

PROJECT FICHE 7

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| Title | Support to border cooperation between Ukraine and Moldova | | |
| Total cost | € 6,600,000 | | |
| Aid Method | Project approach - Centralised management | | |
| DAC-code | 15030 | Sector | Legal and judicial development |

1. RATIONALE

1.1. Strategic framework

Justice and Home Affairs, including border management, represents one of the key themes of the Tacis Regional Strategy Paper 2004-2006, as described in the point 5 (Response Strategy) of its text. Under this header, in the RIP (point 6.3) a priority is given to the enhancement of border management for a number of CIS countries. As among the latter Moldova too is mentioned and under the RAP only borders other than those with the future enlarged EU can be considered for assistance, the text implicitly justifies an assistance targeting border between Moldova and Ukraine. to the implementation of the EU-Ukraine JHA AP. Moreover, the fight against terrorism, organised crime and irregular migration are key priorities both in the Ukrainian and the Moldovan EN AP and coherent with the European Neighbourhood policy and with the EU's policy determined in "The Hague Programme" of November 2004. Last but not least, the improvement of border management on the Ukrainian-Moldovan border may exert an overall positive influence on the relations between the two countries, thus possibly contributing to solve the Transnistrian issue or at least to prevent the latter from triggering further tensions in the area.

1.2. Lessons learnt

Ukraine's and Moldova's Government and state authorities are highly cooperative in the justice, security and freedom area. The driving factors are the frequent meetings at political and technical level on these issues. In particular the trilateral meetings organised in Brussels by the European Commission create a practical tool to share views, discuss problems and measure the state of the border cooperation between Ukraine and Moldova. So far, the implementation of JHA projects did not face any particular difficulties in Ukraine and Moldova. The positive Tacis monitoring reports draw a positive picture of the cooperation in this field.

1.3. Complementary actions

In the last years the European Commission has been variously supporting the border management of Ukraine and Moldova on these countries' western borders in particular through the funds of the Tacis Cross Border Cooperation programme. A project financed by the Tacis Regional Programme 2001 funds –conceived within the context of the Traceca initiative- enabled to carry out a study on the possible improvement of the traffic across all the Moldovan borders (including with Ukraine).

The study issued several recommendations and in particular identified as a top priority enhancing the Otaci/Mogiliov Podolsk crossing-point, provided that the sufficient quantity of investment is made available. A 2 MEUR allocation was foreseen under Tacis RAP 2003 to contribute giving a follow up coherent with the recommendations. Through Tacis NAP 2001 for Moldova and Tacis NAP 2004 for Ukraine some important allocations (respectively 1.85 MEUR and 3 MEUR) were already put at disposal of Moldovan and Ukrainian Border Guards to enhance their technical capacity to carry out their surveillance tasks on some of the part of their borders. In particular for the Moldovan Guards the support was spread on the areas (principally on the norther border with Ukraine and the western with Romania) more affected by trade and people crossing, while for the Ukrainian Guards it will be concentrated on the Transnistrian sector. This selection of priorities was also done in coherency with the US Government's assistance to both the countries' Customs Service and Border Guards, which is planned to be rather substantial. The above mentioned EC assistance is moreover complementary to a number of other measures addressing related -though different- issues, such as fight against trafficking of human beings, against drug smuggling and initiative improving at enhancing the level of migration management. Under Tacis RAP 2004 up to 4 MEUR are foreseen in particular for improving border management in Moldova. They will be used to support the reform of the Border Guards of this country (through in particular improving the quality of the training system and fostering the twinning with EU MSs Border Guards), and to facilitate the introduction between Ukraine and Moldova of a system for the permanent and automatic exchange of data on goods and persons crossing the common border. Other interventions (Tacis SPP 2000, SPP 2001, NAP 2002 UA, CBC 2003) have facilitated and will facilitate targeted assistance to the Customs Services of Ukraine and Moldova.

