

### ANNEX 3: ACTION FICHE REPUBLIC OF MOLDOVA

#### 1. IDENTIFICATION

	Title	Support to implementation of priority actions agreed between the Republic of Moldova and the EU through Twinning, technical assistance and project preparation activities		
	Total cost	EUR 7 million		
	Aid method / Management mode	Centralised management CRIS Nr: ENPI/2010/22136		
	DAC-code	43010	Sector	Multi-sector aid

#### 2. RATIONALE

##### 2.1. Sector context

2009 was a turbulent political year for the Republic of Moldova. Parliamentary elections were held on April 5<sup>th</sup>, and, after violent clashes two days later, repeated on July 29<sup>th</sup>, resulting in a new coalition government *Alliance for European Integration* sworn in on September 25<sup>th</sup>. The election of a new President has however not yet been achieved due to a needed two-thirds majority in Parliament. New parliament elections and a prolongation of the political crisis in 2010 is therefore a possible scenario.

EU-Republic of Moldova cooperation is at the time of writing (November 2009) still based on the Partnership and Cooperation Agreement and the EU-Republic of Moldova European Neighbourhood Policy Action Plan, although negotiations for a New Agreement (possibly an Association Agreement) will start on 12.1.2010. This project will support these relations in particular concerning sector-specific regulatory aspects in view of regulatory convergence with the EU and enhanced administrative capacities in ministries, agencies and other state structures to ensure national ownership and effective enforcement. Twinning will be used wherever possible and feasible. The project is expected to strengthen the public administrations in the Republic of Moldova through provision of expertise coming from similar institutions within an EU Member State as well as enhance the horizontal collaboration between Moldovan and EU Member States' public institutions. Wherever a Twinning cannot be envisaged and classical Technical Assistance is considered more appropriate, this latter option will be used.

A Twinning arrangement is envisaged if a number of conditions are fulfilled, such as the existence of a significant EU legal approximation component in the respective sector, and of implementation capacity within the partner country administration. Twinning projects should refer to a priority area of intervention agreed between the EU and the Republic of Moldova. The Twinning modality is still relatively new in the Republic of Moldova. The first project (for the Parliament) started in July 2008, the second (for the Ministry of Justice on penitentiary administration) in November 2009. Three further Twinning (for Agencies on Public Procurement; Competition Policy and State Aid; and Intellectual Property) are being evaluated in December 2009, and the project fiche for another one (agricultural norms and

standards) is being finalised. Beyond those six Twinnings, future beneficiaries will depend on the priorities of the new government that was sworn in September 2009.

Technical Assistance (TA) can either be provided by tendering through the EU Delegation (open service tender, framework contracts, single offers for very small contracts) in function of the valid thresholds or, in well argued exceptional cases, through an international organisation. All interventions under this project will be coordinated by the EU Delegation with the State Chancellery under the Prime Minister (in its role of Moldovan aid coordinating body). Given the political developments in the Republic of Moldova throughout 2009, a special emphasis might be given on Technical Assistance to strengthen the democratic functioning of institutions as well as the population's access to a modern, efficient and equitable justice system. The 2008 *Backbone Strategy on Technical Cooperation and Project Implementation Units* as well as the 2009 *EC-Guidelines Making Technical Cooperation more Effective* will be taken into account in all activities financed under this project.

Furthermore, all interventions financed under this project shall be checked for conformity with the *Economic Stabilization and Recovery ('Anti-Crisis'-) Plan 2009-2011* of the new government, as well as its government programme *European Integration: Liberty, Democracy and Welfare, 2009-2013*.

## **2.2. Lessons learnt**

The project can draw on growing experience of the European Commission and other donors as well as international financial institutions with technical assistance, including Twinning and similar partnership arrangements in and with the Republic of Moldova. It has to build also on a number of valuable evaluation, audits and monitoring exercises<sup>1</sup>, as well as political declarations from the European Council<sup>2</sup>, the European Parliament<sup>3</sup> and other bodies<sup>4</sup>.

