1. **Basic Information**
   1.1 Désirée Number: BG 0203.04
   1.2 Title: Improvement of administrative justice in view of the fight against corruption
   Twinning code: BG02/IB-JH-03
   1.3 Sector: Anti-corruption
   1.4 Location: Bulgaria

2. **Objectives**

2.1 **Overall Objective:**
Improvements of the legal and organisational framework of the administrative justice in order efficiently to prevent corruption

2.2 **Project purpose:**
Improvement of the legal and organisational framework of the administrative justice in order efficiently to prevent corruption through introduction of a modern system of administrative legislation and establishment of efficient mechanisms for external judicial control over the work of the public administration. To provide effective service to citizens and companies by the public administration and to reinforce their rights effectively to protect their interest in the interaction with the administration.

**Accession Partnership and NPAA priority**

**Accession Partnership**
- **In need of particularly urgent action:** Start to implement the national strategy to combat corruption in public life, especially focussing on awareness building, prevention and the prosecution of corrupt acts.
- Continue to make progress with **public administration reform**. Ensure effective implementation of the provisions of Civil Service Act and related regulations. Take steps to ensure accountability, openness and transparency of public service.

**NPAA**
Adoption and implementation of further steps to combat corruption is a top priority. The Bulgarian state conducts active policy of preventing and prosecuting corruption-related crimes and carrying out a broad international cooperation in that sphere.

An amendment to the Law on the Administrative Infringements and Sanctions will be adopted introducing administrative liability of legal persons for corruption crimes committed in their interest and by their high-level officials.

3. **Description**

3.1 **Background and justification:**
During the last few years Bulgarian society has focused its attention on the problems related to corruption. The public discussion from 1997 till 2000 indicated the ways for limiting and placing it under control, by increasing the law enforcement and regulatory functions of the State, guaranteeing
of transparency and publicity of administrative and governing processes, endorsement of civil control and such values as honesty and ethics in society.

The current reform in the administrative system of the Republic of Bulgaria and several newly adopted laws and regulations introduced a number of measures with anticorruption potential in the social practice. These steps together with the curbing of the activities of semi-criminal groups contributed to some stabilisation in the corruption environment in the country. A better rating of the Republic of Bulgaria in the framework of the comparative index of Transparency International is evidence of that: while in 1998 it was ranked 66th (out of 99) in 2001 it was ranked 49th, thus approaching the status of Central European countries in this respect.

The 2001 European Commission Regular Report on Bulgaria points out that, whilst there have been some improvements since last year, in particular in the legal framework, corruption continues to be a very serious problem in Bulgaria. … Corruption continues to be considered as one of the main problems facing Bulgarian society. It is still seen as an efficient means of addressing private problems. However there is a decrease in public acceptance of corruption and civil society has been active in raising awareness and putting corruption on the political agenda. The new government has made a commitment to combat corruption. There is a perceived tendency towards improvement of the business and investment environment, but corruption remains a serious obstacle to business development and the improvement of the investment climate.

The administrative legislation takes a leading role in the fight against corruption in the administration through executing of judicial control over the actions and decisions of the administration. For the timely and effective counteraction against corruption it is necessary to conduct reform in the system of administrative justice. The lack of unified administrative legislation and procedure impedes the citizens, the administrative bodies and the courts. It is necessary to adopt Administrative Code that would unify, synchronize and systematize particular administrative procedures regulated in the Law on Administrative Procedure, law on administrative infringements and sanctions, Law on the Supreme Administrative Court, Civil procedure Code and other laws and regulations.

In the current legislation the problem for the administrative liability of legal persons is not solved, the administrative penalties are not enforced by the court, but by the respective institution manager. Legal criteria for exclusion of judicial control of the administrative acts is lacking and there is no system for unified and precise application of the administrative legislation.

The establishment of a separate system of administrative courts is of crucial importance for the improvement of the administrative justice.

At present the Supreme Administrative court and separate sections at District courts are dealing with administrative cases. An important step towards accomplishment of the judicial reform is the establishment of regional administrative courts and detachment of administrative judicial procedure from the general proceedings on penal and civil cases.

Aiming at efficient combat against corruption, on 1 October, the Council of Ministers adopted a national Strategy for Combating Corruption. This has 4 main areas: creating an institutional and legal environment which will curb corruption, anti-corruption reform in the judiciary, curbing corruption in the economy and anti-corruption co-operation between government institutions, non-governmental organizations and the mass media.

