Standard Summary Project Fiche

Project number: TR 05 01.05

1. Basic Information

1.1 CRIS Number (Year 1):

1.2 Title: An Independent Police Complaints Commission & Complaints system for the Turkish National Police and Gendarmerie

1.3 Sector: Justice and Home Affairs

1.4 Location: Turkey

1.5 Duration: maximum 27 months (24 months for implementation of activities and RTA)

2. Objectives

2.1 Overall Objective

To enhance the accountability, efficiency, effectiveness and public confidence of the Turkish National Police, Gendarmerie and other law enforcement bodies in the discharge of their responsibilities in respect of the enforcement of law in accordance with democratic principles and having regard for the Human Rights of all citizens.

2.2 Project purpose

The complete preparation of a legislative framework for the establishment of a new complaints system for the Turkish National Police and Gendarmerie.

The achievement of this purpose can be objectively verified by the anticipated agreement of the MOI with proposed conceptual and institutional framework in the 1st quarter of 2007. Moreover, the legislative framework is anticipated to be completed by the third quarter of 2007.

In order to substantially contribute to the achievement of the overall objective, a 2nd phase is anticipated which will focus specifically on the implementation and enforcement of the related legislation. This second phase of the project will be conditional to the approval of the Turkish National Parliament of the legislation related to the National Police Complaints System foreseen before the end of 2007. In this context, a further application for financial support from the EC is anticipated for the NP 2007.

2.3 Accession Partnership and NPAA priority
The revised Accession Partnership identifies the following priority areas that are of relevance for this programme:

**Short-term priority under Justice and Home Affairs (JHA):**

Further develop and strengthen all relevant institutions, with a view in particular to ensuring the accountability of the law enforcement bodies, and improve cooperation between them, including the judiciary.

**Short-term priority under political criteria:**

Implement measures to fight against torture and ill-treatment by law enforcement officials, in line with Article 3 of the European Convention on Human Rights and the recommendations of the European Committee for the Prevention of Torture. Extend the training of law enforcement officials on human rights issues and modern investigation techniques, in particular as regards the fight against torture and ill-treatment, in order to prevent human rights violations.

**Medium-term priority under Justice and Home Affairs:**

Strengthen efforts to develop sustainable training programmes on the acquis and its implementation in the field of JHA also with a view to increasing administrative capacity and improving inter-agency co-operation.

Also the NPAA identifies a number of key issues that need to be addressed or considered in the development of institutions and the assimilation of European Legislation in line with the accession process:

**Political Criteria -** The Turkish Government will speed up the ongoing work on political, administrative and judicial reforms. The goal is to strengthen, on the basis of EU standards, the promotion of freedom, provide for a more participatory democracy with additional safeguards and enhance the rule of law. The Turkish Government will closely monitor progress in the area of Human Rights, democracy and the rule of law.

Modern investigation techniques and medical monitoring systems to prevent maltreatment and human rights violations will be implemented effectively.

The ongoing human rights training of public officials, especially members of the judiciary and law enforcement officials, will be expanded, and training programs designed to raise awareness on ECHR and ECtHR case law, as well as EC law, will be developed further.

**In addition** – legal and administrative measures will be introduced in the short or medium term regarding individual rights and freedoms, pre-trial detention, training of law-enforcement personnel and other civil servants.

Train law enforcement personnel on human rights over a period of 7 years, within the framework of a project developed in light of the 1997-2000 Police and Human Rights Programme of the Council of Europe.
Justice and Home Affairs – work on administrative reform in the field of justice and home affairs will be accelerated. Work will be undertaken to harmonise the legislation and practices with the EU acquis. Police units responsible for statement taking and detention will be standardised. International cooperation is necessary for training programmes and information exchanges on matters of public security in general. Training and assistance will be sought on the reorganisation of the Turkish National Police.

Administrative capacity and co-operation between different law-enforcement bodies will be enhanced and international cooperation in these fields will be intensified.

2.4 Contribution to National Development Plan

N.A.

2.5 Cross Border impact

N.A.

3. Description

3.1 Background/Justification

In the course of progress towards accession to the European Union, the Turkish National Police, as with many other institutions of the country, is engaged in efforts to review its structures, operation and performance of tasks. However the objective of the process of law approximation is to not only implement the relevant amendments to existing legislation but as importantly, to strengthen those institutions responsible for the enforcement or implementation of the new procedures. This process of ‘Institution building and Reform’ in order to enhance administrative capacity, is seen as crucial in ensuring that Turkey is successful in the transition to the standards, norms, expectations and obligations of similar EU Member State administrations.

There is an increasing tendency in the current EU Member States to establish fully independent mechanisms to investigate police misconduct; Ireland and the UK have both recently set up such mechanisms. This tendency is a response to the judgments of the European Court of Human Rights (ECtHR).

In the negotiations with the other candidate countries, the European Commission has raised this issue repeatedly and the candidate countries have responded by taking steps to increase the effectiveness of their mechanisms to investigate police misconduct.

The ECtHR has stated very often that investigations into allegations of police misconduct must be "effective". The ECtHR has stated repeatedly that:

"Where an individual raises an arguable claim that he has been seriously ill-treated by the police or other such agents of the State unlawfully and in breach of Art. 3, that provision, read in conjunction with Art 1, requires by implication that there should be an effective
official investigation. This investigation should be capable of leading to the identification and punishment of those responsible”. (Assenov v Bulgaria, para 102). This has been repeated in many cases, often ones concerning Turkey. Council of Europe Member States are increasingly taking the view that the only way to meet the standards set by the Court is to have a fully independent system to investigate complaints against the police.

The European Code of Police Ethics, which Turkey has signed, provides (para 61):

“Public authorities shall ensure effective and impartial procedures for complaints against the police.”

The Council of Europe High Commissioner also drew attention to this issue in his report of 2003 on Turkey. Paragraph 146 noted:

“The victims of violations of human rights committed by the Turkish security forces have complained to the Court of problems encountered in having their complaints properly looked into by investigators who were impartial and independent vis-à-vis the presumed offenders. For various reasons, members of the security forces who had committed offences had until then seldom been convicted by the Turkish authorities and the few trials there had been resulted in light sentences that were often transformed into fines or not enforced.”

There are also many judgments against Turkey by the ECtHR confirming that its current investigation procedures do not comply with Article 1 and 3 of the Convention.

Taking all the above into account, Turkish authorities believe that a programme for the establishment of an independent complaints system can be part of the 2005 EU financial package for Turkey. Such a system shall cover to begin with the main two law enforcement bodies in Turkey, namely the Police and Gendarmerie.

Apart from the specific duties of the Coast Guard, Turkey has two national law enforcement bodies, one with a civilian status, the Turkish National Police, the other with a military status, the General Command of the Gendarmerie. This dual policing system is quite similar to those of some EU Member States, such as France, Italy and Spain.

**Turkish National Police (TNP)**

With its approximately 190,000 personnel and being nationally organised, The Turkish National Police (TNP) are one of the biggest institutions in Turkey. Serving two thirds of the population of the country, the organisation is affiliated to the Ministry of Interior, and it functions within the municipal boundaries of all cities and towns of the country, leaving rural regions to the responsibility of the Gendarmerie. With a history of 158 years actually, the “Turkish Police Organisation” as it is known today was established in 1945.