TA/Twinning projects are standard components of the ENPI Annual Action Programmes with the Republic of Moldova and have already been included in AAP 2007 (EUR 6 million), AAP 2008 (EUR 5.7 million) and AAP 2009 (EUR 7 million). Although capacity constraints on the Moldovan and EU side have led to a rather slow use of these facilities in the last years, the reform programme of the new government, enhanced possibilities for Moldovan participation in activities under ENPI and the Eastern Partnership, as well as the build-up of the Twinning portfolio will lead to a stronger use of Technical Assistance funds in 2010 and 2011 (and the absorption of all funds before their contracting and implementation deadlines).

The 2010 Twinning and TA project will continue to strengthen the capacity of the Republic of Moldova's institutions in their institutional dialogue with the EU and in the implementation of reforms emanating from EU-Republic of Moldova and relevant negotiations and documents (especially the EU-Republic of Moldova Cooperation Council, the EU-Republic of Moldova Cooperation Council and its four sub-committees, the negotiations for the New Agreement, and the annual ENP Progress Reports).

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<sup>1</sup> see especially the *EC Country Level Evaluation on European Commission's Support to the Republic of Moldova* (September 2007), the European Court of Auditors *Audit on the Effectiveness of EU Support in the Area of Freedom, Security and Justice for Belarus, Moldova and Ukraine* (November 2008) and the regular reports of the external Results-oriented Monitoring Information System for the ENP-countries.

<sup>2</sup> see especially the Declaration of the Swedish Presidency on the forth-coming launch of negotiations on a New Agreement, 16.10.2009

<sup>3</sup> notably the Resolution of the European Parliament on the Situation in the Republic of Moldova, 7.5.2009.

<sup>4</sup> especially the World Bank Strategy on Moldova 2009-2012 and Moldova-related documents of the IMF

Lessons have however to be drawn from the political events in 2009, culminating in the political violence of April 2009 (destruction of large parts of the Parliament and Presidency buildings, followed by massive human rights violations by the police and slow reaction by the justice system). These developments have shown that Technical Assistance in the Republic of Moldova over the last years has properly been focused too strongly on expertise to support 'technocratic' detailed reforms, whereas the foundations of a sustainable democratic development turned out to be still fragile. Suffice to mention that the first Twinning project in the Republic of Moldova, support to the Parliament, practically came to a temporary hold after the storm of the Parliament building on 7.4.2009. The weakness of the justice system surfaced on the occasion of the ineffective reactions to oppression of freedom of assembly and expression, and against torture and other violations of human rights by security forces, including the police. Another indication is that only after the regime change following the July 2009 early parliamentary elections, a number of politically motivated prosecutions were dropped and several schemes of economic malpractice (monopolisation of export and import operations) were disclosed.

The new project can also draw on lessons learnt in the largest current -Technical Assistance project, *Support to EU-Republic of Moldova Agreements* (see below, nine long-term experts provided for key Moldovan Ministries and the Centre for Legal Approximation). Whereas this project provides useful detailed inputs on harmonisation aspects of Moldovan legislation and administrative practices, the organisational burden of directly managed large TA-projects is considerable for all parties, and technical improvements can be hampered by lacking sectoral commitments for reform, and suboptimal coordination of the Moldovan integration agenda. A more political approach towards -Technical Assistance to the Republic of Moldova is therefore recommendable (See also a main conclusion of the 2008 European Court of Auditors report on Justice Liberty and Security -projects in Belarus, the Republic of Moldova and Ukraine: 'The Commission... underestimated the extent to which external factors, such as political fragility, discontinuity of government structures and, potentially, lack of EU accession perspective could prevent the fulfilment of project objectives'.).