The project is realizing the Managing Program of the government of the Republic of Bulgaria. The project is part of the undertaken by the Bulgarian institutions multilateral measures for improving the activities in relation to the giving of licenses.
Linked activities:

**Phare**

**BG 00.03.03 Support in the implementation of the reform in public procurement system**
The general objective of this Project is to support through a two-year twinning the efforts of the Bulgarian Council of Ministers in setting up a more efficient, open, transparent and competitive public procurement system which meets the obligations of the *acquis communautaire* in the field of public procurement, meets the requirements of a market economy, and strengthens the institutional and personnel capacity of the Public Procurement Directorate and other procuring entities.

**BG 00.06.02 Strengthening the independent public external audit institution**
To develop the Bulgarian National Audit Office (NAO) as an independent and professional external audit institution, capable of providing the Parliament, the Government and the EU with reliable and high quality information on the effective use of public funds.

**BG 00.05.01 Strengthening the Public Prosecutors Office**
To support the Bulgarian authorities in the fight against organized crime and corruption.

Bulgarian Ministry of Justice has proposed two Project Fishes under PHARE’ 2002 Programme. The two projects are in line with the Action Plan for the implementation of the Strategy for reform of the Bulgarian judiciary and closely follow the recommendations from the 2001 Regular Report on Bulgaria’s Progress towards Accession. The projects are built in conformity with each other thus achieving maximum efficiency by their concurrent implementation. The time schedules of the projects - both running and prospective would be carried out in a correlative way. The people involved in projects’ realization together with the Pre-Accession Advisors /PAAs/ would act in close cooperation and frequently exchange current information that would contribute to attaining better results in projects’ implementation.

**Others**

**USAID** Anti-corruption project for Bulgaria
RFP No. 183-01-51
This requirement for an anti-corruption activity in the Republic of Bulgaria is to enhance transparency and accountability of government and promote stability, economic prosperity, rule of law and the consolidation of democratic processes. The requirement is to improve accountability mechanisms and the investigative capacity of government institutions, and to support NGOs and citizen action groups in their ability to participate in and oversee government activities, in order to reduce the pre-conditions for corruption.

**UNDP**

*Evaluation Mission on Anti-Corruption Initiatives in Bulgaria*
Time frame: 5 – 15 November 2001
Expert: Daniel Bilak
The main objective of the mission was to review and assess the anti-corruption efforts in Bulgaria with a view of formulating concrete recommendations for enhanced further support in this field. The mission has identified as one of the main priority areas, which is fundamental to effective anti-corruption efforts, the implementation of a comprehensive holistic review of the administrative justice system.

Comprehensive Review of the Administrative Justice System in Bulgaria

Based on the recommendations of the anti-corruption evaluation mission, UNDP will support the implementation of a comprehensive holistic review of the administrative justice system. The main objective of the review will be provide recommendations for the establishment of a modern system of administrative justice based on the norms and principles of the Council of Europe and the best practices of the EU Member States in this area. The review will include the following components:

- In-depth analysis of the Bulgarian administrative legislation with a view of its rationalization and unification into a comprehensive Administrative Code;
- Comprehensive assessment of the Bulgarian system of administrative justice and comparative analysis of the EU Member States best practices;

The review is planned for the second trimester of 2002.

Coalition 2000

The Coalition 2000 Initiative was successfully launched in April 1998 with the aim to fight corruption in Bulgarian society through a process of cooperation among NGOs, governmental institutions and individuals. The main objective of Coalition 2000 is to enhance the awareness, adoption and practical implementation of democratic values such as transparency, trust, and integrity. This is achieved through the development of an Anti-Corruption Action Plan for Bulgaria, Corruption Monitoring System and an anti-corruption public awareness campaign. Designed to complement each other, the major activities of Coalition 2000 include:

- Assist democratic institution building and promotion of democratic values
- Promote public awareness of corruption and establish mechanisms to support anti-corruption efforts
- Serve as a "watchdog" of the reform process, focusing attention on practical implementation of transparent rules, integrity, and democratic control.

The Coalition carries out an annual cycle of assessment of the legal and institutional environment in the context of the fight against corruption.