The TNP has the responsibilities of an ordinary law enforcement organisation. The first article of “Police Tasks and Authority Law” states that, “The Police maintains public order, the use and disposal of the possessions of individuals and inviolability of domicile. They ensure the preservation of life, property and public tranquillity. They should assist anyone who asks for help, children and the handicapped.”
The Turkish Police have a highly centralised structure. At the top of the structure, there is the Ministry of Interior with the highest authority. The General Director of Security, head of the police organisation, is appointed by and accountable to the Minister of Interior. Under the control of the National Headquarters and in harmony with national territorial divisions, there are 81 provinces. A four-star director (police chief) heads each of these provinces. Each province, in turn, has sub-divisions in districts and small towns. Local police stations in the districts are the lowest level in the structure. More than 190,000 police officers, spread all over the country, make up the national police force.

In the course of progress towards accession in the European Union, the Turkish National Police as many other institutions of the country is engaged in efforts to review its structures, functioning and its performance of its tasks. At the same time as Turkish society becomes more informed at all levels, its expectations of the police along with other public services are increasing. Amongst other things, it requires not only that the police carry out their primary functions, but also that they do so with greater sensitivity and understanding, respecting democracy and human rights for all citizens.

In creating a police organisation respectful for democratic principles and human rights, three aspects need be taken into account:

1. Police have to carry out their function within the law to which they themselves are subject
2. Those chosen to exercise the power and authority of police officials are carefully selected for their human qualities, properly trained to perform their difficult duties in an ethically correct manner; and crucially
3. To be led and directed by persons with high ethical standards.

In cases where such criteria cannot be maintained, measures have to be available to maintain correct standards by the imposition of disciplinary regulations, having regard to the human rights of malefactors, if necessary to be followed by such internal reforms necessary to reduce repetition.¹

The main problems regarding police services and organisation that have been identified in Turkey can be grouped under three main headings:

1. Quality of police services to the public and respect for humans rights in the discharge of police tasks, in particular detention conditions of detainees,
2. Pre-service and in-service training,
3. Personnel system including promotions and appointments.

The Turkish National Police have been going through a continuous restructuring and reorganisation for a decade or so. Many new departments and training facilities have been set up. Many legislative changes have been adopted regarding procedures, operations and even the responsibility areas of the police. To some extent this has been the result of an intensive on-going public discussion on police practices and use of power by the police, especially in respect of human rights. Moreover, the need for intensified international cooperation has brought about many new needs and, at the same time, means to address these needs. Thus, the Turkish National Police have been long involved in efforts to reorganise

and improve its services and performance and wishes to bring sporadic, disconcerted efforts into a comprehensive, strategic framework.

The Turkish National Police have already started to restructure the local police facilities with a view to improve police services on the one hand and to make better use of financial and human resources on the other hand. This process is intended to rationalise small police stations in to larger and more comprehensive facilities. This will produce community police facilities, which contain all of the services required by the public. As a result, it is believed that there will be a considerable saving in police time, building maintenance and services, a more efficient service for the public. The saving of police time will directly lead to higher levels of police patrolling. Currently, while small police stations are being closed down, there are no guidelines available on the functioning of the larger facilities. Accordingly, there is a need for a model and guidelines on establishing the facilities to be able to provide expected quality of service.

Similarly, the issue of pre-trial detention in police custody continues to be an area of concern, in particular with regard to prevention of torture and mistreatment. Although there have been legislative improvements in this area, some problems need to be addressed in practice. The Turkish National Police is in need of establishing a set of standards for the protection of human rights for detainees in community police facilities, for the proper collection and protection of evidence from detained persons, witnesses, victims and crime scenes (the latter is part of 2003 Police Forensic Capacity Project) and for the design of facilities for the detention of suspected persons (as design of facilities for the interview of suspected persons is foreseen in the 2002 Statement Taking Project, this specific activity will be complementary to that project).

The Gendarmerie

With its approximately 270.000 personnel and being nationally organised, the Turkish Gendarmerie is a military organisation established in 1839, which carries out law enforcement in the rural areas of Turkey. The Gendarmerie covers 92 % of the territory and serves one third of the population (27-M inhabitants), except during summer when the tourist flow raises the population in the Gendarmerie area of responsibility to 44-M people. In fact, besides the delineation of the respective areas of responsibility between the Police and the Gendarmerie, which concern public security matters, the latter can operate on the whole territory, in particular when investigating criminal cases.

With respect to administrative management, the Turkish Republic comprises 81 provinces divided into numerous districts. Throughout Turkey, there are a total of 923 districts and 36.654 villages.

The organisation is connected to the Armed Forces General Staff in terms of its military functions, organisation, budget, personnel and training, but affiliated to the Ministry of Interior in terms of its law enforcement functions. The Gendarmerie employs conscripts, who make up 80 % of its manpower, and perform a 15-month tour of duty.

The Gendarmerie is assigned its duties primarily by its organisational law (n° 2803), but also approximately 500 laws and regulations govern its responsibilities and tasks. As far as law enforcement is concerned, the duties of the Gendarmerie can be grouped under three main headings: administrative duties, comprising preventive law enforcement measures -
judicial duties, comprising procedures carried out after a crime is committed - and other duties (military defence, procedures on behalf of almost every ministry).

The Gendarmerie is responsible to administrative authorities (governors and district governors) in the performance of preventive law enforcement duties, and to public prosecutors in the performance of their judicial tasks, i.e. once a crime is committed.

In each province of Turkey, there is a Provincial Gendarmerie Command, subdivided in several District Gendarmerie Commands and various specialised units, such as: facility guard units, prison guard units, commando units, special operation units, service support units, crime scene investigation teams and traffic teams.

The provincial commando unit is aimed at dealing with public order disturbance such as demonstrations, or arrest of dangerous malefactors.

Each Gendarmerie district comprises several territorial Gendarmerie stations and 273 also comprise a crime scene investigation unit.

According to the feature of the province, the provincial Gendarmerie command can also comprise motorcycled public order teams, highway security teams, mountain search and rescue teams, public order boat teams, narcotics and sniffer dog teams, mountain units, juvenile delinquency prevention centres, environmental protection teams and natural life protection teams.

Throughout Turkey the protection of zones surrounding airports, TV transmitters and relay stations which belong to TRT, dams and hydroelectric dams, refineries, oil production zones, storing facilities, natural gas and oil pipelines is carried out by the Gendarmerie. For the performance of this task, the Gendarmerie commits the equivalent of 5,000 full time personnel.

At present, the General Command of the Gendarmerie ensures border security along the Iraqi border (397 km.) and 127 km of the Iranian border. The security of the remaining land borders is under the responsibility of the Land Forces Command. For the protection of those two sensitive borders, the Gendarmerie commits 5 regiments, 9 battalions and 39 companies, which represent a total manpower of 11,773 personnel (1345 professionals and 10,428 conscripts).

**Survey and analysis of the handling of all conduct issues**

**Current system**

The current police complaint system in Turkey applies to both the Turkish National Police (TNP) and the Gendarmerie.

Complaints about the police and Gendarmerie can be made to a number of different official government offices, namely:

- The Interior Minister’s office
- The General Directorate of Police
- The provincial governor and sub governor’s offices
The office of the chief of police in the province and sub provinces
- Direct to the law courts and;
- (in the case of the Gendarmerie) to the JIHIDEM.

Complaints are also received at the Human Rights Presidency under the Prime Ministry and local Human Rights Boards found in each province and district, which work affiliated to the Human Rights Presidency. Apart from government bodies, non-government organisations (NGOs) such as the Human Rights Association and Human Right Foundation also receive and register complaints.