### **2.3. Complementary actions**

The foreseen interventions will complement Twinning and Technical Assistance initiatives funded through the ENPI Annual Action Programmes for the Republic of Moldova 2007, 2008 and 2009. The predecessor programmes include Twinning projects supporting the Parliament of the Republic of Moldova, the Penitentiary Institutions, the Ministry of Agriculture and Food Industry, the Agencies for Protection of Competition, Public Procurement and Intellectual Property and a EUR 5.3 million project 'Support to agreements between the EU and the Republic of Moldova' that started in August 2008 that will last until end of 2010. As a complementary activity, the British Embassy is providing a support project to the Secretariat for EU integration under the Prime Minister's Office as well as a support project to the National Development Strategy of the Government of the Republic of Moldova. Coordination with these donors will be ensured by the Delegation of the European Union in Chisinau. From the side of Council of Europe, a key Justice Reform project that is supported by the will end in summer 2010, elements of which could be continued under this new TA/Twinning project. Building upon expertise of the Council of Europe and other international organisations might be especially important having in mind the intention of the new governing coalition to speed up the reform of the judiciary and, eventually, to draw up and put for referendum a modified or new Constitution.

Important new complementary activities will be launched in 2010. An *EU High Level Advisory Mission to the Republic of Moldova*, inspired by an example in Armenia and probably to be implemented by UNDP is under development, following a request of the new Moldovan Prime-Minister to the European Commissioner for External Relations on 19.10.2009. Council of Europe and the European Commission are preparing a *Democracy Support Package* including issues such as police and media reform and investigation on the April 2009-events. Finally under the Eastern Partnership a *Comprehensive Institution Building* initiative is being prepared that will strengthen a small number of key Moldovan institutions for further European integration.

#### **2.4. Donor coordination**

Donors and IFIs shall be coordinated by a small team in the office of State Minister (previously directly under the Prime Minister) in line with the Paris and Accra Declarations on Aid Effectiveness. This institution is referred to by the Commission as the 'National Coordinating Unit' (for the main part of the portfolio) and 'Programme Administration Office' (for Twinning and Taix). A monthly donors coordination is organised by the UN between all donors and the above-mentioned aid coordination unit. Sector-based donor coordination meetings are taking place in areas such as health, social protection, regional development and justice, and shall be extended to a total of twelve sectors. Every sixth months, results of the sector working groups and other main issues shall be discussed in a new development partners forum on ministers and ambassadors level. New *Partnership principles* shall be signed until the end of 2009 between the Moldovan government and donors, and the next high-level Donors' Conference is planned in Chisinau for February 2010.

### **3. DESCRIPTION**

#### **3.1. Objectives**

Overall objective:

To strengthen public administration institutions in the Republic of Moldova and to support them in meeting European standards and implementing measures foreseen by bilateral agreements between the Republic of Moldova and the EU.

Specific objectives:

To support the relevant institutions within the Moldovan administration in the areas needing further capacity building in order to enforce effectively the commitments set forth in the ENP Action Plan, as well its potential successor document.

To significantly advance the approximation of Moldovan legislation, norms and standards to those of the European Union and foster its coherent implementation in the light of best western practice.

To provide Moldovan officials with deeper knowledge of the best practices in the EU in key sectors of cooperation between the Republic of Moldova and the EU.

To implement preparatory, supervisory, monitoring, audit and evaluation work in view of a timely and efficient launch and implementation of the EU portfolio in the Republic of Moldova.

### **3.2. Expected results and main activities**

Timely and cost-effective implementation of the Republic of Moldova's commitments in light of the above-mentioned documents, along with regulatory reform and administrative capacity building.

Eased political dialogue for further enhancement of neighbourhood relations, based on successful realisation of joint objectives defined in bilateral agreements.

