

Annex 1 - Action Fiche for Ukraine

1. IDENTIFICATION

Title/Number	Support to the Justice Sector Policy Reforms in Ukraine CRIS ENPI/2010/21849		
Total cost	EU contribution €10 million		
Aid method / Method of implementation	Project approach – centralised (direct) management		
DAC-code	15130	Sector	Legal and Judicial Development

2. RATIONALE

2.1 Sector context

The proposed project is consistent with the key sector policy and strategic documents of the Government of Ukraine. A concept note *"For the improvement of the judiciary in order to ensure fair trial in Ukraine in line with European standards"* was approved by the Ukrainian President in 2006. It resulted in amendments to the laws regulating judicial operations: *"On the Organisation of the Courts"* and *"On the Status of Judges"*.

The drafts were merged and the unified draft law still awaits its second reading by the Parliament. In the meantime, it has undergone screening by the European Commission for Democracy through Law (Venice Commission), which presented its opinion in February 2010. Despite minor improvements, the unified draft provides no remedies for the following shortcomings the Ukrainian judiciary is riddled with:

- the system of Ukrainian courts is unnecessarily complex;
- judicial appointments should be more transparent;
- the executive should have no influence over the courts' funding, logistics and administration. The Ukrainian agency of court administration should become a part of the judicial branch, controlled and supervised by an independent body.

Other main problems affecting the target groups/stakeholders also include inadequate policy, lack of technical and organisational skills to perform their respective roles in a competitive, efficient, and effective manner. There is no consolidated view of the reforms shared by all beneficiaries. The current sector set-up prevents its stakeholders from effective functioning. The judiciary is fragmented and thus weakened by infinite "struggles for power": the High Council of Justice v. Supreme Court; Supreme Court v. High Courts, High Council of Judges v. High Council of Justice, etc. Reportedly, many of the top judicial appointments were and continue to be politically- and/or business-motivated. As per "Priority identification and needs assessment for sector-wide programme on Assistance to Judicial Reforms in Ukraine"¹, the Government continues its relentless attempts to influence judiciary through manipulating its finances. Prejudiced court decisions, rampant corruption, biased investigations all stem from

¹ by Wolfgang Tiede and Mikhailo Buromensky, October 2008

little accountability and transparency of the sector. The Prosecutor's General Office still remains largely unreformed and struggles to preserve and widen its prerogative to overturn court decisions and to interfere with law-enforcement investigations. The law-enforcement is notorious for its inefficiency and instances of human rights violations. Degrading prison conditions, curtailed procedural freedoms of the legal profession, inadequate enforcement of already handed down court decisions, and intricate legislative process render the sector inefficient. Detrimental working conditions and enormous workloads (i.e. more than 30 court cases a day for an average local court judge) make the sector less attractive to female job seekers. The volatile political situation adds additional stress with major political parties trying to secure the influence on the sector operators in the aftermath of the presidential race 2009 – 2010 where the current Prime Minister and the President faced each other as opponents. It seems that none of the sector stakeholders are truly willing or capable to reform "from within" and to coordinate with one another. The project therefore is called to facilitate a consolidated, well-orchestrated joint sector-wide reform effort by all stakeholders.

The suggested approach is fully compatible with the new modalities of the EU-Ukraine cooperation including the Eastern Partnership (EaP) as well as the new EU-Ukraine Association Agreement (AA) under negotiation. In particular, it will contribute to EaP Priorities such as governance and to Association Agenda priorities, namely 2.1) Democracy, rule of law, human rights and fundamental freedoms and 3) Co-operation on Justice, Freedom and Security issues.

2.2 Lessons learnt

The proposed project was elaborated based on the assessment of the problem and stakeholders' analysis, and it builds on the results of the past and ongoing EU and other donor funded projects in Ukraine. The EU Delegation to Ukraine commissioned two independent assessments of Ukraine's justice sector readiness for the sector-wide reforms. "Priority identification and needs assessment for sector-wide programme on Assistance to Judicial Reforms in Ukraine"² looked into the country's preparedness while "Multi-project result oriented monitoring (ROM) of rule of law projects in Ukraine"³ looked into the EU assistance delivered to the sector to date. Both assessments concluded that the sector stakeholders should be assisted in preparing their reform strategies and implementation plans, and that the probability of the beneficiary ownership of the assistance results is high.

Lessons learned from ongoing and past EU, EU Member States and other donor projects were incorporated in the project's design. For instance, the sector was broadened far beyond the judiciary as such to include law-enforcement, penitentiary and the legal profession. Besides, emphasis is placed on the Government-led coordination of the sector, which will ensure all stakeholders' coherence with the reform policies.

The process has been assisted by a mission from the DG EuropeAid, Directorate for Quality Support.

2.3 Complementary actions

The project is complementary and builds on the results of the following EU and other donor funded projects. The synergies among the ongoing and future projects are ensured through the

² by Wolfgang Tiede and Mikhailo Buromensky, October 2008

³ by Philippe Bories, Result Oriented Monitoring team in Ukraine, November 2008

monthly donor-led coordination events. EU is a staunch advocate of the Ukrainian-led coordination that should ultimately take off. The Joint Programme of the European Commission and the Council of Europe "*Judicial Selection and Appointment Procedure, Training, Disciplinary Liability, Case Management and Alternative Dispute resolution Methods*" has opened the sector for the substantial (€2.2 million) EU and other donor assistance. The programme was much praised by the Supreme Court of Ukraine and other beneficiaries.

The Joint Programme paved the way for the four-year long, \$4.5M Canada-Ukraine Judicial Cooperation Project (CUJCP) that started in late 2006. It links high-level Ukrainian and Canadian counterparts in the judicial system, furthering cooperation between the two countries while providing analysis, technical support and modelling of judicial reforms through exposure to Canadian and international concepts and best practices. The Canadian identification team had been advised by the EU Delegation on the project's design and modalities.

Both the CUJCP and the USAID (spell out MCC)-funded Rule of Law project helped "bridge" the gap in-between the Joint Programme and two major EU programmes that started in 2008 with an aggregate amount of €11M. Nevertheless, the EU remained very active in the sector through its project on Improved International Cooperation in Criminal Matters by Ukrainian Law-enforcement (UPIC). Both Canadian project and UPIC contributed to the development of the Concept of Criminal Justice Reform in Ukraine⁴

EU Member States have become involved with sector reforms through two twinning projects (€3.1M) aimed to assist with structural changes and better procedures of the Academy of Judges of Ukraine and the Ukrainian Police. The Austrian Federal Ministry of Justice and the French Ministry of the Interior bring first-hand European experience to the mix of donor assistance that, before the twinings, was primarily rendered by international organisations or venerable international consultancies like WYG Int.⁵ The direct Member State involvement increases credibility of the assistance and thus ensures better ownership by the Ukrainian beneficiaries. The project, in its turn, will provide its support to new twinings with the High Administrative Court of Ukraine and the Troops of Internal Security, which are being programmed.

If any of the sector stakeholders will be appointed as a Comprehensive Institution Building (CIB) coordinator (e.g. the Ministry of Justice given its responsibility for approximation process) or a core institution under the CIB programme, the sector will enjoy direct operational synergy with the CIB programme of the Eastern Partnership initiative (EaP). However, any additional CIB funding to the sector will not be committed to the sector during the project's lifetime.

2.4 Donor coordination

The project will become an integral part of the joint donor-coordinated approach. EU-led donor coordination in the sector has proven its effectiveness since its establishment in 2004. At present, the USAID Rule of Law project holds regular monthly information exchange

⁴ Adopted by a decree of the President of Ukraine of 8/04/2008 and approved by the Government's decree 'On Approval of the Action Plan for Implementation of the Concept of Criminal Justice Reform in Ukraine' • 1153-r of 27/08/2008

⁵ <http://www.wyg.com>

meeting of Rule of Law Project Implementers in Ukraine. The linkages among donor activities are ensured from a new project design to its implementation. The Government-led donor coordination along the lines of the OECD Paris Declaration on Donor Aid Effectiveness exists yet still is at its initial stages. For a number of technical reasons, subgroup C2 "Justice and adaptation of Ukrainian Legislation to that of the EU" has failed to function to date. The EU Delegation continues to be its main proponent.

To ensure that the project does not overlap with other donor activities both ongoing and planned, the identification process was conducted in full consultation with the beneficiary institutions, the EU Member States missions in Ukraine, and the other donors in the good governance sector, i.e. USAID, UNDP, World Bank.

3. Description

3.1 Objectives

The overall objective of the project is to accelerate sustainable sector policy reforms of the justice sector of Ukraine. The specific objectives are to align major sector stakeholders' policies and reform priorities in a coherent sector-wide reform strategy, supported by an implementation plan and a multi-annual financing programme secured by a Government's decision and to create a viable sector coordination structure.

The project should address a clear need for a uniform consolidated view of the reforms shared by all beneficiaries.

3.2 Expected results and main activities

Expected results are:

1. Effective Government-led sector coordination is established and operational. Stakeholder responsibilities and "division of labour" are shared by all and secured in a form of a memorandum of understanding that should lay a foundation for the stakeholders' cooperation around the sector policy development.
2. Each sector stakeholder has developed its chapter of the sector strategy in cooperation with other sector stakeholders and under coordination and guidance of the dedicated entity in the Government of Ukraine. The strategy implementation plan with sector-wide and each stakeholder-specific benchmarks is created.
3. Sector strategy implementation plan is supported by its implementation mechanism that, in the long run, should be supported by a multi-year financing programme enacted by the Government of Ukraine or by a separate law that provides for multi-year budget allocations in accordance with part seven, Article 23 of the Budget Code of Ukraine.
4. The stakeholders possess adequate capacities to implement the sector strategy and are willing and capable to jointly implement the sector reforms. The main institutional weaknesses of each stakeholder are identified and the main needs for technical assistance are addressed.
5. A framework for the sector performance monitoring system is set up (e.g. a sound methodology for collecting statistical data, with a view to measure indicators of progress).

The following elements will constitute the indispensable elements of the sector strategy (the list is not inclusive and will be regularly reviewed and updated within the lifetime of the project):

1 The Ukrainian Judiciary's increased independence from external influences should be achieved through its own independent budgeting and financing. The Judiciary should increase its accountability through improved financial and human resource management and a creation of an efficient system of unbiased appointments to judicial posts and dismissals, and impartial case distribution among judges.

2 The Government has to commit itself to ensuring that when developed, the Justice Sector reform strategy should be mandatory supported by a multi-annual financing programme.

3 The Ministry of Justice has ensured that the relevant Justice Sector reforms legislation is developed and passed through the Parliament of Ukraine to ascertain that the sector reform strategy meets no opposition from any quarter of the Ukrainian "power triangle": the President, the Parliament and the Government. The Ministry of Justice implemented an effective system of enforcement of court decisions that brings Ukraine's enforcement results on a par with the best European examples.

4 The system of pre-trial investigations has to be modernised in accordance with the best European practices. The Judiciary, the Ministry of Interior (MoI), State Security Service of Ukraine and the Prosecutor's General Office (PGO) should commit themselves to arriving at an efficient "division of labour" as regards their pre-trial investigative prerogatives. Human and material capacities of the MoI, SBU and PGO should improve to better address the change of their role as integral parts of the justice system of Ukraine.

5 The Ukrainian Penitentiary System should become an indispensable part of the sector with stronger ties to the other stakeholders. It should commit itself to ensuring its increased transparency and accountability, alignment of its legislative framework with EU and international standards, and increased respect for human rights as regard the conditions of the juveniles in conflict with the law.

6 The Ukrainian public is empowered to shape up, monitor, and provide its feedback on the state and directions of the sector-related reforms through self-governance organisations of legal professionals (lawyers' unions), specialised civil society and media outlets. The strategy should foresee a mechanism of regular public hearings on the state of reforms with the equal representation of the above groups.

The main activities include:

Component 1: Coordination of sector reforms, stakeholder and donor alignment, sector performance monitoring managed by the Government of Ukraine. Advice and expertise on the creation of a single sector and donor-coordination entity is provided (either the Bureau for European and Euro-Atlantic Integration of Ukraine or the Ministry of Economy or any other state body of the Government's choice). The European best practices on inter-Ministerial cooperation and information sharing is provided. Activities aimed at making its coordination entity effective are conducted so that the existing Government-lead donor coordination in the sector is fully functional and effective. Advice on drafting and negotiating of a Memorandum of Understanding is provided. EU visibility-related activities will promote the EU role as the Memorandum's mediator and will safeguard the stakeholder's commitments to the

Memorandum's implementation. A framework for the sector performance monitoring system will be set up.

Component 2: Sector strategy development and its implementation: Advice and assistance will be provided on the creation of each stakeholder's strategy component, the coherency of the strategy at the sector level, the creation of the strategy implementation plan with sector-wide and each stakeholder-specific benchmarks. The main institutional weaknesses of each stakeholder will be identified and addressed by the means of the project or any ensuing assistance.

3.3 Risks and assumptions

Assumptions:

1. Political and economic stability will prevail in Ukraine;
2. The Government and Parliament will continue supporting legal and judicial reforms, which will be advancing at a satisfactory speed;
3. All key players and institutions involved are willing to co-ordinate their actions and co-operate in operational matters.

Risks related to each assumption:

1. Stakeholders' commitment to the project may dwindle as a result of the uncertainty over what directions the future reforms may take. The competing political forces have different views on the reforms' directions and timeliness.
2. The sector may become overly regulated by the executive with the Government attempting to increase its influence over the sector or even sabotage the stakeholders' joint effort for the sake of its own political ends.
3. The stakeholders may opt to preserve the "status quo" to secure their positions of power to the detriment to the sector's development.

The following risk management arrangements are proposed to mitigate the risks:

1. The stakeholders have confirmed their commitment to the project's ideas by the means of a formal letter from each institution. The project will ensure that the stakeholder institutions get involved to their full capacity streamlining their structures, dedicating necessary human/material resources, and acquiring necessary knowledge and skills to achieve the project's objectives. These improved structures, resources, skills and experience will then be utilised in the course of future sector policy reforms.
2. Working as a team over the joint sector reform strategy will create horizontal "peer-support" mechanisms among the stakeholders. This will guarantee reciprocal controls, assists to fend off outside influences, and also add up a spirit of competition to the stakeholders' joint undertaking. The project's reliance on national expertise and also on the stakeholders' own capacities invoked and supported in the course of the project shall guarantee its sustainability and financial efficacy.
3. The stakeholders' commitment is planned to be secured by a memorandum of understanding ratified by major sector stakeholders and acknowledged by the EU tentatively within the first year of the project's implementation. It should establish the

strategy's scope, define stakeholders' responsibilities, and establish necessary procedures to ensure timely development of the strategy.