**Investigation of complaints**

The nature and quality of complaint investigation appears to depend largely on where and to whom the complaint is made.

The Gendarmerie has established an internal complaints handling bureau (JIHIDEM) dealing with allegations against its officers, including conducting the investigation. The Turkish National Police will need to ensure that it has similar arrangements for the receipt, handling and investigation of complaints.

The Interior Ministry has its own inspectors who are responsible for conducting inspections into a broad range of issues in a province including policing matters. They are also called upon to conduct investigations into complaints at the request of the minister.

The Human Rights Presidency also receives and investigates complaints relating to human rights violations. There is limited capacity and expertise within the Presidency to conduct such investigations.

The current system does not provide a national mechanism for the collection, collation, analysis and publishing of complaints data. It follows that there is no uniformity in the handling and investigation of complaints against the Police and Gendarmerie and therefore little opportunity to use such information to increase the efficiency, effectiveness, development and accountability of the Police/Gendarmerie.

It is therefore intention of this project that the first stage would involve a detailed analysis of the current complaint and conduct system of the Police and Gendarmerie to fully explore the current strengths and weaknesses of the system.

In addition it will be both necessary and desirable to conduct a feasibility study into the potential for having professionally trained, independent investigators with appropriate powers as part of any new system.

### 3.2 Sectoral Rationale

Although this project aims to introduce an efficient and independent framework to deal with police misconduct in general, which will ensure public confidence, its starting point is to support the Turkish government in its zero policy against torture and ill-treatment.

Most of the legislative and administrative framework required to combat torture and ill-treatment has been in place since 2002, when the government declared its intention to
pursue a zero-tolerance policy against torture. In accordance with various legislative amendments, pre-trial detention procedures have been aligned with European standards; sentences for torture and ill-treatment can no longer be suspended or converted into fines; and the requirement to obtain permission from superiors to open investigations against public officials has been lifted. Although many of the recommendations of the Council of Europe’s Committee for the Prevention of Torture and Ill-Treatment (CPT) and the relevant UN bodies have been acted upon, there is still need to pursue vigorously efforts to combat torture and other forms of ill-treatment by law enforcement officials.

The Regular Report 2004 states that despite the government’s policy of zero tolerance in the fight against torture, some practices still remain and that the Turkish authorities could tackle this problem through the establishment of a system of independent monitoring of detention facilities in line with the recommendations of the CPT and the UN:

3.3 Results

The mandatory results to be achieved by this project are threefold, i.e.:

(1) Conceptual and institutional framework for a new complaints system for Police and Gendarmerie developed on the basis of public consultation and adopted by the government;
(2) Legislative framework prepared for the establishment of an Independent Complaints Commission; and
(3) Human resources programme (including training programme) and equipment needs related to the establishment of the National Complaints Commission identified as input for a mature draft project fiche under the 2007 programme.

3.4 Activities

The key activities to take place throughout this project are the following:

Prepare a consultation document and conduct public/stakeholder consultation

It is important that any new complaint system enjoys the confidence of both the public and the Police/Gendarmerie.

In order to fully consult and take account of the views of the public, Turkish National Police, Gendarmerie and other key stakeholders, a consultation document will be prepared setting out the aims and objectives of any new proposed system and invite comments on those proposals. This is seen as a crucial step in considering the reform of the present arrangements.

At the same time, an assessment on the scope and dimensions of the existing complaints system and institutional capacity as well as a feasibility study into the potential for having professionally trained, independent investigators with appropriate powers as part of any new system will be carried out.
It is important that the consultation document sets out the key principles that will underpin any new complaints system. These principles are set out below:

**Human Rights**
- That the articles contained in the European Convention on Human Rights are enshrined within any complaints system.

**Independence**
- That any new complaints body with oversight of the police complaints system must be independent and be given sufficient powers in order to secure both public and police confidence.
- That there is the ability to conduct independent investigations into cases where Article 2 is engaged. Article 2 of the European Convention on Human Rights provides that everyone’s right to life shall be protected by law. It provides a procedural obligation to ensure that there is an adequate and effective investigation into deaths, which are alleged to have arisen from the use of lethal force by State agents, or from the State’s negligent failure to protect the lives of persons for whom it is responsible. For an investigation to be effective, it is generally necessary for the persons ‘responsible for and carrying out the investigation to be independent from those implicated in the events…This means not only a lack of hierarchical or institutional connection but also a practical independence.’

**Fairness**
- The system must be demonstrably fair to both complainants and to officers complained against.

**Accessibility**
- The complaints system must be freely accessible to all.

**Transparency**
- The system needs to be clearly understood and communicated in such a way that all persons involved in the process understand.

**Openness**
- The system must uphold complainants’, police officers and the public’s right to information.

**Accountability**
- The system must ensure that Police officers/Gendarmerie are accountable for their actions.

**Timeliness**
- Complaints should be dealt with in a timely manner.

**Preventative measures**
- That there are mechanisms in place to identify any lessons that can be learned from complaints and conduct matters, thereby helping to improve the efficiency and effectiveness of policing and increase public confidence.

**Collate and assimilate returns and prepare policy proposals for ministerial approval**

The collation and assimilation of submissions received as part of the consultation process is an important part in understanding the views of the public and other stakeholders and will help to inform any policy proposals for ministerial approval.

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2 Article 2 European Convention on Human Rights
3 (para 20(7) R (Amin) v Secretary of State for the Home Department UK [2003] 3 WLR 1169
Any such proposals will need to consider a number of strategic issues that could impact on the effectiveness of the new system. These issues will include:

**Complaint data**

There is an intention to ensure that all complaints data is collected, collated, analysed and published by means of a central reporting system in order to that this information is available to assist in improving the efficiency and effectiveness of policing and increase public confidence.

**Code of Professional Standards**

There is a need to develop a code of professional standards based on the European Code of Police Ethics\(^4\), that will clearly set out the standards of conduct and values expected of both the police and Gendarmerie in a modern democratic society.\(^5\)

The code will act as the foundations upon which a modern police complaints system can be built and will clearly set out the standards that the public can expect from its police service.

**Professional Standards Departments**

The Gendarmerie has already established the JIHIDEM for the handling and investigation of complaints against their officers.

If a new complaints system is to be effective, similar arrangements will need to be in place within the Turkish National Police to ensure that there is a standardised approach to the handling and investigation of complaints.

**Disciplinary arrangements**

The policy proposals will consider the interdependencies between any new complaints system and the disciplinary arrangements of both the Police and Gendarmerie.

**Conduct matters**

There will be proposals for dealing with issues of conduct of police officers where no complaint has been made, yet the conduct of the officer(s) requires scrutiny. Examples include cases where the conduct was witnessed and reported by another police officer or in cases such as a death in police custody.

**Judicial system**

This project will provide the opportunity to examine what role the judicial system should play in the complaints process. Whilst criminal matters will still be submitted to the Public Prosecutor for decisions on criminal prosecutions, it may be timely to examine whether it

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\(^5\) Within the framework of the EU Project TR 0301.01 “Strengthening the Accountability, Efficiency and Effectiveness of the Police”, it is planned to work on this issue.
is appropriate for complainants to have access to the courts before having their complaint considered and investigated.

It is not intended to prevent the public from seeking redress through the civil courts.

Scope of complaints system

The policy proposals will consider the scope of any new complaints system.

The complaints system will apply to both the Turkish National Police and the Gendarmerie and will apply to all officers irrespective of rank.