JUDICIAL REFORM INITIATIVE (JRI)

The main objective of this initiative consolidating the efforts of leading Bulgarian NGO's, representatives of government institutions and experts is to provide practical assistance to reforms within the Judiciary. Improvement of administrative Justice is among the priorities of the Program for Judicial Reform (PJR), developed as a consensus background document based on a set of proposals for institutional and legislative measures. Currently in the implementation phase of its Program the JRI is supporting the new legislation drafting process through organizing public hearings and discussions, workshops and publications. Administrative Justice reforms component will be a significant part of these activities.

3.2 Results:

- Development of modern system of administrative legislation in line with the best EU practices – the amendments are orientated to increasing the anti-corruption effect of the newly adopted laws like the Law on Administrative Procedure, Law on Administrative Infringements And Sanctions, Law on the Supreme Administrative Court, Civil Procedure Code, Civil Servants Law, Code of ethics of the civil servants, etc.
- Unified, synchronized and systematized administrative legislation and procedure would be achieved
- Due to the new simplified procedures the effective service to citizens and companies by the public administration will be guaranteed
- Efficient mechanisms for external judicial control over the work of the public administration in the view of prevention and prosecution of corruption acts. Independent control and possible repeal of administrative decisions strengthens the rule of law and makes the administration accountable for its decisions.
- Affordable access to justice, accelerated procedure for defence of citizens’ rights infringed by public administration officers,
- Aligning the system of the Bulgarian administrative procedural legislation with the best practices of the EU.
- Streaming the decentralization of the administrative justice in order to achieve better preventive mechanisms against corruption.

3.3 Activities:

Preliminary activities:
- Comprehensive assessment of the Bulgarian system of administrative justice conducted by UNDP in 2002 – before beginning of the Project
- Comparative analysis of the EU Member States best practices, implemented by UNDP in 2002– before beginning of the Project.

Project 1. Aligning the system of the Bulgarian administrative legislation with the best practices of the EU
- Recommendations for improvement and aligning the Bulgarian administrative legislation with the EU best practices completed by EU experts on the basis of UNDP analyses
- Creation of a new concept of the Bulgarian administrative legislation.
Strategy and Action plan for its implementation prepared by EU experts
Development of Draft amendments/new legislation for the administrative justice in line with the new concept.

Project 2. Restructuring the system of the administrative justice in line with the best EU practices
- Recommendations for improvement of the Bulgarian administrative justice (in organizational terms, having in mind the instance court proceedings, eventual separation of the administrative judicial procedure from the general judicial proceedings on penal and civil matters) on the basis of analysis made by UNDP experts.
- Creation of conception of the Bulgarian administrative law procedure.
- Creation of draft legislative amendments or new legislation on administrative judicial proceedings in line with the changed organization and instance procedures.
- Establishment of new administrative structures in view of the separation of the administrative judicial procedure from the general judicial proceedings on penal and civil matters.
Sub project 3. Training of judges and prosecutors in connection with the new system of administrative procedure

- Conduct of needs analysis on the training on Administrative law;

Development of training programmes and curricula on Administrative Law *

- Provision of pilot training for 35 judges and 15 prosecutors from Supreme Administrative Court and Supreme Administrative Prosecutors’ Office, District Courts and Regional Courts, according to developed plan for training in the field of Administrative Law.

- Provision of pilot training for the court administrative secretaries, trained according to the new amendments in legislature in the field of Administrative Law /the new procedures and court structures/ in view of fast and effective execution of their functions.

* The training planned in Sub project 3 will be conducted at the National Institution for Professional Qualification that will be established as an independent public body in 2002 in accordance with the amendments in the Judicial System Act. The training programmes on Administrative Law will be incorporated in the general training curriculum developed under PHARE’2001 Project – ‘System for career development and professional qualification of magistrates and clerical staff in the judiciary”.

The accomplishment of the activities included in Sub project 1 and Sub project 2 is the compulsory prerequisite for starting the activities set in Sub project 3.

3.4 Lessons learned:

Need for better donor co-ordination, exercised mainly by the beneficiary institution – Council of Ministers, Ministry of Justice, ministry of Interior, Ministry of Finance, National Audit Office.

4. Institutional Framework

4.1. The project will concern the activities of the Ministry of Justice, district and regional courts, as well as the structures of the local administration.