3.4 Crosscutting Issues

The project fosters EU cross-cutting issues, in particular good governance. Judicial reform will contribute to a more efficient, transparent, accountable and independent judiciary, and will foster respect for human rights. The project will ensure that civil society is actively involved in the reform process, strengthening thus the political dialogue between the Government and CSOs/NGOs. The Ukrainian Judiciary - predominantly male - will be also induced to streamline its recruitment and promotion procedures to ensure fairer representation of both genders. For instance, in the Constitutional Court of Ukraine the female/male ratio is: 2 to 15; the Supreme Court of Ukraine has 16 female justices out of 73.⁶

3.5 Stakeholders

The key target groups and stakeholders are as follows:

The Government of Ukraine represented by its dedicated body (the Bureau for European and Euro-Atlantic Integration of Ukraine or/and the Ministry of Economy of Ukraine), the Ukrainian Judiciary (Supreme Court), the State Court Administration, the Prosecutor General Office, the Ministry of Justice, the Ministry of Interior, the State Security Service, the State Penitentiary Service, the Parliament (Committee on Justice and the Ombudsman's office), Lawyers' Organisations of Ukraine, and specialised civil society and media outlets. Each major stakeholder represents an indispensable stage in the process of administration of justice in the majority of jurisdictions in Ukraine while the Government of Ukraine is playing a role of the reform coordinator.

The stakeholders were consulted and most of them have confirmed their commitment to the project's implementation by a formal letter from each institution.

4. IMPLEMENTATION ISSUES

4.1 Method of implementation

The project will be implemented through direct centralised management.

1. Restricted calls for proposals to relevant EU Member States institutions (e.g. the "European Assistance Mission to the Albanian Justice System "EURALIUS") and to EU Member States public bodies (through a consortium) are considered the implementation option for the bulk of the project resources.

2. Service contracts will be used for Monitoring activities, Audits and Evaluations, Communication/Visibility action and Identification of follow-up actions.

Oversight of the project will be entrusted to a Steering Committee chaired by the Government's dedicated body and its members will include representatives of the sector's stakeholder institutions. The Steering Committee will meet at least twice a year to assess progress of the reforms promoted by the project. Where appropriate due to external factors or a change of circumstances, the Steering Committee may propose modifications to the

⁶ <http://www.yur-gazeta.com/article/1065>

implementation of the project for consideration by the European Union.

4.2 Procurement and grant award procedures

Direct centralised management:

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the European Commission for the implementation of external operations, in force at the time of the launch of the procedure in question.

1) Contracts

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 1638/2006. 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.

2) Specific rules for grants

The essential selection and award criteria for the award of grants are laid down in the Practical Guide to contract procedures for European Commission 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

Indicative breakdown of overall amount by main components

Component	(EUR)
Coordination of sector reforms, stakeholder and donor alignment, sector performance monitoring managed by the Government of Ukraine - Grant agreements	1,000,000

Sector strategy and implementation – Service contracts/Grant agreements	8,600,000
Monitoring, Audit and Evaluation, Communication/Visibility, Identification of follow-up action, Operating costs, Contingencies, Other – Service contracts	400,000
Total	10,000,000

The foreseen project's operational duration is 48 months from the signature of the contracts and/or agreements.

4.4 Performance monitoring

Objectively verifiable indicators (OVI), both qualitative and quantitative, will have to be part of the methodologies included in the technical proposals for each project component. The overall project's OVI are:

- Improved procedures for investigating of a crime/ offence or handling a court case by all sector stakeholders;
- Decreased number of appealed cases, complaints on delayed or rejected justice by any of the sector stakeholders (stakeholders);
- Decreased number of recorded human rights violations by law-enforcement.

Given the demand-driven character of the programme, the final OVIs must be designed properly and should be further revised at the start of the project's last year of operations to make sure that they are ambitious and realistic.

The monitoring of the day to day implementation will be carried out by the European Commission under its standard procedures, based on benchmarks to be agreed with the project beneficiaries. It includes periodic assessment of progress and delivery of specified project results towards achievement of project objectives.

Key indicators for performance monitoring will include such items as number of benchmarks achieved, quantity and quality of sector strategy contributions by each stakeholder, number of component objectives attained.

4.5 Evaluation and audit

Mid-term and final evaluation of the project implementation will be commissioned by the European Commission to assess project performance, achievements and impact. A provision is set aside for this purpose within the allocated budget.

4.6 Communication and visibility

Proper communication and visibility of the project will be achieved via widespread dissemination of project achievements and results (to be developed by the implementing partner following the EU visibility guidelines, and annexed to the Description of the Action), as well as international visibility to be achieved through public events (project's opening, annual and closing conferences) and updates published on the EU Delegation's website. A reasonable communication budget will be set aside for promotion of the action.

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ANNEX 2 - ACTION FICHE FOR UKRAINE

1. IDENTIFICATION

<i>Title/Number</i>	SUPPORT TO THE JOINT COOPERATION INITIATIVE IN CRIMEA (CRIS ENPI/2010/021-851)		
<i>Total cost</i>	EU Contribution EUR 12 million		
<i>Aid method / Method of implementation</i>	1) Direct centralised management 2) Indirect centralised management with Kreditanstalt für Wiederaufbau (KfW), Germany		
<i>DAC-code</i>	43010	<i>Sector</i>	Multi-sector aid

2. RATIONALE

2.1. Sector context

2.1.1. Overview

Despite a new course of relations between Ukraine and Russia and some signs of Kiev's engagement in the region, the Autonomous Republic of Crimea (ARC) and Sevastopol still represent a potential flash point in the region. The signing of a new lease agreement for the Black Sea Fleet (BSF) in Sevastopol does not change the fact that the BSF has lost its role as the city's main employer. Its downsizing is still continuing and generating unemployment, growing debts and bankruptcy of several military-complex enterprises, which translates into the need to diversify the local economy and attract FDI to that purpose.

The complexity of the situation, compounded by different groups which experience exclusion, notably the Crimean Tartars, slow reforms on sensitive land and competences issues and some concerns over separatism, imposes a closer attention to Crimea's political, economic and social situation and justifies investing in the region as a matter of priority.

Within the framework of the Joint Cooperation Initiative in Crimea (JCIC), this programme will focus on reducing the disparity and development gap of Crimea with other regions. It is aimed at supporting social and economic development of the Crimea in some Regional Development Strategy priority areas with a specific focus on Tourism Development, Social Infrastructure development and Foreign Direct Investments (FDI) promotion.

1) *Tourism*: With the service sector representing more than 58 % of Crimea Gross Value Added (GVA)⁷, the Tourism sector contributes only to 7 % of regional budget⁸ (unofficial economy estimated at 40-60%) and generated employment is still low. Current levels of professional services and standards with low value for money, real estate speculations that do not generate new jobs, weak alternative tourist products, cultural heritage protection policy and tourism information support and communication, are not properly addressed in the existing Tourism Development Plan elaborated by the Ministry of Tourism of ARC.

⁷ Ukraine Competitiveness Report 2009 – FEG – http://www.feg.org.ua/docs/Final_Eng_2009.pdf, page 104

⁸ Source: ARC Prime Minister office data for 2008

2) *Social infrastructure*: Significant welfare discrepancies persist between urban and rural areas that could not be overcome even in times of strong economic growth. In order to overcome the persisting poverty in rural areas, one of the top priorities is the rehabilitation of the economic and social infrastructure in the region. Due to the weak development of social-economic indicators, the Ukrainian government places a high priority on the development of the ARC. Apart from the southern tourist areas, Crimea is characterized by a high incidence of poverty. According to the latest official poverty statistics (2008), the average poverty rate in Crimea stands at 30.3% (and thus above the national average set at 27.3 %). The regional salary level lies approx. 15% below the national average.

3) *Foreign Direct Investment (FDI)*: Over the past years, Ukraine has made little progress in improving its investment climate. The most important risk factors for foreign and domestic investors can be summarized as follows: political instability, lack of policy consensus on the economic reform priorities, the erratic judiciary system, an intricate tax system, the lack of fair, transparent and impartial dispute resolution mechanisms, the very difficult enforcement of domestic court and international arbitration decisions, a court system which is inefficient and susceptible to political interference and corruption that continues to affect all levels of Ukrainian society. Financial support instruments remain more declarative, than real.

Despite all the concerns, Ukrainian market remains attractive for foreign investors, outpacing many of the other CIS countries. This is due to high returns on investment, low-priced resources and workforce and the prospects of future growth and market development partly due to approximation to the EU. The EU remains the biggest foreign investor in Ukraine with the amount of FDI equalling to USD 28.17 Billion as of 1 January 2009 (79% of the total FDI to Ukraine); FDI to the Crimea and Sevastopol total 2.2% of Ukraine's FDI stock as of end 2008.

The activities foreseen will contribute to Eastern Partnership priorities and to Association Agenda priorities such as strengthening of the functioning of local and regional self-government, tourism, culture, regional development and industrial and enterprise policy.

2.2. Lessons learnt

1) Tourism development: Despite some positive achievements of the last major EU funded project implemented in 1998-2000 in support of Crimean tourism⁹, this project -due to low budget and limited project duration- produced no real impact on the public sector as the inadequate institutional framework for tourism development could not be addressed, as well as no visible impact on Crimean tourism offer, as the project limited its action to certain niche products. A recent concept paper¹⁰ of the Gesellschaft fuer technische Zusammenarbeit (GTZ) provided valuable confirmation of needs assessment for the sector.

2) Social infrastructures - KfW: An identical programme to the one proposed has been implemented by KfW in Donetsk and Lugansk oblasts (2008-2010, EUR 7.0 million) and its extension is currently being implemented by KfW in the ARC (2009-2011, EUR 5.0 million). The implementation structure has thus been validated and has proven to work very efficiently. The mandatory involvement of local civil society in all phases of project cycle has proved to be pivotal to the performance ratings and sustainability. In several cases, these actions in poorest districts created the conditions to develop new local political leaders.

3) FDI promotion in Sevastopol: Although efforts are being made to achieve improvements, progress in the simplification of regulation for businesses in Ukraine still falls considerably short of what is

⁹ Support to the Creation of the Crimean Tourism Development Centre (CTDC) (EDUK9702)

¹⁰ "Crimean tourism development in times of crises", GTZ - October 2009

required. Both the World Bank and International Finance Cooperation (IFC) most recent reports¹¹ show that progress during recent years has been painfully slow and totally inadequate. There is a need to reduce opportunities for corruption particularly at municipal level where complicated and confusing systems providing delivery of municipal services, construction permits and access to land are sources of significant corruption¹². It is the task of the City of Sevastopol not only to prepare and disseminate positive information about the city and its business opportunities but also simplify and streamline the burdensome procedures.

2.3. Complementary actions

All Components will need a very close cooperation and liaison mechanism not only to avoid overlapping but also to generate synergies and to build on what other actions achieved or plan to achieve.

Component 1) Tourism development: Since the completion of the EU funded project "Support to the Creation of the Crimean Tourism Development Centre" (EUR 2.2 million in 26 months 1998-2000), no other major international cooperation projects in support of tourism development have taken place in Crimea. At present, there are some ongoing and planned programmes extremely relevant to built complementarities for the proposed project:

- a. The EUR 0.75 Million EU-funded project "Development of Tourist Information Infrastructure in Lviv". The project on building tourist information infrastructure aims to improve accessibility to UNESCO World Heritage objects in Lviv. The experience on the field of this project will be of great value to the present action's tourism component.
- b. The USAID USD 3 Million "Local Investment and National Competitiveness project (LINC)" recently started a nationwide programme aimed also at improving Crimea's Business Enabling Environment and Industry Competitiveness, in particular focusing on development of "Tourism Clusters".
- c. The ongoing UNDP-Crimea Integration and Development Programme (CIDP) project in Crimea (USD 2 Million, 2009-2011) is among other activities also studying the key characteristics of supply and demand, facilities availability, and image of rural tourism in Crimea.
- d. GTZ is implementing the nationwide programme "Promotion of sustainable economic development and employment" (EUR 1 Million in 3 years) focusing also on tourism organization and promotion in Crimea.

Component 2) Social infrastructures - KfW: The proposed delegated cooperation with KfW will top up the current EUR 5 Million project being implemented by KfW in the ARC ending in 2011. The project will draw on extensive experience from:

- a. The planned EUR 17 Million EU-funded Community Based Approach phase II (CBA II) nationwide project including Crimea, aimed at strengthening participatory governance and community-based initiatives, including energy efficiency-related activities.
- b. The on-going EUR 12 Million project (2007-2011) "Community Based Approach to Local Development – CBA I" funded by the EU and co-funded and implemented by UNDP.

¹¹ "Investment Climate in Ukraine as Seen by Private Businesses" – IFC Report (October 2009) and "Doing Business in 2010" - World Bank Report

¹² USAID Trade, Investment and Business Acceleration (TIBA) two-year (2007 – 2009), USD 8 Million project was designed to provide technical assistance to the Government of Ukraine and the private sector to promote trade, investment and business development

- c. The proposed action will build upon achievements of the World Bank / Ukraine Social Investment Fund (USIF) nationwide programme on social infrastructures development (USD 50 Million in 2000-2008) including Crimea.

Component 3) FDI promotion in Sevastopol: Opportunities for complementarities and synergies could be offered by:

- a. EAST-INVEST: the European Commission has recently issued a call for proposals for a EUR 7 Million new regional investment and trade facilitation project. Complementarities will be particularly important to facilitate exchange of best practices and interconnections between EU and Eastern Neighbourhood companies.
- b. EU-funded (EUR 1.4 Million) Twinning project - Enhancing performance of InvestUkraine: the Ukrainian Centre for Foreign Investment Promotion in line with the best European practices started in July 2009.
- c. The above mentioned USAID LINC project (improving economic governance, piloting the development of a unified property registry).
- d. The above mentioned GTZ programme "Promotion of sustainable economic development and employment" also focuses on cluster development and enterprise competitiveness in Crimea including Sevastopol.
- e. IFC - Ukraine Business Enabling Environment Project - This project works to create a favourable environment for the development of SMEs and to improve the overall investment climate in Ukraine.
- f. The European Investment Bank (EIB) together with the World Bank and European Bank for Reconstruction and Development (EBRD) committed in February 2009 to provide EUR 24.5 Billion in financial resources for banking systems and the real economy in central and eastern Europe.

Moreover, the EBRD remains the largest investor in Ukraine (energy efficiency and security, development of the domestic capital market, transport and communications infrastructures, and municipal sector development). Other donors involved are the Canadian International Development Agency (CIDA), the Ministry of Economic Affairs of the Netherlands, and the Swedish International Development Cooperation Agency (SIDA) via the Ukraine Business Enabling Environment Project (2005 – present). The Local and Regional SME Development Programme was approved by the national Government in April 2007 with a budget around EUR 15,000 for Sevastopol, spent in several initiatives including the realization of the website "Invest Sevastopol" in 3 languages¹³.

