that a high level of sustainability was expected for most activities.

2.2.31 The most common threat to sustainability was found to be the need for future financial or other resources in the CCs to maintain relevant activities or equipment.

2.3 Discussion of issues

2.3.1 It is not possible to draw any significant general conclusions about the performance of individual CCs in the field of JHA based on Phare. This is because the amount of funding varied greatly between different countries (ranging from MEUR 5.2 to 32.0)¹⁵ In addition the range of AP and NPAA priorities chosen for inclusion within various Programmes differed from country to country. The nature of the problems or difficulties in each CC might arguably also have been different in each case.

2.3.2 An unavoidable impression is of the sheer range of subjects/activities that have been encompassed in the various Programmes across the 10 CCs. These cover both criminal as well as civil issues. They affect broad groups of personnel ranging from customs officials and the police, to the judiciary and other court officials. In the civil field they cover issues as diverse as projects concerned with the free movement of persons, to training for judges on issues of contract law and insolvency. This is an inevitable consequence of the broad nature of JHA acquis, discussed further above under “Definition of Justice and Home Affairs” (see 1.4).

2.3.3 Despite the wide range of possible activities, it appears that some AP and NPAA priorities were not addressed in each CC. However, it is not possible from the M&A exercise alone to draw conclusions as to why some priorities were not addressed. For instance, they might have been omitted from the programme design in error, or, because alternatively, it was considered that sufficient implementation capability already existed in the CC.

¹⁴ See Annex 1.

¹⁵ See Annex 2.

2.3.4 Although the Conclusions on substantive JHA issues in this Report may not be regarded as comprehensive, there is certainly evidence of lack of co-ordination and fragmentation of policy in respect of JHA in the CCs.

2.3.5 In general, however, the performance of the Phare Programmes in respect of JHA are to be regarded as satisfactory. Nevertheless, there is certainly room for improvement as a significant minority of assessments were found to be unsatisfactory. Future Programmes in JHA might also be encouraged to yield substantial, rather than merely satisfactory benefits.

2.3.6 Overcoming/redressing certain weaknesses in relation to programme design might well assist implementation performance generally. In particular, some objectives were over-ambitious or far too general, indicators of achievement were absent or ill defined and resources for effective implementation were sometimes under-estimated.

2.3.7 Improvements could also be made to eliminate the causes of delay and speed up the programming cycle.

2.3.8 Nevertheless it may be regarded as encouraging that objectives for JHA are largely likely to be achieved, that beneficiary commitment and the programme environment is in general satisfactory and that a high level of sustainability is expected for most activities to date.

3. DEFINITION OF CHALLENGES TO COME IN THE SHORT AND MEDIUM TERM

3.1 Challenges for Phare

3.1.1 The challenge for Phare is to continue to facilitate the sustainable adoption of the *acquis* by the CCs as fast as practicable. In the field of JHA this is made more difficult because of the very broad and sometimes unconnected range of topics that may be covered.

3.1.2 It follows that, in selecting priorities for the national Phare programme, the in-depth identification of the precise extent of implementation of *acquis* is crucial, and this in turn requires a sound understanding of its legislative, institutional, procedural and administrative demands. Such an understanding cannot be derived merely from reading the AP and the NPAA, together with the Commission's Regular Report for the CC concerned. It requires "insider" knowledge of the *acquis*. Nor is the M&A (post Programme) exercise currently designed to produce the required detailed information on this issue for the future.

3.1.3 This required "insider knowledge" may arguably be facilitated by a greater degree of collaboration and co-operation between Commission officials engaged in accession negotiations and those concerned with both Phare Programme design and its funding.

3.1.4 The process of programme design may need to incorporate better procedures for the identification and implementation of those parts of the *acquis* that need to be specifically addressed, or to better focus, in the event of conflicting priorities, on the most pressing matters.