However, consideration will be given to the appropriateness of widening the scope of the complaints system, to include other law enforcement organisations that exercise police powers.

Prepare framework document

The participation of stakeholders and the general public in the public consultation for a new police complaints system entitles them to information on the outcome. The purpose of the framework document, therefore, is to inform people of emerging government policy for a new police complaints system; it will:

set out the emerging framework for a new complaints procedure in the light of the consultation exercise; and

provide some explanation of how the framework was developed.

The framework document will also set out the objectives for the new complaints system. These are likely to include:

increased public confidence and trust in the police and in the complaints system as a whole;
increased accessibility, openness and independence;
quicker resolution of complaints;
improved communications with complainants;
improved collection, collation and reporting of data.

It is intended to have an independent body which will oversee the new complaints system in operation and will be the guardian of the system. This body may be an existing body which will be given new powers, duties, functions and responsibilities or it may be a completely new body with full powers to operate effectively. In either event, it is intended that the independent body to be a corporate body comprising members who will be public appointees drawn from any background other than the Police or the Gendarmerie. Such appointees will be leaders in their field and will be sensitive to human rights and diversity issues. The independent body should develop a system within a statutory framework in which all sections of the community, and the police services (including Police and Gendarmerie; the word Police refers to both the Police and Gendarmerie hereafter), can have confidence.
The framework document will contain some details of the new complaints system and the independent body, including:

Definition of a complaint
Access to the complaints system
Recording a complaint
Investigations
Local resolution as an alternative to full investigation
Appeals
Intervention in the disciplinary process
Direction and control

Definition of a Complaint

The definition will make clear that the system will be to handle complaints about the inappropriate conduct of a police officer, no matter what the rank of the officer might be, or any other person who is working with the police. It will also explain that inappropriate conduct will be dealt with even if there is no complaint. A police officer should not be able to escape investigation of his misconduct because there is no 'victim' or if the victim in the incident does not want to be involved, fears retribution or cannot be located. The definition will also make clear who will have a right to make a complaint.

Access to the Complaints System

It is important that the public has trust and confidence in the police and, therefore, the complaints system should be as accessible as possible to prospective complainants. Complainants may feel intimidated or threatened by entering a police station or speaking to a police officer and, therefore, the public must have a choice of where and how to make complaints. The framework document will give an indication of possible gateways into the complaints system.

Recording a Complaint

Subject to the seriousness of the alleged conduct and the likely public interest, a complaint should be handled as near to the source as possible; this means by the provincial Police service or Gendarmerie, as the case may be. Furthermore, a provincial Police service or Gendarmerie should be responsible for the collection of all data concerning complaints and other conduct matters. For these reasons, all complaints and other conduct matters should be passed from whatever gateway they are made to the appropriate Police or Gendarmerie authority for formal recording of the complaints and other conduct matters. To do otherwise would complicate and lengthen what would be a routine process. All this is subject to the public consultation but, in any event, the framework document will contain details of how and to whom a complaint should be made.

Investigations

Many complaints and conduct matters will need to be fully and effectively investigated and they must be carried out by properly trained investigators who have all the appropriate powers. The framework document will include details of the types of cases which should
be investigated and who should carry out the investigations. It is expected that the Police and Gendarmerie will carry out most of the investigations and they should have units within each province dedicated to the handling of all professional standards matters.

However, the independent body will also have an investigative function, independent from the police services, which will be used for the most serious complaints and conduct matters or those which are likely to attract the greatest public interest. The Police and Gendarmerie will refer certain cases to the independent body and the independent body will determine from those the cases it will investigate, the cases in which it will intervene in other ways and the cases it will refer back for a local investigation.

The cases to be referred to the independent body will be those:
falling into specified categories, whether or not a complaint has been made;
called in by the independent body because it may have particular concerns about them; and voluntarily referred by the Police or Gendarmerie because they may have particular concerns about them.

The specified categories of cases for mandatory referral to the independent body will be open to consultation but it is expected that these will include:
deaths in police care or custody;
fatal road traffic incidents in which a police vehicle is involved;
shooting incidents in which a police officer discharges a firearm in the course of a police operation and someone is killed or seriously injured;
allegations of serious corruption involving police officers;
miscarriages of justice resulting allegedly from misconduct by a police officer;
serious arrestable offences allegedly committed by a police officer; and
allegations that serious injury to a member of the public has been caused by a police officer.

Local Resolution as an Alternative to Full Investigation

It is important not to lose touch with proportionality and because a large majority of complaints will be of a minor nature and will not need a full investigation, a speedy and understandable process to resolve such complaints at local level will be needed.

The new independent body will develop processes for local resolution and will take account of the views expressed during the consultation. It will be the guardian of the use of local resolution by monitoring and audit. The new independent body will be expected to monitor the application of local resolution to ensure that processes are used in accordance with the law and its own guidance and that the concerns of the complainant are always properly addressed.

Appeals

A complaint or conduct matter should be handled as near to the source as possible and, therefore, it is expected that the majority of cases will be handled in the provinces at local level. However, in order to ensure that public confidence in the whole system is maintained, safeguards in the form of certain rights to appeal to the independent body on
parts of the complaints system in which the independent body did not participate should be available. The framework document will contain details of these appeal rights.

**Intervention in the Disciplinary Process**

Discipline is an internal management matter for the Police or Gendarmerie, as the case may be, but the government will consider from the public response if there ought to be some form of intervention by the independent body and if there ought to be certain rights for the complainant. The matters which will be exposed to stakeholders and public opinion will include:

- power for the independent body to recommend or, if necessary, direct that an officer should answer specific disciplinary charges;
- discretionary powers for the independent body to observe disciplinary hearings or to present the case against the officer concerned in a case where it had carried out the investigation;
- right for a complainant to attend all or part of a disciplinary hearing and to be accompanied by certain other persons of their choice; and
- right for a complainant to put through the presiding officer any questions to those giving evidence.

**Direction and Control**

Direction and control of a police force is taken to be the legitimate operational responsibility and discretion that is held by a chief officer. Therefore, a complaint that relates to the direction and control of a force by a chief officer is one that relates to:

- operational policing policies
- organisational decisions
- general policing standards in the force
- operational management decisions (where there is no issue of conduct)

However, since any person serving under the chief officer can operate by way of a formal delegated authority from the chief officer, either directly or indirectly, direction and control of a police force should be taken to include the direction and control by anyone with delegated authority.

A member of the public is entitled to ask questions about the way in which policing is delivered locally and if dissatisfied to complain about that service.

Although handling complaints about misconduct is the main concern, it should be recognised that conduct of an officer relating to the direction and control of a force by a chief officer (that is, where an officer is following explicit orders), can be perceived as misconduct by the public. It should also be recognised that complaints about such matters can often be significant and, whilst rightly relating to the operational discretion of the Chief Officer, they do require meaningful and timely responses. This is part of a chief officer’s duty to the community he serves.

Therefore, where police conduct arising from the direction and control of a force leads to public concern, a mechanism is needed to deal with complaints against such conduct. Such
a mechanism can be either as part of or separate from the procedure for handling complaints against police misconduct.

**Prepare legislation and its introduction**

The new complaints system will have to be enshrined in legislation and may be supported by the issuing of guidance to further aid the operation and understanding of the system.