2.4. Donor coordination

2.4.1. EU Member States in the JCIC

The EU Member States will contribute in the framework of the JCIC by re-orienting their future commitments on the base of a consistent division of labour interfaced with the Operational Plan of the Regional Development Strategy for ARC. A possible division of labour among EU and EU Member States is already shaping, in particular with Germany (EUR 6 Million for enterprise development and social infrastructures), France, United Kingdom and Lithuania (in the areas of tourism and cultural promotion with yearly budgets below EUR 20,000) and Sweden (EUR 1.4 Million for environmental investments in municipal infrastructures). The opening of a Polish consulate in Sevastopol in 2010 and the planned German Honorary Consulate in Simferopol will facilitate business cooperation missions and investment promotion events.

¹³ <http://www.sevinvest.gov.ua>

2.4.2. UNDP CIDP focal point for the Crimea Coordination Group

Coordination with UNDP projects in Crimea shall ensure synergy and avoid overlapping with all other donor funded projects in Crimea on the basis of the ongoing regular Quarterly Donors Coordination Meetings. The last meeting adopted the EU Delegation proposal for a “Code of Conduct” for project coordination in Crimea, a regular projects mapping exercise and the use of a web based coordination tool already activated.

3. DESCRIPTION

3.1. Objectives

3.1.1. Overall objective

The overall objective of the programme is to promote social and economic development of the ARC and Sevastopol by improving essential community needs and by generating new opportunities for economic development through better use of untapped local and regional potentials.

3.1.2. Purpose

This objective will be achieved by pursuing the following three Components:

Component 1) Tourism development:

- 1.1 **Support to institutional framework and territorial re-organisation** aiming at enhancing the capacity to develop and implement strategic actions and at re-shaping the territorial organization for a better balanced tourism development;
- 1.2 **Support to the reformulation of the tourism offer** to raise its quality;
- 1.3 **Improvement of the tourism promotion and signage** to create and launch a new revalorized tourist image of Crimea.

Component 2) Social infrastructures - KfW:

- 2.1 **The sustained utilisation of the social and economic infrastructure units** that have been rehabilitated in the context of the project;
- 2.2 **The development of local civil society** through improving the participation of the population in decisions at community level.

Component 3) FDI promotion in Sevastopol

- 3.1 **Institutional capacity building** to increase FDI inflows by developing a new integrated approach and a strengthened policy dialogue;
- 3.2 **Support to FDI promotion** by enhancing the capacities of main stakeholders to plan and implement activities to attract and promote foreign direct investment, making use of the best and more appropriate international expertise.

3.2. Expected results and main activities

Component 1) Tourism development:

Expected results:

- 1.1 An appropriate institutional framework reformulated and public-private dialogue enhanced. Tourism sub-regions should be identified in order to optimize the delivery and accessibility of tourism products;
- 1.2 Existing Tourism Development Plan reviewed and upgraded into a new Strategy, which shall include, among other things, the new Institutional Support Infrastructure and an Action Plan to address development gaps and to target priority sub-sectors/clusters identified by ad hoc studies; developing a 10 years General Accommodation Plan, as an integral part of the new strategy,

which shall incorporate a restructuring plan of health resorts and a clearly identified financial instrument to provide the necessary resources. Human Resources Plan developed to raise quality of services. A specialised training centre shall be established to increase personnel skills and qualifications of public and private tourist operators making services more competitive;

- 1.3 Tourists' information support and communication accessibility to Crimea cultural heritage substantially increased through implementation of the corresponding 5-years plan for creation of tourism signalisation and signage); enhanced tourism communication capacity on Internet of public and private operators.

Main activities:

1.1 **Institutional framework and tourism territory re-organized:**

- Assessment of weaknesses and gaps of the current institutional framework and subsequent implementation;
- Assistance to elaborate ad hoc studies to identify what priority sub-sectors/clusters to target;
- Elaboration of the plan for territorial reorganisation;
- Equipment needs assessment and preparation of the related supply tender.

1.2 **Tourism offer reformulated and its quality improved:**

- Review and upgrade of the Tourism Development Strategy 2010-2020 in coordination with national and ARC regional development policies;
- Elaboration of the General Accommodation Plan with special focus on health resorts, including a clearly identified financial tools for its implementation, a definition of quality standards and control process and the adoption of ambitious environmental sustainability assessments;
- Elaboration of the Human Resources Plan and development of the training centre to implement it, including training programmes and modules for all envisaged new institutions;
- Needs assessment and purchase for the necessary equipment and software for the envisaged Training centre.

1.3 **Tourism promotion and signage improved:**

- Assistance to carry out needs assessment and to develop a new concept for tourism promotion and tourists' information support and communication accessibility to cultural heritage sites in Crimea;
- Assistance to implement the new tourism promotion plan including support to draft promotion agreements with specialised operators in targeted markets;
- Support to upgrade the tourism communication capacity on the Internet of public and private operators including for cultural and natural heritage sites;
- Needs assessment and purchase of the necessary signs and plates;
- Preparation of the related supply tender.

Component 2) Social infrastructures - KfW:

Expected results:

- 2.1 Additional mini-projects realised with funds from this EU component in the area of social and economic municipal infrastructures implemented by the population in the poorest ARC districts; the population is taking on responsibility for the rehabilitated infrastructure units;
- 2.2 Local population and community administration enabled and their planning, implementation and monitoring capacity developed; the implementation capacity of the USIF further improved.

Main activities:

2.1 **Infrastructure units rehabilitated:**

- Pre-selection of micro-projects by the USIF according to the Operational Manual evaluated and approved by KfW; mobilisation of contributions by the beneficiaries;
- Implementation of Project Cycle; KfW monitoring of every step of the Project-Cycle both in Kiev and on-site in the ARC; development and implementation of relevant sustainability plans for maintaining and operating the facilities.

2.2 Local civil society active involvement enabled:

- Implementation by USIF and KfW of the capacity building programme to the local communities in areas such as project planning, financial budgeting and technical maintenance;
- Secondment to the USIF of a KfW Development Expert for a period of 3 years to work on improving the implementation structures of the USIF as well as its donor coordination capabilities.

Component 3) FDI promotion in Sevastopol

Expected results:

- 3.1 Existing Strategic Plan on Investment Promotion for Sevastopol reviewed and updated taking stock of other donors' initiatives and expected Law on Special Economic Regime for Investment Attraction for Sevastopol; an integrated approach to FDI attraction policy adopted with increased capacity of the proposed beneficiary Fund Sevastopol to act as an one-stop-shop centre focal point and facilitator for potential investors;
- 3.2 Direct working link with EU/European neighbourhood countries' Investment Promotion Agencies or business networking facilitators established with focus on fast growing industries; suitable linkages/structures designed and implemented for joint enterprise promotion events between Sevastopol and the EU/European neighbourhood countries; Investors' Guide published.

Main activities:

3.1 Institutional capacity upgraded:

- Review progress in the existing Strategic Plan and assess the implementation of the corresponding Action Plan by other donors;
- Incorporate the eventually adopted Law on Special Economic Regime for Investment Attraction for Sevastopol¹⁴ into the revised Strategic Plan and its Action Plan accordingly;
- Assess the preparatory assistance in establishment / upgrade of the Sevastopol IPA and elaborate / update its business plan and undertake Training Needs Analysis of its staff;
- Define and implement a comprehensive development plan for the IPA to become a one-stop-shop for investors.

3.2 Improved FDI promotion activities:

- Define specific investment opportunities to promote, particularly in faster growth priority industries through territorial marketing and investment mapping activities;
- Establish a direct network of targeted IPAs or business networking facilitators for enterprise promotion events and design and implement an investment promotion initiatives programme;
- Implement Public Relations/Communications activities (Investors' Guide etc.);
- Provide information and recommendation to policy-makers on needs and means for improvement of the investment climate.

3.3. Assumptions and risks

3.3.1. Assumptions

The programme provisions are based upon the following assumptions:

- The Ukrainian authorities will remain committed for delivering improved regional development policies and promoting sustainable development, also in Crimea. The process of transparent

¹⁴ The City Administration has been charged by the Cabinet of Ministers (act n. 610-p of 03.06.2009) to draft the concept of the Law on "Special Economic Regime for Investment Attraction in Sevastopol", which is now in the legislative process

decentralisation of the responsibilities and financial resources will be strengthened and the transfers from State budget to local budgets will continue without major decreases.

- The government continues cooperation with the EU and pursue its efforts to improve the business climate and smooth development and approval of the legislation and implementation of reforming measures.
- Ukraine will go on with its reform process, thus reinforcing the process for good governance to win public trust, confidence and cooperation.
- Co-ordination and co-operation of the main stakeholders in implementing the project activities.

3.3.2. *Risks*

The main risks to be faced in the carrying out of the project are the following:

- The political situation in the Black Sea Basin and relations with the Russian Federation Black Sea Fleet in Sevastopol may worsen and then deteriorate the image of Crimea as a tourist and foreign investment destination.
- Tensions growing around issues such as ethnical minority claims, second official language, land distribution schemes and several cases of mass children poisoning in local resorts could affect the tourist attractiveness of Crimea, its investment climate and the smooth rehabilitation of social infrastructures.
- Political instability in Ukraine may continue or worsen causing less than full cooperation from the elected/government authorities in the ARC, Sevastopol City and at national level.

3.4. **Crosscutting issues**

The following cross-cutting issues are directly targeted by the proposed action: poverty reduction, good governance, integration in the world economy, environment and climate change. The proposed action will have a significant though indirect impact on the following cross-cutting issues: democracy, human rights and gender.

3.5. **Stakeholders**

Component 1) Tourism development:

The direct beneficiary will be the Ministry of Tourism. Other stakeholders will be the Crimean Tourism Development Centre, the local sector business associations, local University holding relevant professional training, the SMEs in the value chain of the sector, and civil society. Timely and pro-active cooperation shown by the Ministry during the fact finding and the formulation missions, gives ground to a positive assessment of its willingness and capacity to participate as project partner of the proposed action.

Component 2) Social infrastructures - KfW:

The legal recipient of the funds will be the Ukrainian Ministry of Labour. The Ministry passes on these funds to the subsidiary, the USIF. The programme is coordinated with the Government of the ARC. Beneficiaries of the funds are the local communities of ARC.

Component 3) FDI promotion in Sevastopol:

The direct beneficiaries will be the City Administration or the City Council; other beneficiaries will be the Fund Sevastopol in particular, the local business service providers and the business community. Fund Sevastopol has been given the responsibility to implement the Strategic Plan on Investment Promotion for Sevastopol. Elaborated in 2008 with support from USAID, it has been adopted by the

City Administration¹⁵ and then recently finally endorsed by the City Council¹⁶, which provided for the establishment of the Special Committee for the Implementation of the Plan. Fund Sevastopol is confirmed as the Coordinating body in charge of its implementation, demonstrating strong ownership.

4. IMPLEMENTATION ISSUES

4.1. Method of implementation

- | | |
|--|---|
| 1) <i>Tourism development:</i> | Direct centralised management (service and supply contracts) |
| 2) <i>Social infrastructures:</i> | Indirect centralised management via Delegation Agreement with KfW (see Appendix 1 to the Fiche) |
| 3) <i>FDI promotion in Sevastopol:</i> | Direct centralised management (service contracts) |

4.2. Procurement and grant award procedures

4.2.1. Direct Centralised management

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the European Commission for the implementation of external operations, in force at the time of the launch of the procedure in question. To allow timely implementation, tenders should be launched before the signature of the Financing Agreement with a suspensive clause.

Participation in the award of contracts for the present action shall be open to all natural and legal persons covered by the ENPI Regulation 1638/2006.

4.2.2. Indirect centralised management with KfW

With the exception of grant award procedures, the procedures of KfW can be used while implementing the project in the indirect centralised management via the Delegation Agreement.

4.3. Budget and calendar

The overall cost of the project is EUR 12 million. The foreseen operational duration is set at 36 months from the signature of the contracts/ agreement. The indicative allocation is EUR 5 million for Tourism, EUR 5 million for Social infrastructures and EUR 2 million for FDI promotion in Sevastopol.

4.4. Performance monitoring

Objectively verifiable indicators (OVI), both qualitative and quantitative, will have to be part of the methodologies included in the technical proposals. Given the demand-driven character of the programme, the final OVIs must be designed properly and should be further revised at the start of the third year (second year for Component 3) to make sure that they are ambitious enough without being overambitious.

4.5. Evaluation and audit

The project will be evaluated/audited according to standard procedures. Evaluation of the results achieved will be entrusted to independent consultants as well as external audits.

¹⁵ Sevastopol City Administration Decision n. 132 of 24 February 2009

¹⁶ Sevastopol City Council Decision n. 8523 of 15 December 2009

4.6. Communication and visibility

Communication and visibility activities should follow the EU Visibility & Communications Manual. The projects will aim for a widespread dissemination of its achievements and results as well as awareness-raising and image building through inter alia, project websites, electronic newsletters and outreach to the media. On starting activities, communication and visibility plans will be prepared and submitted to the EU Delegation for approval, as per the EU Visibility & Communications Manual. Any events organised as part of or related to the project must include the participation of the contracting authority.

Appendix 1 to the action fiche for Ukraine – AAP 2010 - Support to the EU Joint Cooperation Initiative in Crimea

Regarding the verification of the conditions for indirect centralised management provided for in Art. 56 of the regulation 1605/2002 (financial regulation)

The Financial Regulation (FR) (Council Regulation No. 1605/2002) and its implementation rules (Commission Regulation No. 2342/2002) are applicable to the Budget Line 19 08 01 03.

For indirect centralised management:

The EU does not intend to provide technical assistance in this specific case, but to match resources for social infrastructures provided through a EUR 5 Million grant by KfW, while ensuring full EU visibility and a clear division of labour between KfW and its implementing partner. An assessment made by AIDCO.G2 in May 2008 (see note KR 2008/8865 and add. Note 2009/312943) confirmed that the criteria envisaged by Article 56.1 of the FR are fulfilled:

Summary table

Article [56.1] [56.2] FR criterion	Comment
(a) Transparent procurement and grant-award procedures, which are non-discriminatory and exclude any conflict of interests and which are in accordance with the relevant FR provisions	Compliant with the Financial Regulation except for grant award procedures. When the delegation involves the award of grants to third parties, KfW shall apply the Commission's grant award procedures.
(b) An effective and efficient internal control system for the management of operations, which includes effective segregation of the duties of authorising officer and accounting officer or of the equivalent functions	Compliant with the Financial Regulation
(c) An accounting system that enables the correct use of EU funds to be verified and the use of funds to be reflected in EU accounts.	Compliant with the Financial Regulation
(d) An independent external audit exercised by a national institution for independent external auditing	Compliant with the Financial Regulation
(e) Adequate annual ex post publication of beneficiaries of funds deriving from the EU budget.	Compliant with the Financial Regulation

Prevention of irregularities and fraud and recovery of funds if necessary	<i>Adequate clauses will be included in the Agreement with the delegatee</i>
The Commission will ensure supervision, evaluation and control of the implementation of the tasks entrusted	<i>Adequate clauses will be included in the Agreement with the delegatee</i>

Conclusion: In his note of 06/11/2009 (see note KR ARES ref. 2009/312943), AIDCO Director General confirmed that the conditions placed by Article 56 the FR are currently being met.