3.1.5 It may also be considered whether future Contractors and/or Beneficiaries should be required to monitor and record, in some appropriate way, for use in connection with future Interim Evaluation reports, the substantive practical obstacles or weakness identified in relation to the legislative, institutional, procedural or administrative issues in a CC, e.g. the lack of a particular piece of legislation or ineffective implementation of laws. This would facilitate design of future programmes to the benefit of the CCs, as well as enhance the practical effectiveness of Phare, but this would only show benefits in the longer term.

3.1.6 A preliminary attempt to identify the specific substantive problems that have arisen in the past in respect of JHA law or policy has been made in this Report and recorded, in particular, in Annex 4.

3.2 Challenges for JHA

3.2.1 The Commission may also need to consider, in the context of accession negotiations, whether greater emphasis in programme design and/or Phare funding should be devoted to specific areas of JHA *acquis*.

3.2.2 This might involve giving equal or greater emphasis to certain areas of JHA. For instance, the problems of fighting organised crime or enhanced police co-operation may warrant special treatment. On the other hand, it may also be important to avoid neglecting other areas (such as in the field of fundamental civil rights) where common minimum standards have yet to be achieved.

3.2.3 Furthermore, continuing funding of projects related to judicial co-operation in both civil and criminal matters may also be considered of high priority.

3.2.4 The extent and need for funding of projects relating to Schengen *acquis* i.e. the free movement of people is also a specific category of JHA matters which might be prioritised.

3.2.5 It might also certainly be worthwhile to continue to pursue some form of Multi-Beneficiary Programme in the field of JHA, providing that the co-ordination and management issues referred to above are addressed (see 2.2.12, 2.2.13). This would facilitate the formulation of strategy on JHA in the CCs that at present may be somewhat fragmented and lacking in coherence.

3.2.6 There may be a case for considering special assistance for certain very specific JHA matters, such as addressing Eastern Border demarcation.

4. RECOMMENDATIONS FOR MEETING THE CHALLENGES

4.1 Methodology

4.1.1. The recommendations in OMAS Assessments have broadly been of two kinds: “management recommendations”, which relate to improvements that can be made to the way on-going Programmes are managed; and “design recommendations,” the purpose of which is to eliminate weaknesses, including those in design, in future programmes, by learning from the experience of the past.

4.1.2. This Report broadly follows the same categorisation in its Recommendations. However, in addition, it attempts to provide some overview (though not necessarily a comprehensive one) of specific substantive issues regarding specific JHA *acquis* in certain CCs which have been documented in various OMAS reports. It also provides a summary list of most often mentioned key “general implementation recommendations” in relation to Programme implementation as a whole, which appear to be most relevant.

A tabular summary of these recommendations is at Annex 4.

4.2 Substantive recommendations on Justice and Home Affairs

4.2.1 The main Recommendations regarding the JHA *acquis* seek to address the weaknesses noted in the Conclusions (see 2.2). In particular:

- Multi-Beneficiary programmes in JHA should continue but an acceptable way must be found to co-ordinate all Phare JHA assistance;
- In certain CCs (notably Bulgaria, Estonia, Hungary, and the Slovak Republic) there is some evidence of a lack of coherent policy for the handling of the JHA *acquis* which may need to be addressed.

4.2.2 Key recommendations, for specific CCs, are drawn in particular from OMAS summaries on JHA, taken from CARs. However, these are not necessarily comprehensive because the M&A exercise is not specifically designed to record substantive conclusions on JHA. The issues that appear nevertheless to be relevant include the following :