The Supreme Administrative Court will be also actively involved in the implementation of the project. Five departments are set up in the framework of the Court each of them being specialized in particular field of Administrative Law – tax and customs law, social and pension insurance, privatization, termination of public officer’ employment, Competitive law, Refugee law, etc.

Prior to the start of the implementation of the Project the Ministry of Justice in cooperation with Supreme Administrative Court will establish a joint working group /Task Force/ for the actual implementation of the Project in terms of organization of the activities and co-ordination of experts’ recommendations and opinions.

Persons responsible for the Project are:

MINISTRY OF JUSTICE:

Project Leader /Deputy Minister of Justice/
Ilina Stefanova, “European Legal Integration” Directorate, MoJ , tel.: (00359 2) 980 92 29, fax: (00359 2) 981 10 96, e-mail: I_Stefanova@mjeli.government.bg
SUPREME ADMINISTRATIVE COURT:

Svetla Petkova, Deputy Chairman of the Supreme Administrative Court, 18, “Alexander Stamboliiski” Blvd., 1040 Sofia, tel.;(+359 2) 940 43 70; fax: (+359 2) 981 87 51; e mail: SPetkova@sac.government.bg

Cvetanka Tabandjova, Head of department at the Supreme Administrative Court, 18, “Alexander Stamboliiski” Blvd., 1040 Sofia, tel.;(+359 2) 94 04 411; fax: (+359 2) 981 87 51; e mail:ctabandjova@sac.government.bg

Stefka Stoeva, Head of department at the Supreme Administrative Court, 18, “Alexander Stamboliiski” Blvd., 1040 Sofia, tel.;(+359 2) 94 04 310; fax: (+359 2) 981 87 51; e mail:sstoeva@sac.government.bg

Andrei Ikonomov, Head of department at the Supreme Administrative Court, 18, “Alexander Stamboliiski” Blvd., 1040 Sofia, tel.;(+359 2) 94 42 12; fax: (+359 2) 981 87 51; e mail:aikonomov@sac.government.bg

Prof. Kino Lazarov Lecturer on Administrative Law and procedures at Sofia University ‘Kliment Ohridski”

4.2. In order to encourage public-private partnership, Coalition 2000 and the Judicial Reform Initiative (JRI) will be involved with specific tasks in the legislation drafting activities and the organization of public discussions

4.3. UNDP will participate as a partner institution and will carry out the comprehensive review of the Bulgarian administrative legislation and of the Bulgarian system of administrative justice in 2002. Contact person: Maria Zlatareva-Pernishka, Programme Officer, UNDP Bulgaria. (Tel: 96 095 126; Fax: 974 30 89; e-mail address: maria.zlatareva@undp.org)

5. Detailed Budget

Strictly follow the following format.

<table>
<thead>
<tr>
<th>Contracts</th>
<th>Phare Support</th>
<th>Institution Building</th>
<th>Total Phare (=I+IB)</th>
<th>National Cofinancing *</th>
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<td>800 000</td>
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</table>

* In cases of co-financing only
Note: expenditure for equipment should be put under Investment

If the total cost of the project is greater than the amount envisaged in the project fiche, the extra support required will be provided by additional national co-financing. The additional national co-financing will be provided by:

Either allocating extra national funds to conclude a contract with the contractor proposed further to the completion of the procurement process following the Practical Guide to PHARE, ISPA and SPARD Contract Procedures, or

Increasing of the cost of the on-going PHARE financed contract via an addendum.
6. Implementation Arrangements

6.1. Implementing Agency

The beneficiaries of the project are the Ministry of Justice, 1 Slavianska str., Sofia 1040, Bulgaria and Supreme Administrative Court, Sofia, 18, A.Stamboliiski Blvd.

Bulgarian Project Leader will be the Deputy Minister of Justice.

The project will be under the substantive coordination of the Ministry of Justice. The Central Financing and Contracting Unit (CFCU) is the implementing agency to be responsible for tendering, contracting, payments and financial reporting and will work in close co-operation with the beneficiary. The PAO will be the Deputy Minister of Finance.

6.2. Twinning

The project will be implemented through twinning with one or more Member States. In all the twinning projects, the success in delivering a guaranteed result will depend on the coherence of a number of successful inputs, the continuity of those inputs and steady progress.