On this basis, the Director Directorate AIDCO.A proposes that the applicable implementation method to the Annual Action Programme 2010 for Ukraine (the action entitled "Support to the EU Joint Cooperation Initiative in Crimea be **indirect centralised management** and submits it to the Commission for decision.

Date: 23/03/2010

Signature: Director AIDCO/A

Authorising officer subdelegated on BUDGET

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ANNEX 2 - ACTION FICHE FOR UKRAINE

1. IDENTIFICATION

<i>Title/Number</i>	SUPPORT TO THE JOINT COOPERATION INITIATIVE IN CRIMEA (CRIS ENPI/2010/021-851)		
<i>Total cost</i>	EU Contribution EUR 12 million		
<i>Aid method / Method of implementation</i>	1) Direct centralised management 2) Indirect centralised management with Kreditanstalt für Wiederaufbau (KfW), Germany		
<i>DAC-code</i>	43010	<i>Sector</i>	Multi-sector aid

2. RATIONALE

2.1. Sector context

2.1.1. Overview

Despite a new course of relations between Ukraine and Russia and some signs of Kiev's engagement in the region, the Autonomous Republic of Crimea (ARC) and Sevastopol still represent a potential flash point in the region. The signing of a new lease agreement for the Black Sea Fleet (BSF) in Sevastopol does not change the fact that the BSF has lost its role as the city's main employer. Its downsizing is still continuing and generating unemployment, growing debts and bankruptcy of several military-complex enterprises, which translates into the need to diversify the local economy and attract FDI to that purpose.

The complexity of the situation, compounded by different groups which experience exclusion, notably the Crimean Tartars, slow reforms on sensitive land and competences issues and some concerns over separatism, imposes a closer attention to Crimea's political, economic and social situation and justifies investing in the region as a matter of priority.

Within the framework of the Joint Cooperation Initiative in Crimea (JCIC), this programme will focus on reducing the disparity and development gap of Crimea with other regions. It is aimed at supporting social and economic development of the Crimea in some Regional Development Strategy priority areas with a specific focus on Tourism Development, Social Infrastructure development and Foreign Direct Investments (FDI) promotion.

1) *Tourism*: With the service sector representing more than 58 % of Crimea Gross Value Added (GVA)¹⁷, the Tourism sector contributes only to 7 % of regional budget¹⁸ (unofficial economy estimated at 40-60%) and generated employment is still low. Current levels of professional services and standards with low value for money, real estate speculations that do not generate new jobs, weak alternative tourist products, cultural heritage protection policy and tourism information support and communication, are not properly addressed in the existing Tourism Development Plan elaborated by the Ministry of Tourism of ARC.

¹⁷ Ukraine Competitiveness Report 2009 – FEG – http://www.feg.org.ua/docs/Final_Eng_2009.pdf, page 104

¹⁸ Source: ARC Prime Minister office data for 2008

2) *Social infrastructure*: Significant welfare discrepancies persist between urban and rural areas that could not be overcome even in times of strong economic growth. In order to overcome the persisting poverty in rural areas, one of the top priorities is the rehabilitation of the economic and social infrastructure in the region. Due to the weak development of social-economic indicators, the Ukrainian government places a high priority on the development of the ARC. Apart from the southern tourist areas, Crimea is characterized by a high incidence of poverty. According to the latest official poverty statistics (2008), the average poverty rate in Crimea stands at 30.3% (and thus above the national average set at 27.3 %). The regional salary level lies approx. 15% below the national average.

3) *Foreign Direct Investment (FDI)*: Over the past years, Ukraine has made little progress in improving its investment climate. The most important risk factors for foreign and domestic investors can be summarized as follows: political instability, lack of policy consensus on the economic reform priorities, the erratic judiciary system, an intricate tax system, the lack of fair, transparent and impartial dispute resolution mechanisms, the very difficult enforcement of domestic court and international arbitration decisions, a court system which is inefficient and susceptible to political interference and corruption that continues to affect all levels of Ukrainian society. Financial support instruments remain more declarative, than real.

Despite all the concerns, Ukrainian market remains attractive for foreign investors, outpacing many of the other CIS countries. This is due to high returns on investment, low-priced resources and workforce and the prospects of future growth and market development partly due to approximation to the EU. The EU remains the biggest foreign investor in Ukraine with the amount of FDI equalling to USD 28.17 Billion as of 1 January 2009 (79% of the total FDI to Ukraine); FDI to the Crimea and Sevastopol total 2.2% of Ukraine's FDI stock as of end 2008.

The activities foreseen will contribute to Eastern Partnership priorities and to Association Agenda priorities such as strengthening of the functioning of local and regional self-government, tourism, culture, regional development and industrial and enterprise policy.

2.2. Lessons learnt

1) Tourism development: Despite some positive achievements of the last major EU funded project implemented in 1998-2000 in support of Crimean tourism¹⁹, this project -due to low budget and limited project duration- produced no real impact on the public sector as the inadequate institutional framework for tourism development could not be addressed, as well as no visible impact on Crimean tourism offer, as the project limited its action to certain niche products. A recent concept paper²⁰ of the Gesellschaft fuer technische Zusammenarbeit (GTZ) provided valuable confirmation of needs assessment for the sector.

2) Social infrastructures - KfW: An identical programme to the one proposed has been implemented by KfW in Donetsk and Lugansk oblasts (2008-2010, EUR 7.0 million) and its extension is currently being implemented by KfW in the ARC (2009-2011, EUR 5.0 million). The implementation structure has thus been validated and has proven to work very efficiently. The mandatory involvement of local civil society in all phases of project cycle has proved to be pivotal to the performance ratings and sustainability. In several cases, these actions in poorest districts created the conditions to develop new local political leaders.

3) FDI promotion in Sevastopol: Although efforts are being made to achieve improvements, progress in the simplification of regulation for businesses in Ukraine still falls considerably short of what is

¹⁹ Support to the Creation of the Crimean Tourism Development Centre (CTDC) (EDUK9702)

²⁰ "Crimean tourism development in times of crises", GTZ - October 2009

required. Both the World Bank and International Finance Cooperation (IFC) most recent reports²¹ show that progress during recent years has been painfully slow and totally inadequate. There is a need to reduce opportunities for corruption particularly at municipal level where complicated and confusing systems providing delivery of municipal services, construction permits and access to land are sources of significant corruption²². It is the task of the City of Sevastopol not only to prepare and disseminate positive information about the city and its business opportunities but also simplify and streamline the burdensome procedures.

2.3. Complementary actions

All Components will need a very close cooperation and liaison mechanism not only to avoid overlapping but also to generate synergies and to build on what other actions achieved or plan to achieve.

Component 1) Tourism development: Since the completion of the EU funded project "Support to the Creation of the Crimean Tourism Development Centre" (EUR 2.2 million in 26 months 1998-2000), no other major international cooperation projects in support of tourism development have taken place in Crimea. At present, there are some ongoing and planned programmes extremely relevant to built complementarities for the proposed project:

- e. The EUR 0.75 Million EU-funded project "Development of Tourist Information Infrastructure in Lviv". The project on building tourist information infrastructure aims to improve accessibility to UNESCO World Heritage objects in Lviv. The experience on the field of this project will be of great value to the present action's tourism component.
- f. The USAID USD 3 Million "Local Investment and National Competitiveness project (LINC)" recently started a nationwide programme aimed also at improving Crimea's Business Enabling Environment and Industry Competitiveness, in particular focusing on development of "Tourism Clusters".
- g. The ongoing UNDP-Crimea Integration and Development Programme (CIDP) project in Crimea (USD 2 Million, 2009-2011) is among other activities also studying the key characteristics of supply and demand, facilities availability, and image of rural tourism in Crimea.
- h. GTZ is implementing the nationwide programme "Promotion of sustainable economic development and employment" (EUR 1 Million in 3 years) focusing also on tourism organization and promotion in Crimea.

Component 2) Social infrastructures - KfW: The proposed delegated cooperation with KfW will top up the current EUR 5 Million project being implemented by KfW in the ARC ending in 2011. The project will draw on extensive experience from:

- d. The planned EUR 17 Million EU-funded Community Based Approach phase II (CBA II) nationwide project including Crimea, aimed at strengthening participatory governance and community-based initiatives, including energy efficiency-related activities.
- e. The on-going EUR 12 Million project (2007-2011) "Community Based Approach to Local Development – CBA I" funded by the EU and co-funded and implemented by UNDP.

²¹ "Investment Climate in Ukraine as Seen by Private Businesses" – IFC Report (October 2009) and "Doing Business in 2010" - World Bank Report

²² USAID Trade, Investment and Business Acceleration (TIBA) two-year (2007 – 2009), USD 8 Million project was designed to provide technical assistance to the Government of Ukraine and the private sector to promote trade, investment and business development

- f. The proposed action will build upon achievements of the World Bank / Ukraine Social Investment Fund (USIF) nationwide programme on social infrastructures development (USD 50 Million in 2000-2008) including Crimea.

Component 3) FDI promotion in Sevastopol: Opportunities for complementarities and synergies could be offered by:

- g. EAST-INVEST: the European Commission has recently issued a call for proposals for a EUR 7 Million new regional investment and trade facilitation project. Complementarities will be particularly important to facilitate exchange of best practices and interconnections between EU and Eastern Neighbourhood companies.
- h. EU-funded (EUR 1.4 Million) Twinning project - Enhancing performance of InvestUkraine: the Ukrainian Centre for Foreign Investment Promotion in line with the best European practices started in July 2009.
- i. The above mentioned USAID LINC project (improving economic governance, piloting the development of a unified property registry).
- j. The above mentioned GTZ programme "Promotion of sustainable economic development and employment" also focuses on cluster development and enterprise competitiveness in Crimea including Sevastopol.
- k. IFC - Ukraine Business Enabling Environment Project - This project works to create a favourable environment for the development of SMEs and to improve the overall investment climate in Ukraine.
- l. The European Investment Bank (EIB) together with the World Bank and European Bank for Reconstruction and Development (EBRD) committed in February 2009 to provide EUR 24.5 Billion in financial resources for banking systems and the real economy in central and eastern Europe.

Moreover, the EBRD remains the largest investor in Ukraine (energy efficiency and security, development of the domestic capital market, transport and communications infrastructures, and municipal sector development). Other donors involved are the Canadian International Development Agency (CIDA), the Ministry of Economic Affairs of the Netherlands, and the Swedish International Development Cooperation Agency (SIDA) via the Ukraine Business Enabling Environment Project (2005 – present). The Local and Regional SME Development Programme was approved by the national Government in April 2007 with a budget around EUR 15,000 for Sevastopol, spent in several initiatives including the realization of the website "Invest Sevastopol" in 3 languages²³.

2.4. Donor coordination

2.4.1. EU Member States in the JCIC

The EU Member States will contribute in the framework of the JCIC by re-orienting their future commitments on the base of a consistent division of labour interfaced with the Operational Plan of the Regional Development Strategy for ARC. A possible division of labour among EU and EU Member States is already shaping, in particular with Germany (EUR 6 Million for enterprise development and social infrastructures), France, United Kingdom and Lithuania (in the areas of tourism and cultural promotion with yearly budgets below EUR 20,000) and Sweden (EUR 1.4 Million for environmental investments in municipal infrastructures). The opening of a Polish consulate in Sevastopol in 2010 and the planned German Honorary Consulate in Simferopol will facilitate business cooperation missions and investment promotion events.

²³ <http://www.sevinvest.gov.ua>

2.4.2. UNDP CIDP focal point for the Crimea Coordination Group

Coordination with UNDP projects in Crimea shall ensure synergy and avoid overlapping with all other donor funded projects in Crimea on the basis of the ongoing regular Quarterly Donors Coordination Meetings. The last meeting adopted the EU Delegation proposal for a “Code of Conduct” for project coordination in Crimea, a regular projects mapping exercise and the use of a web based coordination tool already activated.

3. DESCRIPTION

3.1. Objectives

3.1.1. Overall objective

The overall objective of the programme is to promote social and economic development of the ARC and Sevastopol by improving essential community needs and by generating new opportunities for economic development through better use of untapped local and regional potentials.

3.1.2. Purpose

This objective will be achieved by pursuing the following three Components:

Component 1) Tourism development:

- 1.4 **Support to institutional framework and territorial re-organisation** aiming at enhancing the capacity to develop and implement strategic actions and at re-shaping the territorial organization for a better balanced tourism development;
- 1.5 **Support to the reformulation of the tourism offer** to raise its quality;
- 1.6 **Improvement of the tourism promotion and signage** to create and launch a new revalorized tourist image of Crimea.

Component 2) Social infrastructures - KfW:

- 2.3 **The sustained utilisation of the social and economic infrastructure units** that have been rehabilitated in the context of the project;
- 2.4 **The development of local civil society** through improving the participation of the population in decisions at community level.

Component 3) FDI promotion in Sevastopol

- 3.3 **Institutional capacity building** to increase FDI inflows by developing a new integrated approach and a strengthened policy dialogue;
- 3.4 **Support to FDI promotion** by enhancing the capacities of main stakeholders to plan and implement activities to attract and promote foreign direct investment, making use of the best and more appropriate international expertise.

4.7. Expected results and main activities

Component 1) Tourism development:

Expected results:

- 1.4 An appropriate institutional framework reformulated and public-private dialogue enhanced. Tourism sub-regions should be identified in order to optimize the delivery and accessibility of tourism products;
- 1.5 Existing Tourism Development Plan reviewed and upgraded into a new Strategy, which shall include, among other things, the new Institutional Support Infrastructure and an Action Plan to address development gaps and to target priority sub-sectors/clusters identified by ad hoc studies; developing a 10 years General Accommodation Plan, as an integral part of the new strategy,

which shall incorporate a restructuring plan of health resorts and a clearly identified financial instrument to provide the necessary resources. Human Resources Plan developed to raise quality of services. A specialised training centre shall be established to increase personnel skills and qualifications of public and private tourist operators making services more competitive;

- 1.6 Tourists' information support and communication accessibility to Crimea cultural heritage substantially increased through implementation of the corresponding 5-years plan for creation of tourism signalisation and signage); enhanced tourism communication capacity on Internet of public and private operators.

Main activities:

1.4 **Institutional framework and tourism territory re-organized:**

- Assessment of weaknesses and gaps of the current institutional framework and subsequent implementation;
- Assistance to elaborate ad hoc studies to identify what priority sub-sectors/clusters to target;
- Elaboration of the plan for territorial reorganisation;
- Equipment needs assessment and preparation of the related supply tender.