- Future priorities in the Multi-Beneficiary Programme for combating organised crime should be on implementation (rather than legislation); there is some evidence of a need for a general strategy to combat corruption in some CCs (notably Bulgaria); in addition consideration might be given for additional funding in relation to the forensic quality system and modern forensic databases (e.g. a DNA database), in Estonia;
- Phare should consider assistance for de-militarisation and restructuring of the police and for the need for legislation to unify the various police corps in Bulgaria; further assistance for the Ministry of Interior and the National Police may be considered in Romania; in the context of a Multi-Beneficiary Programme, policy training should focus more on operational aspects;
- In relation to free movement of people/Schengen issues in Slovenia, encouragement might be given to obtaining further information about the enhanced Schengen Information System, for observer participation in Schengen working groups in Brussels, and for designing a project for training Embassy/Consulate staff about free movement issues;
- A project for training of trainers on State Border Control might be considered in Slovenia; the Commission might also wish to address Eastern Border demarcation and management issues in Lithuania and Poland, as well as the case for special assistance in relation to the latter;
- In relation to judges, a requirement for keeping the judiciary up-to-date on legislative developments in Lithuania has been identified; a recommendation for legislation to better utilise Phare support in relation to the court system is noted for Estonia.

4.3 Implementation recommendations for CCs

4.3.1 Certain recommendations have been summarised in relation to specific CCs. Although the relevant Programmes may no longer be in existence, these are recorded because they shed useful light on the nature and extent of certain general weaknesses, as well as specific JHA issues. These may be summarised conveniently under two main headings (discussed further below):

- Programme Design;
- Co-ordination/Management issues.

Programme Design

4.3.2 The main recommendations, drawn from the summaries relating to JHA in the CARs addressed to specific CCs, are as follows:

- Programming should set measurable targets for indicators of achievement (in CCs such as Poland, Slovak Republic and Slovenia);
- Objectively verifiable special conditions were missing in some countries (such as Latvia and Poland);
- CCs should be obliged to allocate appropriate internal resources (Slovak Republic) or to co-finance the cost of equipment or supplies (Poland); safeguards are recommended for Bulgaria to ensure beneficiary financial contribution as planned;
- Speeding up the processing of ToR and related documents, general guidance on project design/terminology, as well as the use of a standard referencing system for programming was recommended for the Czech Republic.

Co-ordination/Management issues

4.3.3 A requirement for a Steering Committee for some projects was identified in Czech Republic, Poland and the Slovak Republic; bi-monthly meetings of the Committee were recommended in Latvia.

4.3.4 Monthly reporting on steps taken to improve implementation and electronic dissemination of contractors reports were recommended in the Czech Republic, to facilitate more effective implementation of the programme.

4.3.5 A time plan for Ministry of Justice re-organisation in relation to a specific project and the assignment of a full time manager to the courts systems reform project was recommended for Latvia.

4.3.6 Various recommendations were addressed to the Commission. These were that:

- CSD in the Czech Republic should review its human resources to ensure capacity to execute programme tasks and should arrange local induction course and a support network for new pre-accession advisers;
- CSD in Estonia was recommended to support further requests for specialised equipment, in relation to specific projects, only with quality safeguards;

- The role of pre-accession adviser and project manager was, in relation to specific projects, recommended to be combined and better networking recommended between pre-accession advisers, in the case of Hungary;
- In relation to the Multi-Beneficiary Programme, the Commission is recommended to encourage all relevant parties to share/disseminate results to each other; to facilitate closer dialogue between programme managers and Member States contact points, and to promote better networking between pre-accession advisers across the CCs;
- In relation to training components within the Multi-Beneficiary Programme, more appropriate candidates should be selected for participation (on the basis of relevance to the target group, rather than language capability); that adequate translation/language support services should be provided in order to facilitate this; and that contractors should be required to conduct “follow-up” assessment of training activities.

4.4 General implementation recommendations

4.4.1 Certain general recommendations may be made, based on the results of the conclusions and recommendations addressed to specific CCs and/or to the Commission in relation to implementation of Phare programmes. In summary, these are that:

- Programming should take better account of gaps in the implementation of the *acquis* i.e. should more thoroughly address NPAA priorities;
- Projects should be more securely related to the actual political and institutional structure and capacity in the CCs, which should be re-assessed at appropriate intervals;
- Programmers should participate to the Sectoral Monitoring Sub-Committees and/or to Interim Evaluation debriefing meetings;
- There is a specific need for better design practice, with appropriate training given to the relevant parties;
- In particular, indicators of achievement should be designed more carefully;
- Objectives should be adjustable in the light of developments;
- In the event of delay, timelines should be adjusted wherever possible;
- Threats to sustainability should be considered and safeguards put in place in advance;
- The Commission should agree precise special conditions/conditionalities and then enforce them rigorously;
- Project planning, particularly the Multi-Beneficiary programme should involve better co-ordination with other donors.