### **3.3. Risk and assumptions**

Assumptions: the Republic of Moldova pursues its objective of improved relations and economic integration with the European Union, and pursues its efforts to modernise its administration; The government continues its donor coordination effort and supports improvement of decision-making processes in line with European practice; The beneficiary institutions are properly staffed and have the necessary absorption capacity to receive and benefit of the proposed projects;

Risks: The limited number of trained staff in certain sectors of the Moldovan public administration. This risk can be mitigated through agreeing on existing administrative capacity as a key criterion to establish the list of priority twinning projects.

### **3.4. Crosscutting Issues**

Coherence with the cross-cutting issues can be characterised as follows:

Improved administrative capacity and rendering it aware of EU policies and systems will raise the democratic standards of governance implying improved wider and systematic consultation of the civil society and businesses, will provide the Republic of Moldova with a major step forward to democracy; the monitoring by civil society organisations will be a guarantee of setting up an efficient and stable surveillance of the law enforcement system, which is a vital one for democracy.

### **3.5. Stakeholders**

The key stakeholders will be the concerned institutions and society groups, policy-setting and implementing ministries and agencies and the judiciary system. The proposed measure will impact first and foremost on the policy-setting and implementing agencies. However enforcement of EU-compliant procedures should rapidly lead to involvement of the public administration, civil society and businesses in the project. The Republic of Moldova is characterised by limited administrative capacity in public administration, civil society and business infrastructure.

## **4. IMPLEMENTATION ISSUES**

### **4.1. Method of implementation**

The project will be implemented through direct centralised management.

### **4.2. Procurement and grant award procedures**

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the

implementation of external operations, in force at the time of the launch of the procedure in question.

Participation in the award of contracts for the present action shall be open to all natural and legal persons covered by the ENPI Regulation. Further extensions of this participation to other natural or legal persons by the concerned authorising officer shall be subject to the conditions provided for in article 21(7) of the ENPI Regulation.

The essential selection and award criteria for the award of grants are laid down in the Practical Guide to contract procedures for EC external actions. They are established in accordance with the principles set out in Title VI 'Grants' of the Financial Regulation applicable to the general budget. When derogations to these principles are applied, they shall be justified, in particular in the following cases:

- Financing in full (derogation to the principle of co-financing): the maximum possible rate of co-financing for grants is 80%. Full financing may only be applied in the cases provided for in Article 253 of the Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of the Financial Regulation applicable to the general budget of the European Union.
- Derogation to the principle of non-retroactivity: a grant may be awarded for an action which has already begun only if the applicant can demonstrate the need to start the action before the grant is awarded, in accordance with Article 112 of the Financial Regulation applicable to the general budget.

#### **4.3. Budget and calendar**

The total budget for this initiative has been set to EUR 7 million while the implementation period for this action is 48 months from the signature of the contracts. The split between Twinning and Technical Assistance will be done at a later stage, when an assessment will be made on the needs and absorption capacity of each institution.

In the case of Twinning projects, the beneficiary administrations are requested to make their co-financing of the measures explicit in the twinning project's budget attached to the twinning contract, providing human resources, logistical arrangements and optionally taking in charge the Resident Technical Assistant. In the case of technical assistance projects, Moldovan beneficiaries are commonly requested to contribute the logistical arrangements (internalised cost) as well as political support in case the reform and development strategies in one or more of the concerned sectors need revision or update.

#### **4.4. Performance monitoring**

The monitoring of the measure will follow standard procedures, based on benchmarks to be agreed with each of its beneficiaries shortly after its start-up. Project monitoring will be based on periodic assessment of progress and delivery of specified project results and towards achievement of project objectives.

#### **4.5. Evaluation and audit**

In addition to regular expenditure verification and monitoring exercises, a mid-term and final evaluation of the implementation of this package may be organised, possibly concomitant with the mid-term or final evaluation of other Technical Assistance and Twinning facilities funded under other Action Programmes in the Republic of Moldova.

#### **4.6. Communication and visibility**

Proper communication and visibility of the measure will be achieved via widespread dissemination of project achievements and results: to this end, a proportionate and reasonable budget will be allocated within each contract to cover communication and visibility activities.