Thus, on the basis of the above framework document legislation, which shall govern the work of the new Independent Complaints Commission and the new system, will be prepared. This legislation will consist of the following:

- Primary legislation for the establishment and tasks of the Independent Complaints Commission
- Secondary legislation such as regulations on the operation of the Complaints Commission and how complaints can be referred to the Commission, local resolution of complaints, power of the Commission over investigations, appeals to the Commission, appointment of persons to carry out an investigation, keeping of records, manner and time limits of notifications, etc.
- Secondary legislation as to introduce amendments to the existing laws governing the Police and the Gendarmerie and other relevant laws in line with the new complaints system
- Preparation of further guidance materials related to the operation and understanding of the system

Following the preparation of the relevant legislation and guidance material, with assistance and support of the twinning partners, necessary measures will have to be taken for its adoption within the lifetime of this project.

**Prepare 2nd phase of the project**

As this project has a duration of two years, the implementation and evaluation of the new system cannot be carried out in this phase. Thus, a follow-up project will be necessary for a second phase.

The implementation of the new system will have to consist of the following:

- Introduction of the new system to Police and Gendarmerie
- Training of police services in new system and of police investigators
- Setting up the new independent body

In the second project, an evaluation of the new system will also have to be carried out on particularly two aspects:

- Operation of new system
- Effectiveness of new body

In order to facilitate the second project focusing on implementation and evaluation, this project will prepare the following:

1) Draft human resources programme (including training programme) for police services on the new system and for training of police investigators
2) Identification and assessment of equipment needs for 2nd phase for the new independent body and police services.
To this end, it is expected that draft project fiches for future EU assistance will also be prepared.

The above will then be taken into consideration for the provision of future EU funds.

### 3.5 Linked activities

Other relevant EU funded projects are:

- **TR 0201.01 - Improvement of Statement Taking Methods and Statement Taking Rooms in the Republic of Turkey:** This twinning project aims at improving and placing statement-taking activity in the process of judicial investigations in the context of a shift towards evidence-based prosecutions, and to strengthen cooperation and coordination regarding judicial investigations between law enforcement institutions. It also goes one step further, in so far as detention conditions of suspects and treatment of detainees are concerned. The project implementation started in July 2004.

- **TR 0301.01 - Strengthening the Accountability, Efficiency and Effectiveness of the Turkish National Police:** The overall objective of the project is to enhance the accountability, efficiency and effectiveness of the Turkish National Police in the discharge of its responsibilities in respect of the enforcement of law in accordance with democratic principles and having regard for the Human Rights of all citizens. Project purpose is the development and implementation of a Corporate Plan for the reorganisation of the service, modern training and personnel systems of the Turkish National Police in line with current EU practices with a view to adopt the current and future EU recommendations in respect of the working conditions and procedures for police personnel. The project implementation started in February 2005.

- **TR 0304.01 – Strengthening the Police Forensic Capacity:** The overall objective is to consolidate a functioning democratic system, including respect for the rule of law through the integration of modern scientific methods into Police investigative practices. Project purpose is to make Turkish National Police capable of:
  - Development and implementation of a policy for a shift towards evidence based prosecutions
  - Supporting investigations by scientific means.

The activities under this project started in January 2005.

- **TR 0404.03 - Enhancement of the professionalism of the Turkish Gendarmerie in its law enforcement activities:** The overall objective of this particular project is to enhance the accountability, efficiency and effectiveness of the Turkish Gendarmerie in its law enforcement activities, in accordance with European Union (EU) policing standards, procedures and best practices. Project purpose is the Development and implementation of an Action Plan for the reorganisation of the law enforcement service of the Gendarmerie, modern training and personnel management in line with current EU practices in the area of professional policing and enhanced criminal investigative capacity. Activities under this project have not started yet.
- TR 0401.01 Implementation of human rights reforms: The main objective of this project is to increase awareness on standards and practices on human rights among all the stakeholders involved in the reform process throughout Turkey, in the context of the negotiations for accession by Turkey to the European Union. Specific objectives are:

a) Increase the knowledge and understanding of all those involved in the implementation of the reform programmes of human rights requirements.

b) Strengthen capacity of all the agencies involved in the programme in implementing sound human rights policies and practices including reinforcement of the regional human rights boards which file and handle complaints.

c) Develop best practice for Police and Gendarmerie units responsible for policies on interrogation, public order control and anti-terrorism measures within accepted human rights standards in co-operation with their European Union counterparts.

d) Build confidence in civil society and the European Union that the objectives of the reform programme are being effectively implemented throughout the country.

The activities under this project have not started yet.

3.6 Lessons learned

At present, police organizations in Europe and throughout the world differ widely in many respects. Still, for the sake of analysis two ideal types of police organizations can be distinguished with regard to their basic orientation. Police forces aim at securing political power or a given state of the political system against adverse societal developments, whereas police services fundamentally aim at meeting the (complex and diverse) security-related needs and rights of the people. While police forces tend to be “enemy”-oriented and in this sense “militaristic”, police services are client-oriented and, therefore, “civil”.

Their distinct rationale will be reflected in the overall structure of police organisations. The type of police above referred to as “police force” will tend to have a centralised and highly hierarchic structure, governed by internal regulations and command, permanently reinforced by disciplinary measures and closed against its environment. A police service, on the other hand, will necessarily be integrated in local and regional communities, thus bringing police officers as close to the needs of individuals as possible. This orientation requires openness, transparency and external accountability, in order to secure the trust of the public and sustain an ongoing dialogue. To strengthen both the flexibility needed and local accountability, a decentralised structure is imperative. Therefore, the basic normative orientation of a police service is provided primarily not by centralised internal regulations but by a democratically legitimated legislation and the rule of law, leaving discretion widely to police managers on the local level.

In a pluralistic society the legitimacy of a police organisation fully depends on its ability to meet the needs and the rights of the people. Therefore, only the model of a police service qualifies as appropriate in a modern democratic society. Whereas a police force views the rights of individuals as an obstacle to effective policing, a police service will perceive the promotion of human rights as its very rationale. The best and only sustainable measure to secure human rights of individuals against violations of the police is to allow police to
understand that the protection of human rights forms not an obstacle to their work but their very mission. As long as this lesson has not been fully learned human rights will remain at risk.

Turkey at present experiences a rapid and impressive transformation process, which is among other driving forces motivated by the option of leading the country into the European Union. In addition, all reform of the police has to take into account that the country is undergoing a process of transition. From what has just been said it follows that this process, like in almost any other European country, would have to aim at transforming the police into a more “civil” service.

The present situation is particular insofar as it witnesses rapid changes in police legislation. This relates to the nine “harmonization packages” and, in particular, to the new Code of Criminal Procedure, which entered into force on 1 June 2005. While it is understood that police development has to be accompanied and supported by legislative reform it is also a truism that measures on the legal level not necessarily imply changes of the every-day reality of policing. Indeed, at present the speed of legislative reform on one hand and shortcomings of implementation on the other can widen the gap between police legislation and police reality. It would be unrealistic to expect far reaching legislative reforms to be effective without considerable supportive measures on many levels of organisational structure. “Digestion” capacity of police personnel for substantial and speedy reform is clearly limited and, therefore, needs time for full implementation.

To improve learning capacities and quality management of police organisations, the introduction of a system of key performance indicators, based on the statement of mission of a police service and known to all its members, is crucial. Such indicators allow for the establishment of performance review procedures and the control and continual provision of feedback to the police organisation.

Another crucial element of organisational learning is complaint procedures, which should not aim at reinforcing discipline and the hierarchical structure of an organisation, but to allow for learning and to efficiently, give redress to complainants and restore their trust in the police service.