4.5 Key issues for future programming

4.5.1 In general, programming for JHA reveals that not all AP and NPAA priorities have been addressed in all the CCs. Clearly there are limits to both the human and financial resources available. However, it appears that the current design or other methodology may not adequately identify the existence of all relevant gaps in the CC implementation capability in respect of *JHA acquis*.

4.5.2 It is essential that future projects are securely related to the actual political and institutional structure and capacity in the CCs, making “insider knowledge” invaluable. The Commission is arguably best placed to facilitate this through better collaboration and co-

operation between Commission officials engaged in accession negotiations, and those concerned with both Phare Programme design and its funding.

4.5.3 The M&A exercise can only make a limited contribution to the above issue, particularly as it takes place after programmes have been designed. Nevertheless more detailed information e.g. from Contractors and/or Beneficiaries could be required about substantive practical obstacles or weakness identified in the course of Programme activities e.g. the need to pass legislation or the ineffective implementation of current laws. This would facilitate the design of future programmes to the benefit of the CCs, as well as enhance the practical effectiveness of Phare, but would only show benefits in the longer term. However, the difficulty with this approach is that it would itself require specialist knowledge and understanding of *JHA acquis*.

4.5.4 The existence of the Multi-Beneficiary Programme has provided a valuable insight into some of the difficulties being faced by the CCs in relation to JHA. Despite the possibility that the various countries are in different stages of implementation capability, there does appear to be merit in continuing with some form of multi-country approach, providing that the weakness identified in the above Programme are remedied, particularly in relation to co-ordination issues.

4.5.5 Apart from the need for some better overall co-ordination facility, a methodology for disseminating information and improving collaboration between various key players e.g. pre-accession advisers on JHA, the contact points in the Member States and those in the CCs, must be addressed.

4.5.6 The accurate recording and dissemination of information on related JHA activities funded by other EU programmes and/or other donors is also essential to avoid duplication and wasted resources.

4.5.7 There may also be merit in grouping together countries at the same or similar stage of implementation, rather than requiring all to participate in one large group.

4.5.8 Alternatively, certain aspects of *JHA acquis* could be selected for priority, rather than attempting to cover a substantial amount of the *JHA acquis* in one Multi-Beneficiary Programme.

4.5.9 The above point also merits general consideration. The Commission may need to consider, in the context of accession negotiations, whether greater emphasis in programme design and/or Phare funding should be devoted to specific areas of *JHA acquis*.

4.5.10 This might involve giving equal or greater emphasis on certain areas of JHA. For instance, the problems of fighting organised crime or enhanced police co-operation, may warrant special treatment. On the other hand, it may also be important to avoid neglecting other areas (such as in the field of fundamental civil rights) where common minimum standards have yet to be achieved.

4.5.11 The further funding of projects related to judicial co-operation in both civil and criminal matters may also be considered of high priority.

4.5.12 The extent and need for funding of projects relating to Schengen *acquis* i.e. the free movement of people is also a specific category of JHA matters which might need to be prioritised.

4.5.13 Attention also needs to be focussed on design issues in relation to JHA. The relevant issues are discussed in more detail in the relevant Thematic Report (for Programme and Design). In general, the recurrent themes which require attention relate to:

- setting of valid and quantifiable indicators of achievement;
- objectively verifiable and enforceable special conditions;
- better general guidance and training for the CCs on project design and terminology.