1.5 **Tourism offer reformulated and its quality improved:**

- Review and upgrade of the Tourism Development Strategy 2010-2020 in coordination with national and ARC regional development policies;
- Elaboration of the General Accommodation Plan with special focus on health resorts, including a clearly identified financial tools for its implementation, a definition of quality standards and control process and the adoption of ambitious environmental sustainability assessments;
- Elaboration of the Human Resources Plan and development of the training centre to implement it, including training programmes and modules for all envisaged new institutions;
- Needs assessment and purchase for the necessary equipment and software for the envisaged Training centre.

1.6 **Tourism promotion and signage improved:**

- Assistance to carry out needs assessment and to develop a new concept for tourism promotion and tourists' information support and communication accessibility to cultural heritage sites in Crimea;
- Assistance to implement the new tourism promotion plan including support to draft promotion agreements with specialised operators in targeted markets;
- Support to upgrade the tourism communication capacity on the Internet of public and private operators including for cultural and natural heritage sites;
- Needs assessment and purchase of the necessary signs and plates;
- Preparation of the related supply tender.

Component 2) Social infrastructures - KfW:

Expected results:

- 2.3 Additional mini-projects realised with funds from this EU component in the area of social and economic municipal infrastructures implemented by the population in the poorest ARC districts; the population is taking on responsibility for the rehabilitated infrastructure units;
- 2.4 Local population and community administration enabled and their planning, implementation and monitoring capacity developed; the implementation capacity of the USIF further improved.

Main activities:

2.3 **Infrastructure units rehabilitated:**

- Pre-selection of micro-projects by the USIF according to the Operational Manual evaluated and approved by KfW; mobilisation of contributions by the beneficiaries;
- Implementation of Project Cycle; KfW monitoring of every step of the Project-Cycle both in Kiev and on-site in the ARC; development and implementation of relevant sustainability plans for maintaining and operating the facilities.

2.4 Local civil society active involvement enabled:

- Implementation by USIF and KfW of the capacity building programme to the local communities in areas such as project planning, financial budgeting and technical maintenance;
- Secondment to the USIF of a KfW Development Expert for a period of 3 years to work on improving the implementation structures of the USIF as well as its donor coordination capabilities.

Component 3) FDI promotion in Sevastopol

Expected results:

- 3.3 Existing Strategic Plan on Investment Promotion for Sevastopol reviewed and updated taking stock of other donors' initiatives and expected Law on Special Economic Regime for Investment Attraction for Sevastopol; an integrated approach to FDI attraction policy adopted with increased capacity of the proposed beneficiary Fund Sevastopol to act as an one-stop-shop centre focal point and facilitator for potential investors;
- 3.4 Direct working link with EU/European neighbourhood countries' Investment Promotion Agencies or business networking facilitators established with focus on fast growing industries; suitable linkages/structures designed and implemented for joint enterprise promotion events between Sevastopol and the EU/European neighbourhood countries; Investors' Guide published.

Main activities:

3.3 Institutional capacity upgraded:

- Review progress in the existing Strategic Plan and assess the implementation of the corresponding Action Plan by other donors;
- Incorporate the eventually adopted Law on Special Economic Regime for Investment Attraction for Sevastopol²⁴ into the revised Strategic Plan and its Action Plan accordingly;
- Assess the preparatory assistance in establishment / upgrade of the Sevastopol IPA and elaborate / update its business plan and undertake Training Needs Analysis of its staff;
- Define and implement a comprehensive development plan for the IPA to become a one-stop-shop for investors.

3.4 Improved FDI promotion activities:

- Define specific investment opportunities to promote, particularly in faster growth priority industries through territorial marketing and investment mapping activities;
- Establish a direct network of targeted IPAs or business networking facilitators for enterprise promotion events and design and implement an investment promotion initiatives programme;
- Implement Public Relations/Communications activities (Investors' Guide etc.);
- Provide information and recommendation to policy-makers on needs and means for improvement of the investment climate.

3.2. Assumptions and risks

3.2.1. Assumptions

The programme provisions are based upon the following assumptions:

- The Ukrainian authorities will remain committed for delivering improved regional development policies and promoting sustainable development, also in Crimea. The process of transparent

²⁴ The City Administration has been charged by the Cabinet of Ministers (act n. 610-p of 03.06.2009) to draft the concept of the Law on "Special Economic Regime for Investment Attraction in Sevastopol", which is now in the legislative process

decentralisation of the responsibilities and financial resources will be strengthened and the transfers from State budget to local budgets will continue without major decreases.

- The government continues cooperation with the EU and pursue its efforts to improve the business climate and smooth development and approval of the legislation and implementation of reforming measures.
- Ukraine will go on with its reform process, thus reinforcing the process for good governance to win public trust, confidence and cooperation.
- Co-ordination and co-operation of the main stakeholders in implementing the project activities.

3.2.2. Risks

The main risks to be faced in the carrying out of the project are the following:

- The political situation in the Black Sea Basin and relations with the Russian Federation Black Sea Fleet in Sevastopol may worsen and then deteriorate the image of Crimea as a tourist and foreign investment destination.
- Tensions growing around issues such as ethnical minority claims, second official language, land distribution schemes and several cases of mass children poisoning in local resorts could affect the tourist attractiveness of Crimea, its investment climate and the smooth rehabilitation of social infrastructures.
- Political instability in Ukraine may continue or worsen causing less than full cooperation from the elected/government authorities in the ARC, Sevastopol City and at national level.

3.3. Crosscutting issues

The following cross-cutting issues are directly targeted by the proposed action: poverty reduction, good governance, integration in the world economy, environment and climate change. The proposed action will have a significant though indirect impact on the following cross-cutting issues: democracy, human rights and gender.

3.4. Stakeholders

Component 1) Tourism development:

The direct beneficiary will be the Ministry of Tourism. Other stakeholders will be the Crimean Tourism Development Centre, the local sector business associations, local University holding relevant professional training, the SMEs in the value chain of the sector, and civil society. Timely and proactive cooperation shown by the Ministry during the fact finding and the formulation missions, gives ground to a positive assessment of its willingness and capacity to participate as project partner of the proposed action.

Component 2) Social infrastructures - KfW:

The legal recipient of the funds will be the Ukrainian Ministry of Labour. The Ministry passes on these funds to the subsidiary, the USIF. The programme is coordinated with the Government of the ARC. Beneficiaries of the funds are the local communities of ARC.

Component 3) FDI promotion in Sevastopol:

The direct beneficiaries will be the City Administration or the City Council; other beneficiaries will be the Fund Sevastopol in particular, the local business service providers and the business community. Fund Sevastopol has been given the responsibility to implement the Strategic Plan on Investment Promotion for Sevastopol. Elaborated in 2008 with support from USAID, it has been adopted by the

City Administration²⁵ and then recently finally endorsed by the City Council²⁶, which provided for the establishment of the Special Committee for the Implementation of the Plan. Fund Sevastopol is confirmed as the Coordinating body in charge of its implementation, demonstrating strong ownership.

4. IMPLEMENTATION ISSUES

4.1. Method of implementation

- | | |
|--|---|
| 1) <i>Tourism development:</i> | Direct centralised management (service and supply contracts) |
| 2) <i>Social infrastructures:</i> | Indirect centralised management via Delegation Agreement with KfW (see Appendix 1 to the Fiche) |
| 3) <i>FDI promotion in Sevastopol:</i> | Direct centralised management (service contracts) |

4.2. Procurement and grant award procedures

4.2.1. Direct Centralised management

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the European Commission for the implementation of external operations, in force at the time of the launch of the procedure in question. To allow timely implementation, tenders should be launched before the signature of the Financing Agreement with a suspensive clause.

Participation in the award of contracts for the present action shall be open to all natural and legal persons covered by the ENPI Regulation 1638/2006.

4.2.2. Indirect centralised management with KfW

With the exception of grant award procedures, the procedures of KfW can be used while implementing the project in the indirect centralised management via the Delegation Agreement.

4.3. Budget and calendar

The overall cost of the project is EUR 12 million. The foreseen operational duration is set at 36 months from the signature of the contracts/ agreement. The indicative allocation is EUR 5 million for Tourism, EUR 5 million for Social infrastructures and EUR 2 million for FDI promotion in Sevastopol.

4.4. Performance monitoring

Objectively verifiable indicators (OVI), both qualitative and quantitative, will have to be part of the methodologies included in the technical proposals. Given the demand-driven character of the programme, the final OVIs must be designed properly and should be further revised at the start of the third year (second year for Component 3) to make sure that they are ambitious enough without being overambitious.

4.5. Evaluation and audit

The project will be evaluated/audited according to standard procedures. Evaluation of the results achieved will be entrusted to independent consultants as well as external audits.

²⁵ Sevastopol City Administration Decision n. 132 of 24 February 2009

²⁶ Sevastopol City Council Decision n. 8523 of 15 December 2009

4.6. Communication and visibility

Communication and visibility activities should follow the EU Visibility & Communications Manual. The projects will aim for a widespread dissemination of its achievements and results as well as awareness-raising and image building through inter alia, project websites, electronic newsletters and outreach to the media. On starting activities, communication and visibility plans will be prepared and submitted to the EU Delegation for approval, as per the EU Visibility & Communications Manual. Any events organised as part of or related to the project must include the participation of the contracting authority.

Appendix 1 to the action fiche for Ukraine – AAP 2010 - Support to the EU Joint Cooperation Initiative in Crimea

Regarding the verification of the conditions for indirect centralised management provided for in Art. 56 of the regulation 1605/2002 (financial regulation)

The Financial Regulation (FR) (Council Regulation No. 1605/2002) and its implementation rules (Commission Regulation No. 2342/2002) are applicable to the Budget Line 19 08 01 03.

For indirect centralised management:

The EU does not intend to provide technical assistance in this specific case, but to match resources for social infrastructures provided through a EUR 5 Million grant by KfW, while ensuring full EU visibility and a clear division of labour between KfW and its implementing partner. An assessment made by AIDCO.G2 in May 2008 (see note KR 2008/8865 and add. Note 2009/312943) confirmed that the criteria envisaged by Article 56.1 of the FR are fulfilled:

Summary table

Article [56.1] [56.2] FR criterion	Comment
(a) Transparent procurement and grant-award procedures, which are non-discriminatory and exclude any conflict of interests and which are in accordance with the relevant FR provisions	Compliant with the Financial Regulation except for grant award procedures. When the delegation involves the award of grants to third parties, KfW shall apply the Commission's grant award procedures.
(b) An effective and efficient internal control system for the management of operations, which includes effective segregation of the duties of authorising officer and accounting officer or of the equivalent functions	Compliant with the Financial Regulation
(c) An accounting system that enables the correct use of EU funds to be verified and the use of funds to be reflected in EU accounts.	Compliant with the Financial Regulation
(d) An independent external audit exercised by a national institution for independent external auditing	Compliant with the Financial Regulation
(e) Adequate annual ex post publication of beneficiaries of funds deriving from the EU budget.	Compliant with the Financial Regulation

Prevention of irregularities and fraud and recovery of funds if necessary	<i>Adequate clauses will be included in the Agreement with the delegatee</i>
The Commission will ensure supervision, evaluation and control of the implementation of the tasks entrusted	<i>Adequate clauses will be included in the Agreement with the delegatee</i>

Conclusion: In his note of 06/11/2009 (see note KR ARES ref. 2009/312943), AIDCO Director General confirmed that the conditions placed by Article 56 the FR are currently being met.

On this basis, the Director Directorate AIDCO.A proposes that the applicable implementation method to the Annual Action Programme 2010 for Ukraine (the action entitled "Support to the EU Joint Cooperation Initiative in Crimea be **indirect centralised management** and submits it to the Commission for decision.

Date: 23/03/2010

Signature: Director AIDCO/A

Authorising officer subdelegated on BUDGET

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Annex 3 - Action Fiche for Ukraine

1. IDENTIFICATION

Title/Number	Community Based Approach to Local Development (CBA) Phase II. <i>CRIS n. 2010/021-850</i>		
Total cost	European Union contribution €17 million UNDP parallel co-financing €0.5 million Beneficiary parallel co-financing €3.5 million in the form of cost sharing for community micro-projects from local authorities and local communities, financially or in kind estimation.		
Aid method / Method of implementation	Project approach – <i>Joint Management/ Contribution Agreement with UNDP</i>		
DAC-code	<i>15150</i>	Sector	<i>Democratic participation and civil society</i>

2. RATIONALE

2.1 Sector context

The level of income and the quality of public service delivery has been relatively poor in rural Ukraine. With the current global/national financial crisis this situation has worsened. The crisis has badly affected the living conditions of the people in rural Ukraine related to energy, health, water supply and environment (waste management, sanitation etc.). Moreover, the current budgetary system of revenue generation and resource distribution creates disparity between investments on large infrastructures versus communal infrastructures and between prosperous areas versus remote territories.

During the last decade, several programmes have been launched to overcome the legacy of the Soviet Union of a highly centralised system of policy, planning, budgeting and decision-making that is not geared towards accommodating the needs and priorities as perceived by citizens and local authorities. These programmes tried to actively involve citizens in local development. The responsibility for delivery of energy-related services and addressing local development problems has been given to self-governing local bodies in the spirit of the European Charter on Local Self-government. But lack of human and financial resources within these local authorities, especially those in remote/rural areas, makes it difficult to implement this new approach.

Ukraine meets about 50% of energy requirements from its own sources, half of which come from nuclear power plants. For the energy in deficit, it depends on Russia and other countries. The use of energy in Ukraine is not efficient due to old, worn out inefficient energy related communal infrastructures and inefficient behaviour of energy consumers. It is estimated that about one third of energy is lost annually due to this inefficiency. Thus, energy efficiency and ensuring sustainability of energy resources has been recognized as a top priority of state development policy in recent years.

The Community Based Approach to Local Development, Phase I (CBA I) clearly showed that many project proposals from the communities (55%) tackled energy efficiency. Energy efficiency issues are a major concern of the communities and should therefore be given special attention in Phase II of the Community Based Approach to Local Development (CBA II) project.

CBA II will make a critical contribution towards consolidating the process of participatory governance, bottom-up planning, sustainable local development which was initiated with CBA I and will ensure wider dissemination of the knowledge of community based approach.

Moreover, it will contribute to Eastern Partnership priorities such as governance, energy security and energy efficiency and to Association Agenda priorities, namely 1) Cooperation in Energy through the

promotion of energy efficiency on the community level, 2) Rural development by offering activities on development of rural communities and awareness raising in local authorities on modern community development models; 3) Regional development through facilitation of the dialogue between the regions, promotion of community development and decreasing the imbalance in development of the regions.