1.4. Donor coordination

The Government of Ukraine and Moldova keep close contact to the major donors in the JHA area which are the EC and the U.S. The latter also have contacts whenever necessary on bilateral form to coordinate their respective actions, prevent overlapping and avoid contradictions. This dialogue is carried out at technical level in the understanding also of some differences existing at policy level, the EC side having in mind the perspectives dictated and the potentialities opened by the New Neighbourhood Policy, the US side on the contrary being concentrated on security-related issues and on the idea to support the relations within GUAAM. The coordination between donors is not yet at optimal level, due also to the internal limited dialogue existing between State Border Guards and State Customs Service on each of the sides. The situation however has already started to improve within each country due also to the positive effect of the meetings in tripartite format organised by the European Commission.

2. COUNTRY CONTEXT

2.1. Cooperation policy of beneficiary country

The border relations between Ukraine and Moldova since the independency of the countries have been characterised by contradictory factors. On the one hand, the two

countries have variously tried to improve the cooperation through signing a number of agreements at various level and in different sectors. However, all these initiatives had only a limited impact, did not manage to express all their potential and in many cases were openly frustrated because of the existence of the unresolved Transnistrian issue. Actually the fact that Transnistrian region has established a kind of de facto independency from the Chisinau-based national authorities and that its staff controls a huge part of the border with Ukraine (including what is probably the most important Moldova border crossing point for trade related activities : Pervomaisk-Kuchurgan on the main road between Moldova and the Odessa port on the Black Sea) made it so far impossible for Moldovan and Ukrainian Government to have normal border relations. In this context, the European Commission since 2002 is trying to foster the Ukrainian-Moldovan border cooperation through facilitating the dialogue between the two parties in a trilateral format. The Commission's intervention contributed to create the possibility for the two parties to identify some concrete measures for cooperation and, early 2003, to agree on the modalities enabling to (at least partially) implementing a 1997 International agreement on creating joint border posts and to complete the demarcation of the joint border included on its Transnistrian sector. The aim of the herewith described project fiche is indeed contributing to give a follow up of these two forms of cooperation which have been recently agreed at political and technical level.

2.2. Sector Policy

Both for Ukraine and Moldova it is extremely difficult to dispose of State budget allocation for funding border investments. The latter besides are hardly of interest for private investors. Moreover it is very difficult to foresee the availability of allocation within the next years State budgets, as in both the countries medium-long term budgetary perspectives are not commonly established by the Government, which therefore is unable to make forecast beyond the current work year. Besides even allocation formally established in an approved State budget are sometimes de facto unavailable due to the un-sufficient State revenues. This implies that the donors assistance is an element of capital importance for improving border management on the Ukrainian-Moldovan border. On the other hand, Moldova and Ukraine should be able to ensure the maintenance of the installed structures.

3. DESCRIPTION

3.1. Objectives

The overall objective is to contribute to improve border cooperation between Ukraine and Moldova, thus also facilitating the fight against and prevention of organised crime at the border

The specific objectives of the assistance are the following :

- 1) To facilitate goods and persons flows across some selected border posts on the Ukrainian-Moldovan border while increasing the capacity to detect and counteract illegal activities related to border crossing (smuggling, trafficking, corruption)

2) To facilitate the establishment of a climate of confidence and cooperation in the management of the overall Ukrainian-Moldovan border while contributing to creating the conditions for the solution of the Transnistrian issue.