4.5.14 In relation to management and co-ordination, a recurring theme is the improvement of the management of the Programme cycle to avoid delays or to allow for such delays by allowing appropriate flexibility in the funding arrangements so that e.g. late starting projects can still run for their intended duration or to allow immediate objectives to be modified in the course of a project, if justifiable circumstances warrant this. There is also potential for better co-ordination with other donors in the JHA field.

4.5.15 A specific issue concerning training activities is that appropriate candidates for training may sometimes be selected on the basis of language capability, rather than suitability by reference to job description. Appropriate translation/language support services are therefore required to be considered (at both design and funding stage) to support such activities.

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JUSTICE AND HOME AFFAIRS

ANNEXES

ANNEX 1: Table of OMAS Assessments for JHA by year, with ratings of achievement of Programme objectives in the 10 Candidate Countries

Country	Year of OMAS Report:	1998	1999	2000	2001	Total No of Reports
BULGARIA (BG)					S	1
CZECH REPUBLIC (CZ)				U		1
ESTONIA (ES)				S		1
HUNGARY (HU)				S		1
LATVIA (LE)				U		1
LITHUANIA (LI)					U	1
POLAND (PL)				U	S	2
ROMANIA (RO)				S	U	2
SLOVAK REPUBLIC (SR)				S + S		2
SLOVENIA (SL)					S	1
ZZ (Multi-beneficiary programme)				U		1
	TOTAL			9	5	14

Note: Methodology for Rating Achievement of Objectives

1. The performance of the programme is to be rated Highly Satisfactory, Satisfactory, Unsatisfactory or Highly Unsatisfactory.
2. Ratings should be assigned by comparing actual performance to the original objectives and parameters during programme preparation (Strategic Plan). The standards against which performance is measured should not be different from those planned initially.
3. Ratings scales for achievement of objectives :

Highly Satisfactory	HS	Programme is expected to achieve or exceed all its major original/revised objectives and to yield substantial benefits;
Satisfactory	S	Programme is expected to achieve most of its major objectives and to yield satisfactory benefits without major shortcomings;
Unsatisfactory	U	Programme is expected not to achieve most of its major original/revised objectives nor yield substantial results;
Highly Unsatisfactory	HU	Programme is expected not to achieve any of its major original/revised objectives nor to achieve worthwhile results.

Annex 2: Breakdown of Assessments by Sector and Value for the 10 Candidate Countries for Justice and Home Affairs

Report No Programme Number	Title/Description of Programme and Components	Amount MEUR	Start Date	Expiry Date	Date of Issue
JHA Sector – BULGARIA		6.5			
R/BG/JHA/00108					23/03/01
BG-9911.02	<i>Acquis</i> -oriented Management of Criminal Information Systems	4.5	30.12.99	31.12.01	
BG-9911.03	Strengthening the Independence of the Judiciary and the Ministry of Justice	2.0	30.12.99	31.12.01	

JHA Sector – CZECH REPUBLIC		11.0			
R/CZ/JHA/99022					06/04/00
CZ-9703	.01 Institution Building, Support to Public Administration (Interior Affairs)	2.10	11/12/97	31/12/99	
CZ-9810	Justice and Home Affairs	4.70	31/12/98	30/06/00	
CZ-9904	Justice and Home Affairs	4.20	23/07/99	31/12/00	

JHA Sector – ESTONIA		5.990			
R/ES/JHA/99032					03/05/00
ES-9620	04; Third Pillar	2.000	19.12.96	31.12.99	
ES-9804	01; Justice and Home Affairs	1.395	02.09.98	31.10.00	
ES-9809	Twinning	0.095	02.09.98	31.10.00	
ES-9905	01; Development of Police Criminalistics	2.500	02.07.99	31.07.01	

JHA Sector – HUNGARY		25.42			
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R/HU/JHA/00040					29/09/00
HU-9703	.02 Justice and Home Affairs	4.00	18/12/97	31/12/99	
HU-9805	.01 Justice and Home Affairs (Strengthening Border Management)	7.82	02/09/98	01/10/00	
HU-9907	.01 Justice and Home Affairs (Further Strengthening Border Management)	13.60	03/11/99	30/09/01	