The twinning will include a Member State Project Leader, who will continue to work in his/her Member State administration but at the same time will conceive, supervise and coordinate the overall thrust of the project. He/She will be complemented by at least one full-time Member State expert -Pre-Accession Advisor (PAA). The PAA will work on a day-to-day basis with the beneficiaries and accompany the implementation of the twinning project. The PAA will not be required to work in Bulgaria in the course of entire duration of the Project. The proposed duration of his/her stay would be up to 18 months.

Required inputs of PAA:

The twinning institution has to be well acquainted with the system of administrative law and procedure and the organisation of the administrative courts. The twinning institution must be closely linked to, or preferably be within the structures of the governmental administration of an EU Member State.

The tasks of the PAA are as follows:

The resident PAA will be responsible for ensuring the delivery of the results of the project, identified in section 3.3. The PAA will be based at the Ministry of Justice in Sofia, though the project may involve frequent field visits throughout Bulgaria.

The PAA should correspond to the following job description:

- Highly qualified lawyer with a long experience in the judicial system
- Experience in the field of Administrative law and procedure
- Working experience with structures/organizations for management and development of the judicial system will be a plus
- Knowledge about the Bulgarian judicial system will be a plus.
- Excellent expertise and analytic skills.
- Fluency in English and French.
- Computer literate
- High communication skills

Short- and medium-term experts

Areas not directly covered by the PAA should be taken over by short-term experts with special regard to:
- Advise in matters of drafting and codifying of legislation
- Methodological support in evaluation and analysis of data
- Implementation of training programmes

The concrete assignments and further topics will be a subject to the preparation of the Twinning Covenant and the recommendations.)
6.3. Contracts
There will be a Covenant of a total value of 0.8 M €.

6.4. The non-standard aspects of the project will be managed under DIS rules.

7. Implementation Schedule

<table>
<thead>
<tr>
<th>Event</th>
<th>Time Period</th>
</tr>
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<tbody>
<tr>
<td>Twinning selection round</td>
<td>September 2002</td>
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<tr>
<td>Start of drafting the Twinning Covenant</td>
<td>4 Q 2002</td>
</tr>
<tr>
<td>Start of project activity</td>
<td>1Q-2Q 2003</td>
</tr>
<tr>
<td>Project Completion</td>
<td>1Q-2Q 2005</td>
</tr>
</tbody>
</table>

8. Equal Opportunity
The dimension of equal opportunity and gender equality will be integrated into all levels of the project. This will establish a suitable foundation for mainstream gender equality in the future. It will be included in the Terms of Reference of the project as a joint responsibility of the Contractor, and the beneficiary institutions.

9. Environment: N/A
10. Rates of return : N/A
11. Investment criteria: N/A

12. Conditionality and sequencing
The project provides support to the National Anti-Corruption Strategy. The implementation of the project will help to accomplish the goals set in the Accession Partnership and the NPAA, and thus the recommendations contained in the Regular Report of the European Commission will be fulfilled. Before the implementation of the project starts, the task and obligations of all participating institutions will be defined. They will be clearly formulated immediately after the approval of the project and before its start. The Ministry of Justice will set up a Task Force for the management of the Project.

The work on the project will be done in the conditions of maximum co-operation on part of the Bulgarian institutions.

In cases of delay of project implementation, the reasons for this will be analyzed and the necessary measures to overcome the delay will be taken.

ANNEXES TO PROJECT FICHE

1. Logical framework matrix in standard format (compulsory)
2. Detailed implementation chart (compulsory)
3. Contracting and disbursement schedule by quarter for full duration of programme (including disbursement period) (compulsory)
4. Reference to feasibility / pre-feasibility studies. For all investment projects, the executive summary of the economic and financial appraisals, and the environmental impact assessment should be attached (compulsory)
5. List of relevant Laws and Regulations (optional)
6. Reference to relevant Government Strategic plans and studies (may include Institution Development Plan, Business plans, Sector studies etc) (optional)
LOGRAME PLANNING MATRIX