In this context, the ongoing project TR 0201.01 - Improvement of Statement Taking Methods and Statement Taking Rooms in the Republic of Turkey has made the following relevant recommendations:

- Information policy towards the general public should be elaborated with a view to creating rights awareness. Creative and innovative approaches, appropriate for the Turkish context, should be developed in cooperation with other stakeholders including NGOs.

- Legislative and practical reforms should be systematically evaluated with a view to identifying progress and obstacles in the process, thus contributing to a learning process within the institution. If necessary, structural changes within the Ministry should be made.

- With regard to disciplinary proceedings:
a. Disciplinary proceedings should be reviewed in order to enhance their steering function with regard to human rights compliance
b. Disciplinary proceedings should be reviewed in the light of the principles
of transparency, fairness and effectiveness.

- The clarity of the chain of command should be enhanced, thus contributing to a better determination of responsibility of superiors for police acts or omissions.

- Mechanisms of dialogue between police and relevant NGOs should be initiated and supported. In order to secure a fruitful dialogue and to enhance the trust of the public police have to strive for openness and transparency.

- A review process of existing mechanisms should be initiated with a view to creating an independent, effective and professional monitoring institution and to enabling Turkey to ratify the Optional Protocol to the UN Convention against Torture. In doing so, the following criteria/standards of effective monitoring bodies should be taken into account:

  A sound legal basis in order to guarantee stability of the monitoring system.
  A comprehensive mandate, encompassing the examination of the treatment of persons deprived of their liberty, making recommendations and submitting proposals concerning pertinent legislation.
  Adequate powers and resources to do regular visits, including access to all places of detention, to all persons detained (including private conversations with these person), and all relevant documents.
  Professional reporting to the authorities as well as to the public.
  Adequate security guarantees, protecting both persons communicating with the monitoring body as well as persons belonging to the monitoring body.
  Adequate guarantees of independence (in relation to the functions of the monitoring body, the composition, the appointment and dismissal procedure, the personnel, the premises, and the financial basis). Independence should not only exist, it should also be seen to exist.
  Human rights monitoring should be based on a strategic approach, which contains a thorough analysis of the causes of the violations/problems encountered (“diagnostic monitoring”).

Finally, it must be said that an accountable police service respectful of human rights cannot be achieved without proper working conditions. From a human rights perspective the development of the human resources of a police organisation in many respects is crucial. First of all, only officers who in their every-day working environment experience that their needs and rights are taken seriously in the long run can be expected to acknowledge the rights of other individuals. Secondly, staffing, training and promotion have to be designed in order to fully develop the human potential of a police service.

As the working conditions of the police and appropriate respect for their human rights have a strong impact on the police’s respect for the human rights of people affected by their action, the working conditions of police and, more generally, the enjoyment of their human rights should be reviewed.

There is no European model for policing, each country organises and implements its’ own particular style. Twinning offers the opportunity for a candidate country to examine and consider the advantages and disadvantages of the different systems as well as to adopt those procedures and processes that appear to work well. It is an opportunity to adopt “best practices”.

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Twinning projects offer the candidate country a long-term adviser who is able to mobilise considerable resources from the member states, in order to assist with the development of the most suitable response to particular problems. It has proven to be of more practical benefit to the candidate countries, than management consultants, who usually concentrate on one specific issue for a limited period of time.

4. Institutional Framework

The Turkish Ministry of Interior will be the beneficiary institution. Turkey’s Ministry of Interior (MoI) has the formal mandate to guarantee “in practice” the full enjoyment of rights at provincial and district levels through powers and authority it vests in governors and district governors. In praxis, the full enjoyment of rights often concerns the relationship between the actors of the security sector, notably the inter-relationship between civilian authorities and security forces (e.g. the policy, gendarmerie and cost guards).

Under the Turkish administration system, governors and sub-governors are the provincial and district representatives of government and state. They are the highest-ranking executive body at provincial level. In their areas of jurisdiction, governors and sub governors are mandated to supervise and oversee the law enforcement bodies, including the police force, the gendarmerie and the cost guards.

At the central level, security forces (police, gendarmerie and coast guards) are placed under the MoI. Therefore they are responsible to the Undersecretary and to the Minister as with the other ministerial bodies. Both are the highest authority to coordinate and to have the final say over any security issue at the central level.

As the Ministry has endorsed the project, the working relationship and cooperation among the institutions were already envisaged and when the project is in action, all the relevant bodies’ roles and responsibilities will be elaborated and requested in the course of the project.
5. **Detailed Budget**

<table>
<thead>
<tr>
<th>€M</th>
<th>Phare/Pre-Accession Instrument support</th>
<th>Co-financing</th>
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<td>National Public Funds (*)</td>
<td>Other Sources (**)</td>
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<tr>
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<tr>
<td>Sub-project 2, etc…</td>
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<tr>
<td>Investment support – sub-total</td>
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<td>-</td>
</tr>
<tr>
<td>% of total public funds</td>
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<td>min 25 %</td>
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<table>
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</tr>
<tr>
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<td>-</td>
<td>-</td>
</tr>
<tr>
<td>IB support</td>
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<tr>
<td>Total project 2005</td>
<td>1.600</td>
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<td>-</td>
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</table>

| indicative Year 2006 |            |            |          |
| Investment support   |            |            |          |
| indicative Year 2006 |            |            |          |
| IB support           |            |            |          |
| Total (indicative) project 2006 |            |            |          |

(*) contributions from National, Regional, Local, Municipal authorities, FIs loans to public entities, funds from public enterprises

(**) private funds, FIs loans to private entities

1. All investment sub-projects supported by the pre-accession fund must receive co-financing from national public funds. Minimum requirement for co-financing from national public funds is 25% of the combined PHARE and national contributions to the overall investment support.
2. Many Institution building projects will also have a degree of co-financing – this should be quantified and included wherever possible.

3. Expenditure related to equipment (regulatory infrastructure or ESC-related) and to Technical Assistance supporting investment (e.g. pre feasibility study / supervision of works / technical specifications) should be considered as Investment support in the project fiche.

4. All co-financing must be provided on a joint basis. Parallel co-financing will, in a principle, not be accepted. Exceptions to this rule have to be agreed with the Commission in advance.

5. All co-financing should be clearly quantified, also the degree of certainty of such co financing (i.e. for National Public Funds: is it already earmarked in local or national budget, for FIs Loans, private funds: are they already approved/ under appraisal, etc...).

6. Where parallel co financing is accepted and justified per exception to the normal rule it should be provided in monetary form. If this is not possible there should be clear criteria set out for the valuation of any non-monetary contributions (that should be quantified in the table)

7. If twinning is involved, clearly state the expected budget of the twinning covenant

8. The financial engineering of the project should be closely monitored against actual delivery during implementation and against the objectives that were set in the project fiche so that corrective actions may be taken where required.

6. Implementation Arrangements

6.1 Implementing Agency

The CFCU will be the implementing agency responsible for tendering, contracting and accounting.

The contact details of the CFCU are:

The Central Financing and Contracts Unit
Att.: Director Mr. Nuri Ercan Tortop
Ehlibeyt Mahallesi 6
Sok. No. 18/8
Ekşioğlu İş Merkezi
06520 Balgat/Ankara
Turkey
Phone: +90 312 285 2002
Fax: +90 312 285 96 24
E-mail: ercan.tortop@cfcu.gov.tr

6.2 Twinning

The project will be implemented in the form of a Twinning contract between Turkey and a Member State/Member States. The maximum duration of the project is envisaged to be 27 months. The execution period for activities is 24 months as well as the duration of stay of
the Resident Twinning Advisor. Three additional months are envisaged to ensure flexibility and the completion of final reports, etc.