JHA Sector – LATVIA		6.685			
R/LE/JHA/99052					17/05/00
LE-9701	European Integration	0.075	25.09.97	31.10.99	
LE-9803	Integration	0.050	02.09.98	31.10.00	
LE-9807	Justice and Home Affairs	2.060	02.09.98	31.10.00	
LE-9905	Justice and Home Affairs	4.500	28.06.99	31.07.01	

JHA Sector – LITHUANIA		12.6			
R/LI/JHA/00057					13/03/01
LI-9804	Justice and Home Affairs	3.5	10.12.98	31.12.00	
LI-9809	Pre-Ins Facility	0.6	28.12.98	31.10.00	
LI-9908	Justice and Home Affairs	6.0	17.12.99	31.10.01	
LI-9913	Pre-Ins Facility	2.5	23.12.99	31.12.01	

JHA Sector – POLAND		30.60			
R/PL/CBC/99074 Integrated Eastern Border Programme					07.03.00
PL9601	Transport Infrastructure	2.60	17.10.96	31.12.99	
PL9705	Integrated Eastern Polish Border	15.00	19.12.97	31.12.99	
PL9804	Justice and Home Affairs	13.00	24.12.98	30.09.00	

JHA Sector – ROMANIA		32.0			
R/RO/JHA/99083 Justice and Home Affairs					16/02/00

RO-9705	Judiciary	5.0	19.12.97	31.12.99	
RO-9804	.05; Central Public Administration Reform	2.5	20.10.98	31.12.00	
RO-9806	.01; Institution Building Project for the Ministry of Interior	2.0	20.10.98	31.12.00	
RO-9806	.02; Institution Building Project for the Ministry of Justice	1.0	20.10.98	31.12.00	
R/RO/JHA/00102 Justice and Home Affairs					30/03/01
RO-9705	Judiciary	5.0	19.12.97	31.12.99 ¹⁶	
RO-9806	.01; Institution Building Project for the Ministry of the Interior	2.0	20.10.98	31.12.00	
RO-9806	.02; Institution Building Project for the Ministry of Justice	1.0	20.10.98	31.12.00	
RO-9905	.01; Assistance to the Ministry of Justice in continuing the Reform of the Romanian Judiciary	3.0	30.12.99	30.11.01	
RO-9907	.01; Strengthening Border Management and Control	10.5	30.12.99	30.11.01	

JHA Sector SLOVAK REPUBLIC		10.04			
R/SR/JHA/00074 JHA – Interior					24.08.00
SR-9809.03	Ministry of Interior	1.70	08.10.98	31.12.00	
SR-9908.02	Ministry of Interior	5.00	11.10.99	31.12.01	
R/SR/JHA/00076 JHA – Justice					05.10.00
SR-9806.02	Political Criteria	1.00	08.10.98	31.12.00	
SR-9809	Justice and Home Affairs	2.34	08.10.98	31.12.00	

JHA Sector – SLOVENIA		5.20			
R/SL/JHA/00085 – Justice and Home Affairs					15/03/01
SL-9703	Justice and Home Affairs	0.30	17.11.97	31.10.99	
SL-9908	Home Affairs	4.25	20.10.99	30.09.01	
SL-9908	Judiciary	0.65	20.10.99	30.09.01	

¹⁶ Disbursement deadline extended from 31.12.2000 to 31.12.2001.