2.2 Lessons learnt

CBA I is under implementation since September 2007 and already showing positive impact and responses. The Annual Report (2009) of CBA I indicates that 1,089 community based civil society organisations have emerged: 262,480 households from 207 districts across the country are involved. These village level organisations have gained the logistic and legal capacity to manage the development of their communities. 1011 community development plans have been included in the development plans of the respective local authorities through joint decision-making. All district and regional authorities have established support structures at their level to allow for joint decisions (local communities, NGOs, private sector) concerning local development issues.

Through CBA I a favourable environment has been created to achieve (a) better health through improved health services and availability of clean water; (b) energy savings of 30-80% through the repair of heating systems, window insulation, roof repair etc.; (c) creation of employment opportunities at local level; and (d) improved education quality through school transportation and reduction of diseases caused by cold class rooms. Because of increasing ownership of the citizens of local development decisions, a general acceptance towards sustaining the service delivery through users' fees (or service charges) is also emerging. Change in attitude of authorities towards people's participation in development and confidence among citizens to open dialogue with authorities has been clearly demonstrated albeit this process needs continuation in order to achieve a long term behavioural change.

The latest (August 2009) Monitoring Report underlines that CBA I has received support by local communities and many regional/local authorities. Authorities of some oblasts are keen to incorporate the concept of community based approach as an important element of a local governance policy and system. This positive potential is expected to increase further through CBA II. During CBA II, the territorial scope will be widened to more communities and capacity building support will be intensified countrywide. The experience gained will help to further disseminate and consolidate local governance approaches and practices.

2.3 Complementary actions

EU Actions

CBA II, as presently CBA I, complements actions implemented on the national level through top-down approach by the Support to Sustainable Regional Development project and actions on the level of municipalities and regions by the Support to Sustainable Local development project.

Moreover, close liaison with activities foreseen in the Autonomous Republic of Crimea (ARC) and Sevastopol will be established in order to avoid overlap.

CBA II also complements other EU activities in the energy efficiency area on national level, namely -

a) Sector Policy support programme (EU contribution €70 million including TA)

CBA II would complement the Sector Support with small-scale actions on the local level and enhance building capacity of local communities and local authorities in energy planning and efficient energy use.

b) Support to the East European Energy Efficiency and Environment Partnership Fund (EU Contribution € 10 million)

The CBA II actions and grants on a grass-root community level will also complement the larger scale investment actions foreseen under the Support to the East European Energy Efficiency and Environment Partnership to improve energy efficiency in district heating.

Other Donors' actions

International donors such as United States Agency for International Development (USAID), Canadian International Development Agency (CIDA), Swedish International Development Cooperation Agency (SIDA) have been supporting community based development activities on a low scale in terms of geographical coverage. For example, the CIDA Regional Governance and Development Project (€3.3 million) works at both national and regional levels and assists the two pilot oblasts of Zaporizhzhia and Zakarpattia to plan and implement regional plans which represent citizen's views and needs.

2.4 Donor coordination

The Ukrainian Ministry of Regional Development jointly with the EU Delegation lead in the Donor Coordination Subgroup A 4 on regional development.

Activities of CBA I are reflected in a donor mapping study prepared by the EU funded Sustainable Regional Development Project, which aims to provide information to donors to reduce duplication, determine sector gaps, promote better synchronisation and facilitate partnership building between international donors and IFI(s) in support of Ukrainian Government's strategy. This mapping makes it very clear that CBA II, as presently CBA I, does not duplicate other donors' activities as none of the donors have a similar community development initiative.

Concerning ARC and Sevastopol, a region-specific UNDP led donor coordination instrument has been initiated to align donors' present and future actions in Crimea. Moreover, regular meetings with member States participating in the Joint Cooperation Initiative in Crimea (JCIC) ensure close coordination on all activities under it.

3. DESCRIPTION

3.1 Objectives

The overall objective is 'to promote sustainable socio-economic development at local level by strengthening participatory governance and community-based initiatives throughout Ukraine.'

This objective will be achieved by pursuing the following two purposes (specific objectives):

- ***Specific objective 1.*** Enable citizens on local level to take actively part in decision making concerning their communities through
 - integrating participatory and decentralised local development management mechanisms/structures for service delivery;
 - strengthening knowledge and institutional capacity of local communities, local authorities, civil societies, academia and other stakeholders;
 - supporting community-based self-help initiatives for sustainable rehabilitation, management and operation of basic social and communal infrastructure
- ***Specific objective 2.*** Enhance energy efficiency at local level through
 - building capacity of local communities and local authorities in energy planning and efficient energy use;
 - supporting community-based self-help initiatives for energy saving actions and rehabilitation of alternative energy sources;
 - raising public awareness on efficient energy based on practical experience at the grassroots

3.2 Expected results and main activities

CBA II will create a positive environment for partnership with stakeholders based on the principle of competition, joint decision-making and cost sharing. It will mobilise target communities and local authorities for collective and joint action. Appropriate support structures will be developed at community, district and regional level for this purpose. Capacity will be built at each level to enable target communities and local authorities to practice the norms of participatory governance and realisation of better service delivery in priority sectors. Priority sectors will be determined at the

beginning of project implementation but would ideally include the following areas: energy efficiency, medical services, water supply, local transportation, environment, economic development.

3.2.1 Expected results of Specific Objective 1

- Support structures for collective action and joint decision-making created/strengthened. This would be achieved through social mobilisation process - citizens of selected communities will be organised into community organisations, which will be trained and registered to serve as capable legal entity to participate in the local development process. The selected district authorities will be motivated to establish fora (or strengthen existing fora) for joint decision-making and resource mobilisation with participation of community organisations, village/city councils, local NGOs and private businesses.
- Environment created for sustainability of CBA principles and methodology. The partner regional and district authorities will establish/strengthen community resource centres, which will function with the support of government staff. To extend the scope of CBA experience and ensure the dissemination beyond the territory of local/regional partners, a centre will be established for collection, documentation and dissemination of community based development experience. Similarly, to instil CBA experience among civil servants and future generations, selected training centres and universities will be supported with training, curriculum development and other technical support.
- Enhanced skills and capacity among (community based) civil society organisations and local authorities. Various forms of skills enhancing activities including training, study visits, roundtables will be carried out focusing on decentralised planning, good governance and sustainable development.
- Improved delivery of basic communal services at local level including in the area of health, water supply and environment. Training and seed grants will be provided to community organisations to implement their priorities with community cost sharing and resource support from the local budget, CBA and private sector.

3.2.2. Expected results of Specific Objective 2.

- Increased capacity and awareness at local level on energy saving options and crosscutting issues. Capacity building using different tools. Crosscutting issues to be addressed are e.g. consumer awareness, gender, good governance. Synergy will be established with the ongoing EU/UNDP-supported projects on these cross-cutting issues. Their experience will be systematised and disseminated to the CBA partners at local level through various forms of information dissemination.
- Reduced energy loss and introduction of alternative energy sources ensured through trainings and seed grants that will be provided to selected community organisations for implementing community projects related with energy saving/alternative energy sources.
- Public awareness raised on efficient energy use and participatory governance. Policy recommendations produced based on practical experience at the grassroots' level will allow to spread energy saving/energy efficiency methods outside the initial coverage area of the project, drawing on competences developed in the communities themselves. During CBA II national debates, information dissemination and lobbying will be intensified.

3.2.3 Main Activities

Following activities are envisaged:

- Roundtables at regional and local level to familiarise with CBA II, its modality and terms of partnership;
- Selection of target areas (rayon, village/city councils, communities);
- Establishment of partnerships with local/regional stakeholders;

- Social mobilisation for creation of support structures (community organisations, local development forums (LDFs));
- Training/study visits and other support for institutional capacity building;
- Participatory planning and mainstreaming of community plans;
- Micro-project proposal preparation, appraisal, approval and funding of community projects (seed grant) in the agreed priority sectors (see 3.2.);
- Implementation and handover of community projects;
- Documentation on best experiences and policy recommendation;
- Establishment of knowledge management centre and institutionalisation of experience through curriculum;
- Raising public awareness on cross-cutting issues;
- Development of an exit strategy.

3.3 Risks and assumptions

Assumptions:

- Ukraine pursues its development objective in line with the spirit of the European Charter on Local Self-government;
- The Government continues cooperation with the European Union in order to improve energy efficiency

Risks:

- Stakeholders are not open to adopt CBA methodologies;
- Political instability weakens the support of local authorities;
- Global/national financial crisis makes co-financing impossible

Mitigation of risks can be achieved through:

- sharing of information about success stories of CBA I and promotion of direct contacts between communities (highlighting the CBA I success cases), peer-peer learning through study visits, ensuring effective functioning of LDFs and Oblast Coordination Councils (OCCs)
- intensive cooperation with local authorities on oblast level as well as involvement of members of the Steering Committee representing central structures on national level.
- possible revision of co-financing percentage for micro-grants

Sustainability:

Sustainability of CBA II is ensured if the communities and local governments continue to use a participatory approach in their decision making.

Communities will have been trained to actively participate in local decision making. Local authorities will have experienced the advantages of active involvement of their communities. During implementation of CBA I local governments and community organisations have repeatedly expressed their interest in continuing with this approach. Best practices are spread and create new demands. Many oblasts and community organisations intend to apply CBA methodologies independently or incorporate them in their development programmes in the future, when CBA I is over. The same result is expected for CBA II.

3.4 Crosscutting Issues

The following cross-cutting issues are directly targeted by the proposed action: poverty reduction, good governance, democracy and human rights, environment, climate change. The proposed action will also have a significant though indirect impact on the following cross-cutting issues: gender and integration into the world economy.

3.5 Stakeholders

The key stakeholders will be community based non-government organisations, local authorities (village/city/district/regional councils), state authorities at all level and implementing agencies, though indirectly, the community of donors. The project intervention will impact first and foremost on local communities and institutions (local/regional councils, district/regional state administration) involved in local development. A constant preoccupation will be the coherence between planning and local budget execution and control. CBA II will foster further development of community based organisations (NGO) and establishment of joint decision making mechanism at sub-national level. CBA I has demonstrated that local communities and local authorities appreciate and develop ownership for these structures. In general, institutional capacity building support will be required to enable the stakeholders to recognise and adopt methodology and principles promoted by CBA II.

4. IMPLEMENTATION ISSUES

4.1 Method of implementation

Joint management through the signature of a contribution agreement with UNDP.

UNDP is party to the Financial and Administrative Framework Agreement (FAFA) between the European Union and the United Nations. The Commission has ensured, on the basis of the prior audit conclusions as foreseen in article 53 d) of Council Regulation (EC, Euratom) No 1605/2002, that the management system set up by UNDP offers guarantees equivalent to internationally accepted standards in their accounting, audit, internal control and procurement procedures. Consequently, joint management with UNDP can be envisaged.

4.2 Procurement and grant award procedures

All contracts implementing the action are awarded and implemented in accordance with the procedures and standard documents laid down and published by UNDP.

4.3 Budget and calendar

Total cost of the Project will be €17.5 million. The estimated duration will be 48 months from the signature of the contribution agreement.

The financial contribution of the European Commission will constitute €17 million including €150,000 for evaluation, while €0.5 million will be co-financed by UNDP. Additionally, Ukrainian beneficiaries will contribute financially or in kind, as a part of their commitment and political support. It is estimated that communities will contribute at least 5% and local/regional authorities will contribute at least 25% of the cost on community projects. Besides, all the regional and district authorities will provide office premises and human resources to complement the project cost. This support is expected from 25 regions and 200 district offices of the country. Total (cash + non-cash) contribution from the local communities and local authorities is estimated to amount to about €3.5 million.

4.4 Performance monitoring

The monitoring of the day to day implementation will be carried out by UNDP under its standard procedures, based on benchmarks to be agreed with the project beneficiaries. It includes periodic assessment of progress and delivery of specified project results towards achievement of project objectives. Key indicators for performance monitoring will include such items as number of partnerships signed, community organisations formed, projects implemented.

4.5 Evaluation and audit

Mid-term and final evaluation of the project implementation will be commissioned by the European Commission (€150,000). Independent Project audits will be carried out by UNDP twice (once by year 2 and the other upon completion of the Project i.e. in the year 5 based on its standard operational procedure). Moreover, the project can – in agreement with UNDP – be proposed for internal audits.

4.6 Communication and visibility

Communication and visibility activities will be carried out under the framework of Joint Visibility Guidelines for EU-UN Actions in the Field and the EU Visibility & Communications Manual. The project will aim for a widespread dissemination of project achievements and results. On starting activities a communication and visibility plan will be prepared and submitted to the EU Delegation for approval, as per the EU Visibility & Communications Manual. Any events organised as part of or related to the project must include the participation of the contracting authority.

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Annex 4 - Action Fiche for Ukraine

1. IDENTIFICATION

Title/Number	Twinning and ENP Technical Assistance Support CRIS no. ENPI/2010/22315		
Total cost	European Union contribution - €1 million		
Aid method / Method of implementation	Project approach (twinning and technical assistance) Direct centralised management		
DAC-code	15110	Sector	Public Sector Policy and Administrative Management

1. RATIONALE

2.1. Sector context

In recognition of the significant democratic and economic reforms underway in Ukraine, in March 2007, the EU and Ukraine opened negotiations on an Association Agreement that will replace the present Partnership and Cooperation Agreement (PCA). The Association Agreement foresees the enhancement of EU-Ukraine relations in all areas of cooperation and will include a deep and comprehensive free trade area (DCFTA) as a core element thereof. To prepare for and facilitate the entry into force of the Association Agreement, a new cooperation framework - the EU-Ukraine Association Agenda - has been elaborated and entered into force on 24 November 2009, thus replacing the ENP Action Plan of 2005 (except for JLS matters). It is a practical and living document which focuses on the priorities for cooperation set out in it. Following Ukraine's accession to the WTO in 2008, negotiations between the EU and Ukraine on the establishment of a DCFTA have been successfully continued in 2009. The new Government set up in March 2010 has already expressed its commitment to resume the suspended cooperation with the IMF.

EU-Ukraine visa facilitation and readmission agreements entered into force on 1 January 2008. The EU-Ukraine Summit of 9 September 2008 decided to launch a dialogue on visa-free travel of Ukrainian citizens to the EU as a long-term perspective. In May 2009, the Joint Eastern Partnership Declaration of the Prague Summit reaffirmed the main principles and implementation modalities of the Eastern Partnership (EaP) proposed by the European Commission in 2008, as well as prepared the ground for further implementation steps. In particular, Ukraine participated in activities of EaP Thematic Platforms and hosted an expert panel on border management in October 2009.

As far as the bilateral dimension of the EaP is concerned, Ukraine and the EU have made significant progress in preparing for the launch of the Comprehensive Institution Building (CIB) programme. In particular, consultations on a draft CIB Framework Document defining main reform priorities and core institutions started in March 2010. In this context, it should be mentioned that the future CIB programme is intended to support Ukraine in upgrading capacity in a limited number of core institutions that will play an important role in the implementation of the Association Agreement, including the DCFTA.