The Twinning partner(s) will provide a Resident Twinning Advisor (RTA) and also secure a pool of short- and medium term experts, who will be called upon whenever necessary to contribute to the achievement of the mandatory results and especially for the purpose of advisory services and training according to the work plan that will be prepared as part of the corresponding contract.

A Project Steering Committee (PSC) will be set up comprising of senior representatives of the Ministry of Interior, Turkish National Police, Turkish Gendarmerie, other relevant government bodies, relevant Human Rights NGOs, the European Commission and the Member State(s) providing the technical assistance foreseen in the institution-building package. The PSC will monitor, supervise and co-ordinate the overall progress and implementation of the project. The PSC will provide guidance for the different components of the project, will define priorities, approve and monitor budgets and approve the results. The PSC will be chaired by the Senior Programme Officer (SPO), who will have the overall responsibility for all issues concerning the management and monitoring of the project.

The EU Twinning advisors will work together with the staff of the beneficiary institution under the overall direction of the beneficiary institution and the Project Steering Committee. In addition to providing the twinning partner with adequate staff and other resources to operate effectively, the senior management of the beneficiary institution is expected to be involved in the development and implementation of policies and institutional change required to deliver the project results.

The EU Twinning partner will be a Member State institution directly involved police issues. Member States may also form a consortium which could result in a wide range of qualified senior experts gathered from public administrations or mandated bodies from two or more Member States, provided that national approaches can be harmonised within this consortium.

The key inputs to be provided through twinning include:

A 24-month Resident Twinning Adviser, to be hosted within the Turkish Ministry of the Interior,
A series of short-term experts for each of the specific components outlined above,
A proven track record and practical experience in delivery of similar projects.

6.2.1 Beneficiary

The beneficiary is the Turkish Ministry of Interior.

On the Turkish side the project leader is:
Cumhur ÇILESİZ
Deputy Chairman of the Inspectors Board
Ministry of Interior
Ankara- Turkey
6.2.2. Member State Inputs

PL (Project Leader)
The PL should be a high ranking official with broad knowledge of all processes in the area of policing, police complaints and investigations that the project deals with, who will continue to work at his/her Member State (MS) administration but devote, some of his/her time to conceive, supervise and co-ordinate the overall thrust of the Twinning project.

The PL will allocate a minimum of 3 days per month including one visit every 3 months (more for complex projects) to Turkey as long the project lasts.

a) Qualifications
Broad long-term knowledge of all processes of policing and police organisations, in particular in the relevant areas the project is dealing with;
Familiarity with police complaint mechanisms and monitoring;
High-ranking official, commensurate with an operational dialogue at vice-ministerial level;
Overall appreciation of the problems and solutions in the sector;
Capable of unblocking any problems at the highest level;
Good leadership skills.

b) Tasks
Overall project co-ordination;
Co-chairing, with the Turkish PL, the regular project implementation steering committee meetings;
Providing necessary support to implement activities,
Mobilising short- and medium term experts;
Executing administrative issues (i.e. signing reports, administrative orders etc.).

Resident Twinning Advisor (RTA)
a) RTA background
A RTA expert will provide advice and technical assistance to the Ministry of Interior so as to ensure that the Mandatory results are reached within 24 months after the start of the assignment. Throughout this period, s/he will be located at the Ministry of Interior in Ankara. S/he has to be a person with significant experience as a manager and should have a capacity for initiating new projects. Experience of working outside of the home country administration would be an advantage.

b) RTA qualifications
Minimum 5 years of operational and management experience in the field of police complaints and/or police investigation;

Good insight into police complaints mechanism in EU Member States; preferably a comparative knowledge of other Member States systems;

Fluency in English;

Good project management skills with experience in managing a large team of experts;
Skills in policy development;

A background in drafting and implementing strategies, policies and processes,

Sound communication skills and previous experience of working in a multi-disciplinary and multi-national team;

Broad international contacts/exposure will be an asset;

Good pedagogical skills.

c) RTA tasks
To design a work plan for the implementation of the program and to assist the process of drawing up the twinning contract;
Assist in the preparation of all strategic project documents;
To ensure continuity of implementation through: the execution of the day to day management;
Work on a daily basis with the Turkish Ministry of Interior staff to implement the project;
To plan and coordinate outputs;
Together with the Project Leader: to nominate, mobilise and supervise the short- and medium term experts;
To coordinate and organise study visits, training activities, workshops and public awareness activities;
To ensure proper quality of outputs;
To provide detailed reports on the impact and implementation of the project.
Assist in the preparation of all strategic project documents [inception study, sector strategy/policy/plan, training manuals etc.]

Short and medium term experts
a) Experts’ qualifications
Minimum of 3 years professional experience within the field of policing and in areas related to the project activity they have to cover.
Advanced relevant university or other school degree;

Previous experience of working in other cultures and countries will be an advantage;

Good written and oral command of English;
Proven contractual relation to public administration or mandated body;
Capacity to integrate into a large expert team;
Willingness to work in a different cultural environment.
b) Experts’ tasks
To contribute to the project with his/her specialist knowledge;
To provide specialist support and advice services;
To prepare training course modules;
Delivery of selected training modules;
Advice and backstopping from a national EU administration.
The duration of the assignment of the long-term advisor will be 24 calendar months.
The RTA is expected to ensure, together with the host administration, the achievement of the objectives listed in 3.3. In order to meet these objectives the expert may propose alternative and/or complementary project activities and/or outputs to those identified in the sections 3.4., if regarded as necessary and justified.

6.2.3 Required contributions of responsible institutions

The implementation of the programme requires the full commitment and participation of the senior management of the Ministry of Interior. They must be fully involved in the development and implementation of the policies and institutional changes required to deliver the project results. The senior management must ensure the creation of Working Groups/Task Forces for the different objectives of the project to facilitate the implementation of the respective activities of the twinning project.

The Turkey twinning partner shall ensure that appropriate staff is made available to work alongside the EU MS twinning partner. It must appoint chairmen and participants for the Working Groups/Task Forces.

The Turkey twinning partner will ensure adequate support and basic equipment for the work of experts. This includes administrative support, office space, phone, fax and e-mail, translation (when necessary), and provision of other necessary conditions. The contribution should also include logistical support for the various training activities, including selection of trainees (in consultation with the EU experts), as well as providing the EU experts with legislation and any other documents necessary for the implementation of the project.

The Turkish Ministry of Interior will be responsible for the provision of the necessary resources to enable the Resident Twinning Adviser (RTA) to function properly. The beneficiary will support the implementation of the proposed project by assuring the necessary organisational environment, making available the necessary personnel and covering the related running and administrative costs.

The Turkey twinning partner shall also provide all possible assistance to solve unforeseen problems that the EU MS twinning partner(s) may face.

6.4 Non-standard aspects
N/A.

6.5 Contracts
This project will be implemented through one Twinning contract. (estimated value is Euro1.600.000).

7. Implementation Schedule

7.1 Start of tendering/call for proposals: 4th quarter 2005

7.2 Start of project activity: 3rd quarter 2006

7.3 Project Completion: 3rd quarter 2008

For details, reference is made to annex 2.