ANNEX 3
Conclusions on Justice and Home Affairs

Annex 3: Conclusions on Justice & Home Affairs	BG	CZ	ES	HU	LE	LI	PL	RO	SR	SL	Multi
Substantive problems and weaknesses											
Lack of proper beneficiary inter-institutional co-ordination to avoid fragmentation of JHA actions						X					X
Lack of general strategy on relevant JHA issues e.g. combatting corruption	X										
Structural weaknesses in beneficiary institutions eg. MoJ, multi-division police force	X										
Division of responsibilities between Ministries for implementation of JHA acquis unclear			X								
Need for improved co-ordination of assistance, in particular to Eastern border management							X				
Overall implementation assessment issues											
Programming/Programme Design											
Some over-ambitious objectives	X		X		X	X	X	X			X
Risk that some objectives might not be achieved	X	X	X	X	X	X	X				X
Achievement of objectives generally inadequate					X	X					X
Objectives largely achieved/likely to be achieved	X	X	X	X			X	X	X	X	
Inadequate or missing indicators of achievement		X			X	X	X			X	X
Other design deficiencies e.g. objectives not supported by activities			X		X	X	X		X		X
Diverse and unrelated programme components and sub-components					X						
Some poor definition of projects	X										
Special conditions/conditionality not applied or implemented	X					X	X				

Programme Co-ordination/Management/Financial & Time Management											
Delays e.g. to commencement, drafting of technical specifications, delivery of translations	X			X	X	X	X	X			X
Ineffective co-ordination between relevant beneficiary bodies and/or management ineffective	X			X	X	X			X		X
No beneficiary mechanism to co-ordinate with other Phare programmes & donors	X										
Insufficient structural change by beneficiary to facilitate implementation	X								X		
Some evidence of insufficient beneficiary commitment to Phare assistance	X							X			
Strong beneficiary commitment		X	X							X	
Contractor/Counterpart's/Other Parties Performance											
Twinning Partner performance unsatisfactory											
Counterpart performance was variable/slow					X	X					X
Contractors/Pre-Accession advisers/Experts performed well	X						X	X	X	X	X
Programme Environment											
Unfavourable programme environment					X						X
Achievement of objectives and sustainability											
Phare support was only a small part of the AP and NPAA priorities on JHA	X				X						
Phare support was only a limited part of the AP and NPAA priorities on JHA			X								X
Phare support was significant for some JHA activities		X		X		X	X		X	X	
Phare support directed at most of the priorities of the AP and NPAA on JHA								X			
Priorities for JHA included relevant priorities of the Internal Market e.g. customs/IPR		X									
Sustainability not considered/insufficient results to sustain					X						X

Lack of safeguards to ensure beneficiary contribution to funds was delivered	X										
Procurement of equipment before completion of relevant planning work	X										
Low priority of beneficiary to human resource development	X										
Absence of pre-conditions to ensure beneficiary budget for relevant operating costs	X										
Threats to sustainability due to activities being taken over by new institutions	X										
Slow progress in contracting activities for supply of equipment threatened sustainability/impact		X									
Threats to sustainability due to need for replacement financing for short life equipment/supplies							X				
Other threats to sustainability e.g. poor internal resourcing or future need for financial resources									X	X	
High level of sustainability expected for most activities		X	X	X		X	X	X		X	

ANNEX 4
Recommendations for Justice and Home Affairs

Annex 4: Recommendations for JHA	BG	CZ	ES	HU	LE	LI	PL	RO	SR	SL	Multi
Substantive recommendations on JHA policy											
JHA acquis											
CSHQ should find acceptable way to create a Facility to co-ordinate all Phare JHA assistance											X
Division of responsibility between relevant Ministries for JHA acquis should be clarified			X								
Beneficiary should prepare/revise and publicise JHA strategy to all relevant parties				X					X		
Beneficiary should restructure the Ministry of Justice/imbalance of staff in different depts.	X										
Combatting corruption/organised crime											
Beneficiary should urgently agree a general strategy to combat corruption	X										
Octopus programme (organised crime) should focus more on implementation issues											X
Commission should consider additional funding for future forensic system matters			X								
Police co-operation											
Phare should provide assistance to start de-militarisation & restructuring of police	X										
Beneficiary should legislate to unify the various police corps	X										
Phare should provide further assistance for the Ministry of Interior and National Police								X			
Police training should focus more on operational aspects rather than policy/law gap analysis											X
Free movement/Schengen issues/Border control											
Beneficiary/CSD should pursue further information about enhanced SIS										X	