3.2. Expected results and main activities

1) For the objective 1 the EU assistance consists in establishing joint management in some selected border posts located on the Ukrainian-Moldovan border

- In order to contribute to achieve this result the EU assistance will be used to contribute first of all to improve the equipment of Border Guards and Customs Service's staff working on the selected border posts to create the necessary structures where the joint border examination are to be carried out and to enhance the level of the border infrastructures where necessary.
- Moreover the Commission's funds may facilitate on this and other border posts the introduction along the entire Ukrainian-Moldovan border of IT technologies enabling an automatic or at least a simplified exchange and/or sharing of data concerning people and goods crossing the border.
- Training on jointly managing border posts could also be carried out

2) For the objective 2 the EU assistance consists in having the demarcation of the Ukrainian-Moldovan common border completed

- In order to contribute to achieve this result the EU assistance will be used to contribute first of all to carry out the studies which may be necessary to prepare the demarcation
- This will be followed by funding the works and supplies necessary to install the border markers

N.B. : As the demarcation is about to be completed (funded by Moldovan and Ukrainian State budget's funds) along the northern part of the Moldovan border (Bukovina sector), the funds managed by the EC should mainly contribute to the demarcation of the Moldovan eastern (Transnistrian sector) and the Moldovan southern (Black sea sector) parts of the border. Priority should be awarded to the latter, where the demarcation is by far less problematic and is lagging behind.

3.3 Stakeholders and institutional capacity

Main stakeholders are the SBGS and the SCS both in Ukraine and in Moldova. Other beneficiaries are the Ministries of Foreign Affairs.

Both the SBGS and the SCFM have already established the necessary institutional capacity to absorb considerable external assistance. Relevant structures are in place. Both institutions have shown their strong commitment for further development towards EU standards. Ownership is guaranteed since both the sides have already started developing initiatives in the same field.

3.4 Risks and assumptions

The unresolved Transnistrian issue remains as a risky factor which can at any moment put under strain the relations between Ukraine and Moldova. The assumption is however that the two parties are seriously intentioned to develop their cooperation in spite of the difficulties linked to the Transnistrian issue and possibly to find a tool to better cooperate in addressing the latter.

3.5 Crosscutting Issues

The proposed activities will also contribute to the fight against corruption due to enhanced transparency on collecting and sharing data regarding the goods and persons crossing the common border. Institutional capacity in preventing, investigating and prosecuting trafficking of human beings, smuggling of goods, illegal migration, trafficking of drugs and other forbidden items (such as weapons, radioactive materials etc.) will also be enhanced.

4. IMPLEMENTATION ISSUES

4.1. Implementation method

Development of joint border posts between Ukraine and Moldova A supply contract will provide the relevant parties with the equipment needed both for establishing joint border posts and for installing the IT technology enabling the exchange/sharing of data. Work contracts, when necessary, may carry out the refurbishment needed for both these scopes. A service contract may be launched to overcome technical issues related to IT, if the latter appear. Twinning with EU MSs SBGs and/or SCSs or equivalent State bodies could be established with the purpose of training the Ukrainian and Moldovan SBGs and SCS in the creation and functioning of the joint border posts and on the utilisation of IT technologies aiming at sharing/exchanging data related to border control. Some or all these contracts could be partially or entirely replaced by a single direct agreement with an international organisation if she is able to cover and coordinate all these activities.

Demarcation of the Ukrainian-Moldovan border: A works contract will be concluded to carry out the border demarcation. A service contract will be concluded if some of the preparatory studies necessary to carry out the demarcation are still needed .

4.2 Budget and calendar

The indicative allocation for each project will amount to approximately 3 MEUR for the component on Demarcation and 3,6 MEUR for the component on Joint border posts. These are tentative figures which may slightly change in relation with the capacity of the Ukrainian and Moldovan sides to finance through their respective State Budget the respective complementary actions.

The operational duration of the project is estimated at 36 months.

4.3 Procurement and award of grants procedures

All contracts implementing the financing agreement 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.

All programme estimates must respect the procedures and standard documents laid down by the Commission, in force at the time of the adoption of the programme estimates in question.

4.4 Performance monitoring

Performance monitoring will be carried out by the Steering Committees established under each project as well as by the Tacis Monitoring Team.

4.5 Evaluation and audit

Appropriate planning and regular monitoring throughout implementation in the form of regular reports will take place.