8. Equal Opportunity

Appropriate professional qualifications and experience will be the factors for personnel recruitment and evaluation. When recruiting personnel for this project, no distinction based on sex, race, or religion will be made.

The share of female staff is around 35% within the Ministry of Interior and the beneficiary will pay special attention to assure the highest possible participation of women in the project. All periodical progress review reports and other interim reports will include a specific explanation on measures and policies taken with respect to participation of women and equal opportunity for women and men and will provide measurements of achievement of this goal.

9. Environment

N/A

10. Rates of return

N.a.

11. Investment criteria

N.A.

12. Conditionality and sequencing

There is no pre-condition for the start of the project. However, during project implementation the Turkish Ministry of Interior commits itself to institutional change and to adopt new strategies and standards developed during the programme and disseminate them through further training and awareness-raising activities.

The Ministry of Interior will also publish the newly developed guidelines, standards and strategies and communicate them to the public.
Projects to be implemented through twinning require the full commitment and participation of the senior management of the beneficiary institution. In addition to providing the twinning partner with adequate staff and other resources to operate effectively, the senior management must be involved in the development and implementation of policies and institutional change required to deliver the project results.

The twinning project will have to seek for durable solutions and approaches which shall ensure adoption of the EU standards and best practices in the area of law enforcement, fight against crime and police co-operation and thus prepare grounds for Turkey’s full integration into the EU.

During project implementation close cooperation with the European Commission and twinning partners will ensure best results by contributing to the preparation of activities and monitoring implementation of the working groups’ findings and products.
ANNEXES TO PROJECT FICHE

Annex 1: Logical framework matrix in standard format
Annex 2: Implementation chart in standard format
Annex 3: Contracting and disbursement schedule by quarter for full duration of programme
Annex 4: Reference list of feasibility/pre-feasibility studies, in depth ex ante evaluations or other preparatory work.
Annex 5: Reference list of relevant laws and regulations
Annex 6: Reference list of strategic plans and studies
### LOGFRAME PLANNING MATRIX FOR Project Fiche

<table>
<thead>
<tr>
<th>Programme name and number</th>
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<td>An Independent Police Complaints Commission &amp; Complaints system for the Turkish National Police and Gendarmerie</td>
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<th>Disbursement period (Year 1) expires</th>
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<tr>
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<td>November 2008</td>
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<table>
<thead>
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<th>Total budget year 1:</th>
<th>Phare /IPA budget year 1:</th>
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<tr>
<td>€M 1.600</td>
<td>€M 1.600</td>
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### Annex I: Logframe Matrix

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<tr>
<th>Overall Objective</th>
<th>Objectively Verifiable Indicators</th>
<th>Sources of Verification</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
</table>
| Enhance accountability, efficiency, effectiveness and public confidence of the Turkish National Police, Gendarmerie and other law enforcement bodies in the discharge of their responsibilities in respect of the enforcement of law in accordance with democratic principles and having regard for the Human Rights of all citizens. | □ Complaints system fully operational as of 2Q2009  
□ Proportion of complaints filed out of those made, substantially increasing  
□ Achievement of compatibility with the EU Acquis  
□ Positive opinion of relevant EU organs | □ Evaluation of the EU Regular Report on Turkey’s progress towards accession  
□ Evaluation of the progress in the implementation of the Turkish NPAA | |

### Contracting Period Expires:

- November 2007

### Execution period expires:

- November 2008

### Total Budget:

- 2.000.000

### EC Contribution:

- 2.000.000
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<th>Project Purpose</th>
<th>Objectively Verifiable Indicators</th>
<th>Sources of Verification</th>
<th>Assumptions and Risks</th>
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<tbody>
<tr>
<td>The complete preparation of a legislative framework for the establishment of a new complaints system for the Turkish National Police and Gendarmerie</td>
<td>Conceptual and institutional framework developed and agreed by MOI by 1Q2007 Legislative framework developed and agreed by MOI by 3Q2007</td>
<td>MOI documents</td>
<td>Approval of the legislation by COM and the Turkish National Parliament by 4Q2007</td>
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<tr>
<td></td>
<td></td>
<td>EC monitoring reports</td>
<td>Implementation and enforcement of approved legislation <em>inter alia</em> through continued EC support under NP 2007</td>
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<tr>
<td></td>
<td></td>
<td>Council of Europe evaluation reports</td>
<td>The full complaints system is to cover other authorities carrying out law enforcement duties such as the Coast Guard</td>
</tr>
<tr>
<td>Results</td>
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<tr>
<td>1. Conceptual and institutional framework for a new complaints system for Police and Gendarmerie developed on the basis of public consultation and adopted by the government</td>
<td>Conceptual and institutional framework developed and agreed by MOI by 1Q2007 Legislative framework developed and agreed by MOI by 3Q2007</td>
<td>Evaluation of relevant reports</td>
<td>Continued full commitment of the key project beneficiaries to the achievement of the project purpose</td>
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<tr>
<td>2. Legislative framework prepared for the establishment of an Independent Complaints Commission</td>
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<td>On-going evaluation of the Project (IET, SMSC)</td>
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<td>3. Human resources programme (including training programme) and equipment needs related to the establishment of the National Complaints Commission identified as input for EC assistance in the 2nd phase</td>
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<td>Twinning reports</td>
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<tr>
<td>1.1 Prepare a consultation information package</td>
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<td>□ Full involvement of relevant stakeholders (public, civic) in the public consultation process</td>
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<tr>
<td>1.2. Conduct public/stakeholder consultation</td>
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<tr>
<td>1.3 Collate and assimilate returns</td>
<td>□ Twinning Contract</td>
<td>□ Advanced preparation of related secondary legislation</td>
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<tr>
<td>1.4 Prepare policy proposals for ministerial approval</td>
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<tr>
<td>1.5 Prepare framework document</td>
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<tr>
<td>2.1 Prepare primary legislation</td>
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<tr>
<td>2.2 Prepare secondary legislation</td>
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<tr>
<td>3.1 Draft human resources programme (including training programme)</td>
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<tr>
<td>3.2 Identify and assess equipment needs for 2nd phase</td>
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ANNEX 2: Implementation chart in standard format

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<th>2007</th>
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<td>N</td>
<td>D</td>
<td>J</td>
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<tr>
<td>I-Twinning</td>
<td>C</td>
<td>C</td>
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- Design: \( D \)
- Tendering and contracting: \( C \)
- Implementation and Payments: \( I \)
ANNEX 3: Contracting and disbursement schedule by quarter for full duration of programme (in million euro)

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ANNEX 4: Reference list of feasibility/pre-feasibility studies

- Study visit of experts Mr. Winston Heppolette and Mr. Vic Marshall, UK Home Office, between 7-11 March 2005 to Turkey.
ANNEX 5: Reference list of relevant laws and regulations

1. Law on Duties and Powers of the Turkish National Police.
2. Law on Establishment, Duties and Powers of the Turkish Gendarmerie.
4. Turkish Penal Code
5. Regulation on Apprehension, Taking into Custody and Taking Statements
6. Regulation on Establishment, Duties and Powers of the Turkish Gendarmerie
7. Regulation on Legal and Preventive Searches
8. Regulation on Power and Duties of the MoI Inspectors
9. Law on Provincial Administration
10. Law on Organization of MoI
11. Law and Regulation on Human Rights Board
ANNEX 6: Reference list of strategic plans and studies

There is no strategic plan or study relevant to the project.