CSHQ should explore possible Slovene observer participation in Schengen working group												X	
Beneficiary should consider designing a project for technical/training Embassy/Consulate staff												X	
Beneficiary should consider designing project for training of trainers re State Border Control												X	
CSHQ may wish to consider addressing Eastern Border Demarcation issues re Belarus								X					
CSHQ may wish to consider special assistance to accelerate Eastern Border management									X				
Judges/Court officials/Court records													
Beneficiary should ensure that judges are kept up-to-date with legislative developments								X					
Beneficiary should devise legislation to make further/better use of Phare support				X									
Implementation recommendations for specific Candidate Countries													
Programming/Programme Design													
Programming should set measurable targets for indicators of achievement									X		X	X	
Programming should set objectively verifiable special conditions							X		X				
Programming should require beneficiaries to allocate appropriate internal resources											X		
Beneficiaries should be obliged to co-finance cost of equipment/supplies									X				
Safeguards necessary to ensure beneficiary financial contribution is delivered as planned	X						X						
All parties should take steps to speed up processing of ToR and related documents			X										
Relevant beneficiary body should provide guidance on project design/terminology			X										
CSD and CFCU should enforce use of a standard referencing system for programming			X										
Co-ordination/Management issues													
Beneficiary should establish Steering Committee for some projects			X						X		X		
Beneficiary should ensure Steering Committee meets bi-monthly							X						

CFCU should report monthly progress on steps taken to improve implementation		X									X
All contractors should disseminate progress reports electronically and in hard copy		X									
Beneficiary should ensure time plan for Ministry of Justice re-organisation					X						
Beneficiary should assign a full time manager to the courts systems reform project					X						
CSD should review its human resources to ensure capacity to execute programme tasks		X									
CSD should arrange local induction course/support network for pre-accession advisers		X									
CSD should support further requests for specialised equipment only with quality safeguards			X								
CSHQ should refine/combine role of pre-accession adviser and project manager				X							
CSD /Pre Accession Advisers/Contractors should share/disseminate results											X
Closer dialogue between programme managers and Member States contact points needed											X
CSD should promote better networking between pre-accession advisers across CCs				X							X
CSD should ask contractors to conduct "follow-up" assessment of training activities											X
Benefeciaries should select participants for Octopus and Asylum projects more rigorously											X
Translation services should be supported /appropriate participants should be selected											X
General implementation recommendations											
Programming should address NPAA priorities more thoroughly/comprehensively											
Projects should more accurately address <i>acquis</i> implementation needs in the CCs											
Better design practice needed, with appropriate training given to relevant parties											
Indicators of achievement should be designed more carefully											
Objectives should be adjustable in the light of developments											
When there is delay, timelines should be adjusted wherever possible											
Threats to sustainability should be considered in advance and safeguards put in place											
Commission should agree precise special conditions/conditionalities and enforce them											
Project planning, especially the Multi-Beneficiary Programme, should involve better co-ordination with other donors											

ANNEX 5.- Monitoring and Assessment Methodology

OMAS has been contractually required, when monitoring and assessing all Phare Programme (including JHA) to follow a template which analyses, in relation to overall implementation assessment, the following issues (in summary):

- Summary of any previous Assessment;
- Issues of Programme Design;
- Programme Management;
- Programme Co-ordination;
- Financial and Time Management;
- Contractor's and Counterpart's Performance;
- Programme Environment;
- Overall Implementation Assessment.

In relation to the Conclusions to be drawn, the M & A template referred to above requires consideration of the following issues (in summary):

- Summary of any previous Assessment;
- Achievement of wider objectives;
- Achievement of immediate objectives;
- Sustainability;
- Overall Conclusion and Rating of Achievement of Programme Objectives.

In relation to the Recommendations to be drawn, the M&A template requires discussion of:

- Management Recommendations;
- Design Recommendation;
- Recommendations still valid from the previous Assessment.