Close cooperation and strong ownership by the Ukrainian authorities is crucial to ensure effective and policy driven implementation of EU assistance programmes in support of policy objectives. Policy dialogue is even more important in further preparation and implementation of sector-wide approach type operations, including through budget support. There is a need for further integrating EU cooperation into the EU approximation process and for establishing appropriate government structures and mechanisms for planning and management, reflecting the shift from the technical

assistance/project based approach to a policy driven/sector programme based approach. In the past years of Action Plan implementation, insufficient administrative capacity and understanding of EU rules and administrative functioning have come to the fore as significant blocking factors on Ukraine's path towards economic integration into the EU Internal Market.

As regards the coherence with the programming documents, the main priorities of the Country Strategy Paper 2007-2013 and National Indicative Programme (NIP) 2007-2010 are: (i) Support for democratic Development and Good Governance; (ii) Support to the Regulatory Framework and Administrative Capacity Building; (iii) Support for Infrastructure Development.

Furthermore, the new NIP 2011-2013 confirms and stresses the challenges stemming from Ukraine's policy of gradual approximation with the EU's internal market rules.

The proposed measure will therefore have to address these challenges as a priority, using the twinning modality wherever appropriate, preparing the ground for and supporting the initial implementation of the Comprehensive Institutional Building programme and any complementary measure it can entail, as well as identifying any relevant accompanying measures to facilitate the implementation of technical and financial cooperation through the use of technical assistance.

The proposed measure aims therefore at strengthening the capacity of the Ukrainian administration to face the integration challenge. In areas where, by anticipation, discussions with the Ukrainian Government have underlined the need for sector-wide assistance, including strengthening of the institutional capacity building (such as the reform of the judiciary and effectiveness of the courts, prosecution and law enforcement agencies, combating corruption; public administration reform, integrated border management justice, freedom and security, migration, energy cooperation, environment; transport, trade and trade-related matters, regional and rural), the proposed measure envisages the delivery of preparatory technical assistance. Such assistance will aim at drawing conditions from Ukraine's sectoral reform, institutional capacity building plans and development strategies and, where necessary, at helping Ukraine devise such plans and strategies, in line with the Ownership objective of the Paris Declaration, to which Ukraine is a signing party. The proposed measure will also help Ukraine strengthen its capacity to coordinate donors, develop or refine its national sectoral development strategies in priority sectors, and build Ukraine's capacity to achieve effectively its Association Agenda, Association Agreement and DCFTA objectives.

2.2. Lessons learnt

The project draws on past experience and on-going projects, be they funded by the European Commission or other donors. The delivery methods have been chosen based on recent positive experience with twinning projects (more than 30 twinning projects are now on-going or under preparation, starting from zero in 2006, and new requests for twinning projects flow in at an accelerated pace), and the successful use of preparatory assistance for designing sector-wide support (for instance in the agricultural, transport, financial services or energy sectors). ENPI sector and programme-based assistance is envisaged to effectively support Ukrainian sector policies, strategies and plans. This also applies to twinning operations. Mobilising significant human and financial resources to stimulate progress in Ukraine, twinning is an increasingly important instrument to "support approximation to meet EU norms and standards" in Ukraine. Analysis of the first completed twinning projects, however, demonstrated that in the Ukrainian context, Twinning is not very effective as a catalyst for reforms. Therefore, in the new circumstances, it is stressed that the twinning programme shall have a clear connection to the Association Agenda and process. Any new project shall be in-built in the general "reform environment" in the sector in question (this means that there must be a clear commitment to reform in this sector prior to launching the twinning project, which will ensure achievement and enforcement of project results and recommendations, especially related to legislation).

2.3. Complementary actions

As experience has shown over the last two years, there is a clear correlation between the areas identified as priorities in the ENP Action Plan Implementation Tool and the sectors whose responsible Ministries and Agencies have been the most active in requesting twinning and other forms of assistance. In this context, twinning projects are usually defined as a component of a larger sector-wide support programme (where activities are sometimes implemented in a coordinated manner with other actors such as the World Bank) or as a precursor project for further definition of a sector-wide programme. Each of them can therefore be seen as complementary to other actions, past or future, in the same sectors, including technical assistance to be designed within the framework of the proposed measure.

2.4. Donor coordination

It is worth noting, at this stage, that nearly all other donors and International Financial Institutions have already agreed to use the commitments and objectives set forth in the Association Agenda as a basis for designing their own aid conditionalities or projects in the relevant sectors. Ownership by Ukraine of these same objectives, which are designed together in the context of a political dialogue, is not questionable. The proposed measure is fully compliant with the key principles of the Paris and Accra Declaration on Aid Effectiveness and EU commitments on development, notably ownership and harmonisation

Ukraine signed the Paris Declaration and set up a donor-government coordination system under the Ministry of Economy, which has so far not worked to its full potential. The Ministry of Economy jointly with major donors has made an attempt to improve coordination and in February 2010 generally agreed on the new structure. There is a recognised necessity both on the Ukrainian side and among donors to create a consolidated, clearly defined Ukrainian donor government coordination mechanism, in line with the Paris Declaration, and for taking measures to fully integrate donor assistance into its own planning and budgeting strategies and policies. The existing Ukraine cooperation structures with the EU are gradually changing to be policy driven and ensure effective inter-ministerial coordination in order to respond to the evolving relationship with the EU (Association Agreement and the DCFTA). It should be also mentioned that in the framework of the CIB programme preparation Ukraine and the EU agreed that the CIB should also contribute to strengthening Ukraine's coordination of external aid.

2. DESCRIPTION

3.1. Objectives

Overall objective:

To effectively facilitate meeting the objectives of the EU-Ukraine Association Agenda, as well as prepare for implementation of the Association Agreement and the DCFTA.

Specific objectives:

To build the capacity of the Ukrainian key institutions, bodies and entities to comply effectively with the commitments set forth in the EU-Ukraine Association Agenda, the Association Agreement and the DCFTA, as well as in their national reforms and development programmes.

To prepare identification and formulation of actions in the framework of the ENPI annual programming exercises, as well as to support implementation, follow up, monitoring and evaluation of those actions, in whichever form, in the areas and sectors recognised as priorities (including justice, freedom and security, migration, good governance, integrated border management, public

administration reform and public finance management, disarmament, facilitation of the entry into force of EU-Ukraine FTA (including DCFTA), energy including energy efficiency, environment, transport, regional and rural development).

3.2. Expected results and main activities

The main result of this measure are:

- Enhanced capacity of Ukrainian key institutions to successfully implement commitments under the Association process, along with regulatory reform and institutional capacity building;
- Timely and efficient preparation²⁷ and implementation of future sector-wide support, the CIB programme and other complementary actions in jointly identified priority areas.

To achieve these results, the following activities will be implemented:

1. Development of administrative and institutional capacities, through improving the ability of Ukrainian administration to understand and make use of EU standards, and adapting the institutional structure to the requirements stemming from the bilateral agreements (e.g. participative dialogue with EU and international partners, elimination of functional conflicts of interest, modernisation of the scopes of responsibilities and decision-making procedures, involving changes in sector supervision and management practices).

2. Application of a systemic approach towards legal approximation, helping to achieve in due time the critical mass of approximated legislation required by the bilateral agreements.

3) Enhancement of Public Finance Management capacities of the relevant Ukrainian authorities, especially with the objective agreed by the European Commission of channelling 50% of assistance through the recipient country's national budget .

4) Identification and formulation of actions related to implementation, follow up, monitoring and evaluation of actions in the areas and sectors recognised as priorities and agreed with the Ukrainian authorities (including justice, freedom and security, migration, good governance, integrated border management, public administration reform and public finance management, disarmament, facilitation of the entry into force of EU-Ukraine FTA (including DCFTA), energy including energy efficiency, environment, transport, regional and rural development).

3.3. Risks and assumptions

Assumptions:

The European Union pursues its ENP policy and enhanced cooperation with Ukraine in priority sectors.

Ukraine pursues its objectives set forth in the Association Agenda and progresses well in negotiating the Association Agreement and the DCFTA.

²⁷ Preparation will focus on deepening sector knowledge, (re)developing reform strategies in the light of EU-Ukraine bilateral agreements, and establish a framework of short-term and medium-term criteria conditioning budget support. Whereas the Ukrainian administration currently endeavours to refine existing decision-making processes in key Ministries following a EU-compatible decision preparation procedure (sector study, green paper, white paper,... developed by ad-hoc Policy support groups), this component of the measure may provide support to the Policy support groups in Ministries relevant to implement priority ENP/FTA objectives.

Ukraine pursues its objective of improved relations and economic integration with the EU, develops mechanisms for co-financing of cooperation projects with the EU, particularly in the frame of the CIB programme, and pursues its efforts to modernise its administration.

The Government continues and enhances its donor coordination effort and supports improvement of decision-making processes in line with European practice.

Ukraine will continue with its administrative reform, thus creating the pre-conditions for retaining civil servants in public administration after implementation of the measure. To that end, a comprehensive strategy of Public Administration Reform (PAR) and its implementation plan shall be approved. This is particularly important under the 2011-2013 National Indicative Programme, as well as in the context of the CIB programme's preparation and implementation, particularly given that PAR will represent a strategic background for EU assistance activities.

Ukraine will in collaboration with the IMF, adopt a package of measures aimed at tackling the impact of the financial crisis and improving the economic situation.

Ukraine will develop a clear and comprehensive strategy of Public Finance Management (PFM) modernisation.

Risks:

Major economic and political risks which have an overwhelming impact on the implementation of any programme of co-operation (be it Technical Assistance or Sector Budget Support) relating to the ability of Ukrainian top level authorities to handle challenges stemming from the economic crisis.

The Change of Government leading to the significant turnover of staff at all levels of executive power puts under risk the continuity of reforms started earlier (in particular, in relation to PFM).

The Government does not provide sufficient political support to the reform processes supported by the twinning or technical assistance projects designed under this measure.

The Government does not complete the necessary steps to receive budget support under AAP 2007, 2008 and 2009.

The Government does not provide sufficient support to ensure efficient functioning of the Programme Administration Office (PAO) (in particular, this related to budget and staffing issues which became even more crucial in a situation when budget allocations for the functioning of budget financed institutions are significantly cut down)

Ownership of twinning operations needs to be improved and more resources (including enhanced material conditions for the preparation and implementation of twinning projects) and commitment from the beneficiaries are needed to optimise the impact of this important instrument. Moreover, more central oversight on the Ukrainian side in the implementation of twinning projects is needed to ensure that mandatory results agreed upon are met by the Ukrainian counterparts.

3.4. Crosscutting Issues

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

Good governance and human rights: increased knowledge of EU policies and governance systems will raise democratic standards; the preparation for a sector-wide approach to reform the judicial and law enforcement system, implying improved wider and systematic consultation of civil society and the business community will take Ukraine a major step forward at central government level; monitoring

by civil society organisations will be a guarantee for an efficient and stable surveillance of the judicial and law enforcement systems.

The implementation of activities included in this measure shall ensure transparency of public administration processes, both in institutional and operational terms. Through achieving this, it will contribute to establishing system of public administration based on the rule of law, respect of the citizens' rights and ensuring accountability of the public finance management structures.

Gender balance: the proposed measure has no direct impact per se on gender balance. However, certain activities funded by the measure may be designed to tackle gender equality, or may have otherwise an impact on this issue.

Environment and climate change related issues will be streamlined as appropriate.

3.5. Stakeholders

The key stakeholders will be the concerned society groups, policy-setting and implementing ministries and agencies and also, though indirectly, the donor community. 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 involving the civil society and business community. Ukraine is characterised by a rich, though under-developed, civil society and business infrastructure, whose development the projects should foster. As for twinning, all Ukrainian government entities, including regional ones, are potential stakeholders.

Overall, the implementation of the Twinning programme on behalf of Ukrainian administration is supported by the Programme Administration Office (PAO). In Ukraine the role of PAO is carried out by the Main Department of Civil Service (through the Centre for Adaptation of the Civil Service to EU standards) in charge of coordination of all twinning-related aspects on behalf of the Ukrainian Government. As far as the CIB programme is concerned, a CIB coordinator should be appointed by the Government of Ukraine to ensure effective coordination of the CIB-related actions under the proposed measure.

3. IMPLEMENTATION ISSUES

4.1. Method of implementation

Direct centralised management.

4.2. Procurement and grant award procedures

1) Contracts

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 European Neighbourhood and Partnership instrument (Regulation (EC) N° 1638/2006 of the EP and of the Council - OJ L 310/1 of 9.11.2006). 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.

2) Specific rules for grants

The essential selection and award criteria for the award of grants are laid down in the Practical Guide to contract procedures for European Commission 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.

- 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 overall amount is set at €1 million. The indicative breakdown of the budget would include: component 1 – twinning projects €4.5 million, component 2 – technical assistance €6 million and a provision for monitoring/evaluation/interpretation/translation and visibility of €0.5 million.

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. Such contribution may be estimated at a maximum of one third of the contribution of the Commission. In the case of technical assistance projects, Ukrainian beneficiaries are commonly requested to contribute the logistical arrangements (contribution in kind).

It is foreseen that the operational duration of the action will be 48 months from the signature of the contracts.

4.4. Performance monitoring

The monitoring of the measure will follow standard procedures, based on benchmarks to be agreed during the preparation of each of the sub-projects to be defined under the measure, in co-operation with the Ukrainian government and other stakeholders and, in the case of twinning, based on the mandatory results agreed during the project preparation phase.

There is no standard indicator applicable to the DAC sector code of the proposed measure. It is proposed to use a modification of Standard Indicator 407 "Scope of capacity-building actions", considered at central government level, to assess global performance, given the measure's general focus on improving government capacities. The performance of the proposed indicators (see annex) will be monitored based on a periodic assessment of progress and delivery of specified project results and towards achievement of project objectives. Harmonisation of monitoring frameworks of other Donors is expected to be one of the outcome of the government-led coordination process referred to in section 2.4. The project will be implemented in line with the Backbone Strategy which is part of wider European Commission actions to implement the Paris Declaration and which aims to improve the effectiveness of EU aid with respect to capacity development.

4.5. Evaluation and audit

In addition to regular results oriented monitoring, a mid-term evaluation of the entire measure will be carried out. Each of the sub-projects to be defined under the measure will undergo financial audit, as foreseen by the standard procedures, which foresee that such audit be properly budgeted under each of such sub-projects.

4.6. Communication and visibility

Proper communication and visibility of the measure will be achieved via widespread dissemination of project achievements and results, as well as international visibility of twinning projects, for which a specific budget will be allocated (section 4.3).