<table>
<thead>
<tr>
<th>Overall objective</th>
<th>Objectively verifiable indicators</th>
<th>Sources of Verification</th>
</tr>
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<tbody>
<tr>
<td>• Improvements of the legal and organisational framework of the administrative justice in order efficiently to prevent corruption</td>
<td>• Approximation of Bulgarian legislation to the European Union standards</td>
<td>• Progress reports</td>
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<td>• EC report on the judiciary</td>
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<td>• Reports from NGO’s experts</td>
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<tr>
<td>Project purpose</td>
<td>Objectively verifiable indicators</td>
<td>Sources of Verification</td>
</tr>
<tr>
<td>• Introduction of a modern system of administrative legislation and establishment of efficient mechanisms for external judicial control over the work of the public administration.</td>
<td>• Proposals for amendment of administrative legislation</td>
<td>• Progress reports on NPAA</td>
</tr>
<tr>
<td>• Provision of effective service to citizens and companies by the public administration and to reinforce their rights effectively to prevent their interest in the interaction with the administration.</td>
<td>• Procedures and regulations amended and implemented</td>
<td>• EC report on the judiciary</td>
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<td>• Approved regulation on the new system of administrative justice</td>
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</tbody>
</table>
**Results**

- Modern system of administrative legislation in line with the best EU practices – the amendments are orientated to increasing the anti-corruption effect of the newly adopted laws like the Law on Administrative Procedure, Law on Administrative Infringements And Sanctions, Law on the Supreme Administrative Court, Civil Procedure Code, Civil Servants Law, Code of ethics of the civil servants, etc.
- Unified, synchronized and systematized administrative legislation and procedure would be achieved
- Due to the new simplified procedures the effective service to citizens and companies by the public administration will be guaranteed
- Efficient mechanisms for external judicial control over the work of the public administration in the view of prevention and prosecution of corruption acts. Independent control and possible repeal of administrative decisions strengthens the rule of law and makes the administration accountable for its decisions.
- Affordable access to justice, accelerated procedure for defence of citizens’ rights infringed by public administration officers,
- Aligning the system of the Bulgarian administrative procedural legislation with the best practices of the EU.
- Streaming the decentralization of the administrative judiciary in order to achieve better preventive mechanisms against corruption.

**Objectively verifiable indicators**

- Separation of the administrative judicial procedure from the general judicial proceedings
- Training strategy developed
- Curricula for training prepared
- Conduction of pilot training for judges and prosecutors

**Sources of Verification**

- Evaluation reports
- Public surveys
- Reports and analysis on the human resource management in the judiciary
- Reports on the implementation of National Anti-Corruption Strategy.
### Activities:

#### Project 1 Aligning the system of the Bulgarian administrative legislation with the best practices of the EU
- Comprehensive analysis of the Bulgarian administrative legislation
- Recommendations for improvement and aligning the Bulgarian administrative legislation with the EU best practices.
- Creation of a new concept of the Bulgarian administrative legislation.
- Development of Draft amendments/new legislation

#### Project 2. Restructuring the system of the administrative justice in line with the best EU practices
- Recommendations for improvement of the Bulgarian administrative justice (in organizational terms, having in mind the instance court proceedings, eventual separation of the administrative judicial procedure from the general judicial proceedings on penal and civil matters) on the basis of analysis made by UNDP experts.
- Creation of conception of the Bulgarian administrative law procedure.
- Creation of draft legislative amendments or new legislation on administrative judicial proceedings in line with the changed organization and instance procedures.
- Establishment of new administrative structures in view of the separation of the administrative judicial procedure from the general judicial proceedings on penal and civil matters.

#### Sub project 3. Training of judges and prosecutors in connection with the new system of administrative procedure
- Conduct of needs analysis on the training on Administrative law;
- Development of training programmes and curricula on Administrative Law *
- Provision of pilot training for 35 judges and 15 prosecutors from Supreme Administrative Court and Supreme Administrative Prosecutors’ Office, District Courts and Regional Courts, according to developed plan for training in the field of Administrative Law.
- Provision of pilot training for the court administrative secretaries, trained according to the new amendments in legislature in the field of Administrative Law /the new procedures and court structures/ in view of fast and effective execution of their functions.

### Means:
- Selection of a Twinning partner and signing of the Twinning Covenant
- Appointment of PAA
- Obtaining EU experts’ assistance
- Conduction of magistrates’ training in connection with the new system of administrative procedure
## ANNEX 2: DETAILED IMPLEMENTATION CHART

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## ANNEX 3: CUMULATIVE CONTRACTING AND DISBURSEMENT SCHEDULE

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