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Annex 5 - Action Fiche for Ukraine

1. IDENTIFICATION

Title/Number	EU 2010 Contribution to the Eastern Europe Energy Efficiency and Environment (“5 E’s”) Partnership Fund (also known as "the Swedish Initiative") CRIS: ENPI/2010/22000		
Total cost	Total European Union contribution: €10 million [Other contributors: Ukraine: €10 million; Sweden: €24 million; Denmark: €5 million (from 2011 onwards); Estonia: €160,000 (5 yearly installments of €32,000); Latvia: €50,000; Norway: €5 million (5 yearly installments of €1 million); USA: €5.325 million in 2010.]		
Aid method / Method of implementation	Joint management with an international organisation (European Bank for Reconstruction and Development (EBRD))		
DAC-code	23010	Sector	Energy policy & Administrative Management

2. RATIONALE

2.1. Sector context

Ukraine has inherited a very inefficient energy system from the USSR, which was still affordable when energy (mostly imported from Russia) was relatively cheap but no longer today due to raising energy prices. The authorities are therefore highly committed to improving energy efficiency in all spheres (industries, housing) in order to decrease energy consumption.

In parallel, there is an increasing attention to renewable and endogenous sources of energy (currently accounting for less than 1% of the electricity generated yearly), seen as clean, efficient and increasingly competitive alternatives compared to fossil energies.

The Ukrainian Energy Strategy till 2030, adopted in 2005, calls for substantial energy-saving measures in all industries, as well as for a noticeable increase in the use of renewable energies, from current 0.1 billion kWh up to 2.0 billion kWh by 2030. The Government has launched a number of measures to promote investments in renewable energies, starting with the introduction of green tariffs and tax incentives, and has set ambitious targets to replace or upgrade obsolete equipment in the industrial and residential sectors, in order to significantly decrease energy consumption and CO² emissions.

These efforts can lead to concrete results only if they are supported by large-scale funding. In this perspective, the past-Swedish Presidency of the EU has proposed in mid-2009 the creation of a Donors Fund that would help countries in the region to finance, through grants, projects aimed at improving energy efficiency and promote the use of renewable energies. The initial geographical focus is Ukraine but the Initiative is likely to expand, as appropriate, to the other countries of the Eastern Partnership (Armenia, Azerbaijan, Belarus, Georgia and Moldova).

The Fund was officially launched at a Pledging Donors Conference in Stockholm on November 26th, 2009, co-chaired by Commissioner Ferrero-Waldner. A formal name was agreed: "the Eastern Europe Energy Efficiency and Environment [5 E's] Partnership". In line with priorities 56 ("Progress on energy efficiency and the use of renewable energy sources") and 60 ("Take steps to ensure that conditions for good environmental governance are set and start implementing them") of the EU-Ukraine ENP Action plan, Commissioner Ferrero-Waldner has pledged an EU contribution of €40 million over the period 2010-2013 to top up an initial contribution of €10 million by Ukraine. Other Donors have pledged the following contributions: Sweden: €24 million (4 instalments of €6 million), Denmark: €5 million (from 2011 onwards), Estonia: €160,000 (5 yearly instalments of €32,000), Latvia: €50,000, Norway: €5 million (5 yearly instalments of €1 million), USA: €3.325 million in 2010. The total of pledged is therefore €99.53 million as of February 15th, 2010. Other Donors (Finland, Lithuania, Poland, Romania, Czech Republic, Japan and Slovakia, so far) might announce pledges later.

2.2. Lessons learnt

The EU has already contributed to ERBD-led Funds in Ukraine (e.g.: Chernobyl Shelter Fund) and cooperation with the Bank is good. EBRD also benefits from a number of investment projects in Ukraine under the Neighbourhood Investment Facility.

For what concerns operations in Ukraine, however, special attention will have to be paid to the complex regulatory framework around renewable energies, energy efficiency and environment. The current framework might dissuade potential investors and will need to be upgraded.

The legal framework on energy efficiency is expected to evolve positively in 2010 thanks to technical and financial cooperation provided by several Donors (including a large EU budget support and a possible twinning).

2.3. Complementary actions

The launch of the 5Es initiative coincided with the Copenhagen conference on climate change. Environment/energy issues are still high on the global agenda, as well as in the EU and in Ukraine.

All major donors have been supporting reforms towards improvement of energy efficiency in Ukraine for many years. Of particular relevance are the following ongoing initiatives and projects:

- The **€63 million EU Budget Support** on Energy Efficiency whose first disbursement is planned for 2010. It is accompanied by a €7 million envelope for technical assistance that will aim primarily at increasing the capacity of the authorities to meet the budget support conditionalities, and, more generally, to improve their overall capacity;

- The **EU's INOGATE** energy programme has been assisting Ukraine (and other countries in the region) to pave the way for investments in the field of renewable energy and energy efficiency through assistance to legislative and policy reforms. In the frame of INOGATE, the regional Energy Saving Initiative in the Building Sector in the Eastern European and Central Asian Countries (ESIB) project was launched in January 2010 for three years; furthermore, the project 'Support to Market Integration and Sustainable Energy' (SEMISE) running until

January 2012 provides support to the creation of a positive environment for sustainable energy investments including in cooperation with international financial institutions. Finally the project "Identification and Promotion of Energy Efficiency (EE) Investments" provides support to investment facilities of the EBRD in Ukraine and Moldova in the field of Energy Efficiency;

- Under the **EU initiative Covenant of Mayors**, 11 (to date) large cities of Ukraine have taken the commitment to go beyond the target of 20% CO₂ reduction by 2020 through the implementation of Sustainable Energy Action Plans, to be supported by the EU. Implementation of those Sustainable Energy Actions Plans could be supported by the Fund created under the 5Es initiative. A specific project in support of the Covenant of Mayors is envisaged within the framework of the Eastern Partnership to start end 2010/beginning 2011;

- The large EU financed **Community Base Approach (CBA)** running till 2011 (€13 million) has been supporting the creation of an enabling environment for long-term self-sustaining social-economic and community development at the local level by promoting local self-governance and community-based initiatives, including on environment and energy efficiency. The planned 2nd phase of the project has a specific €5 million component on energy efficiency.

- The EU pays a particular attention to the Crimea region in Ukraine and has identified under the "Support to the Joint Cooperation Initiative in Crimea" (AAP 2008) support to Social and municipal infrastructures as a priority, including heating. Synergies can be developed with this Fund;

- The **Neighbourhood Investment Facility (NIF)**, now available to Ukraine, can be used to further support and leverage IFI lending in support of the initiative;

- The **EBRD**, through its Sustainable Energy Initiative (SEI), has been providing large scale loans to private and governmental/municipal facilities to support the introduction of environmentally clean and sustainable equipment. Energy consumption has decreased by up to 40% in facilities supported by this initiative.

- The **World Bank** has been supporting since the mid-1990s large projects aiming at improving energy efficiency, with a focus on large Kiev public buildings. A new programme to support energy efficiency is currently being designed.

- The **European Investment Bank (EIB)** is lending €15.5 million to upgrade water supply and wastewater treatment in the City of Mykolayiv (southern Ukraine) and €100 million to finance small and medium-sized investments in the areas of SMEs, energy efficiency and the environment in Ukraine.

- **GTZ** will start to operate in 2011 in the ENP-East Region an Energy Efficiency Fund, financed from the NIF (€10 million). The objectives of this Fund are to broaden the financing base of energy efficiency and renewable energy investments in the region, increasing awareness on energy efficiency and small renewable energy products among companies and private households, contributing to broadening and deepening the financial sector that services those development needs, and finally harmonizing and coordinating donor initiatives. GTZ has moreover been supporting the Ministry of Regional Development and Construction of Ukraine since October 2007 (till mid-2013) to improve energy efficiency in commercial

and private buildings. The main focus of the project is to introduce energy management at local level and implement pilot projects;

- The **USAID** has been supporting since early 2009 large projects (amounting to a total of \$13 million) in district heating in no less than 34 Ukrainian cities. For each city, energy audits are being carried out. These audits can serve as a good basis for the identification of future technical projects to be financed by the Fund. Coordination of interventions will be ensured by the fact that the US count amongst the main contributors to the Fund.

2.4. Donor coordination

Donor coordination is formally ensured in Ukraine by the Government, via thematic working groups. One was created on Energy Efficiency and Renewable energy, led by EBRD. Meetings have however not been regular and a lot of coordination takes place on a bilateral basis. This should improve in the context of the ongoing reforms of the Donor Coordination system.

Relations between donors in the frame of the proposed intervention will be regulated by the "Rules of the Eastern Europe Energy Efficiency and Environment Partnership Fund" developed by the EBRD as Fund manager. Donors joining the Initiative will have to comply with those rules.

Those rules state that the governing body of the Fund will be the Assembly of Contributors (one representative per donor), which shall be responsible for the overall policy of the Fund and supervise its implementation. The EBRD, the European Investment Bank (EIB), the Nordic Investment Bank (NIB), the Nordic Environment Finance Corporation (NEFCO) and the World Bank Group shall act as implementing agencies of the Fund. A steering group will propose projects and subsequent grant requests to the Assembly of Contributors which shall decide if the projects shall be supported with the resources of the Fund. Agreement of the beneficiary country will always be sought.

Grants will be sized in proportion to environmental benefits and/or gains in terms of energy efficiency, quantified in monetary terms. This will allow the efficiency of the action to be measured.

3. DESCRIPTION

3.1. Objectives

The purpose of the Fund is to allow a harmonised and effective delivery of international financial support over several years by pooling contributions from a group of donors and beneficiaries, to be used primarily for supporting energy efficiency and environmental projects, resulting in a significant reduction of carbon dioxide (CO²) and other greenhouse gases (GHG) emissions.

3.2. Expected results and main activities

The main expected results of the proposed action are:

- A reduced energy consumption in Ukraine and in the countries of the region, thanks to a more efficient use of available energies. This will be achieved through the implementation of

projects contributing decisively to this objective. Implementation of those projects will be supported by the Fund resources, on a proportional basis;

- A decrease of CO₂ and of other greenhouse gases emissions in the region, thanks to decreased energy consumption;
- A greater share of renewable energies in the energy produced yearly in the region.

The proposed initial thematic focus of the Fund's activities is housing and district heating sectors as both sectors consume together more than half of the energy used in Ukraine. It is however envisaged that the Fund will also support other investments for energy efficiency or environmental projects.

3.3. Risks and assumptions

1. The Fund will start operating only when "a minimum number of three Contributors, including Ukraine, have entered into Contribution Agreements and have fulfilled their obligations under such Contribution Agreements, and the amount of all Contributions paid into the Fund Account is a minimum of €30 M" (Section 3.04 of the draft rules of the initiative). It is assumed that the new government of Ukraine will honour the €10 million pledge made in November 2009 in Stockholm;
2. The Fund is in its nature similar to the Neighbourhood Investment Facility (NIF). Attention will have to be paid on avoiding overlap between the two financing instruments and underlining their specificities;
3. The economic crisis may dissuade beneficiaries to undertake reforms in energy efficiency/renewable energies; this might lead to delays in developing an initial projects pipeline and slowdown of the Fund;
4. A particular attention will have to be paid to the questions of procurement and follow-up of costs during the implementation of the Fund.

3.4. Crosscutting Issues

Environmental sustainability and climate change are the main cross-cutting issues raised by this project. The project will directly contribute to climate change mitigation and to reducing pollution due to power generation from fossil fuel. Gender is not a cross-cutting issue to be addressed in this specific project. However, the project will be open for equal participation. Furthermore, development of renewable energies in the ENP-East region would create jobs for men and women alike.

3.5. Stakeholders

The stakeholders of the proposed intervention will be, for what concerns Ukraine: the central Government, the cabinet of Ministers, the Ministry of Fuel and Energy, regional and local authorities, municipalities, companies and individuals or associations of consumers, owners, etc.

4. IMPLEMENTATION ISSUES

4.1. Method of implementation

The method of implementation will be joint management, through the signature of a Contribution agreement with the EBRD.

EBRD is currently subject to an external review in relation to Article 53d of the Financial Regulation. In anticipation of the results of this review the authorising officer deems that, based on the long-standing and problem free cooperation with these Organisations, joint management mode can be proposed and Standard Convention for International Organisation can be signed in accordance with the provisions laid down in Article 43 of the Implementing Rules to the Financial Regulation.

Until the launching of the Fund, the manager of the Fund and contact person on the EBRD side will be based in London at EBRD headquarters. The EU Delegation in Ukraine will follow-up and ensure coordination with the local EBRD office as appropriate. It is expected that the Bank will at a later stage appoint a manager in Ukraine who will provide technical and administrative support to the identification and preparation of projects, on top of general administrative support.

After the Fund is launched, the Delegation will coordinate relations with the Bank and other donors involved in the Initiative, with support from AIDCO A3 – Energy team.

The largest donor will be expected to chair the Assembly of Contributors to the Fund, unless otherwise decided by the Assembly. So far, the largest donor is the EU. The Chair will convey, together with the Fund Manager, meetings of the Assembly and might invite, as relevant, representatives of governments, other institutions and entities to attend specific agenda items. The Chair can as well call special meetings of the Assembly when necessary.

4.2. Procurement and grant award procedures

All contracts implementing the action are awarded and implemented in accordance with the procedures and standard documents laid down and published by the EBRD.

4.3. Budget and calendar

The Fund is foreseen to remain active until 31 December 2019 unless otherwise decided by the Assembly of Contributors to the Fund.

The proposed first EU contribution to the Fund is €10 million.

The implementation period of this Action will start from the date of signature of the Contribution Agreement with EBRD.

The proposed implementation duration of this action is 48 months from the signature of the contribution agreement.

4.4. Performance monitoring

The monitoring of the day to day implementation of the proposed action will be carried out by EBRD under its standard procedures based on benchmarks to be agreed with the donors

contributing to the Fund. The effectiveness of the action will be evaluated using key indicators like:

1. Number of requests made to the Fund over a certain reporting period;
2. Number of grants considered, selected and approved during this period;
3. Share of the Funds disbursed;
4. Fund's effectiveness ratio, comparing the environmental benefits and/or gains in terms of energy efficiency converted in monetary terms with the amount given from the Fund.

4.5. Evaluation and audit

No funds from this €10 million contribution should be put aside for financing evaluation(s) or audit. Evaluation and audit will be under the responsibility of EBRD. Should the need arise, the EU would finance additional evaluation(s) and/or audit(s) from other budgetary resources.

4.6. Communication and visibility

Communication and visibility activities should follow the EU Visibility & Communications Manual. The projects will aim for a widespread dissemination of its achievements and results as well as awareness-raising and image building through inter alia, project websites, electronic newsletters and outreach to the media. On starting activities communication and visibility plans will be prepared and submitted to the EU Delegation for approval, as per the EU Visibility & Communications Manual. Any events organised as part of or related to the project must include the participation of the contracting authority.