



Contracting Authority

European Commission

ENPI East Regional Action Programme 2010

Description of project

Council of Europe Facility

Reference: 2010/256600

Title of the action:	Council of Europe Facility
Number and title of lot	N/A
Location(s) of the action:	Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine
Name of the applicant	Council of Europe

Nationality of the applicant ¹	N/A
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Dossier No	
(for official use only)	

EuropeAid ID ²	FR-2008-CFX-0906302852	
Legal status ³	International organisation	
Partner(s)	None (no partners which will sign a partnership statement)	
Total eligible cost of the action (A)	Amount requested from the Contracting Authority (B)	% of total eligible cost of action (B/Ax100)
€4 000 000	€4 000 000	100 %
Total duration of the action:	30 months (1 March 2011-31 August 2013)	
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¹ The statutes must make it possible to ascertain that the organisation was set up by an act governed by the national law of the country concerned. In this respect, any legal entity whose statutes have been established in another country cannot be considered an eligible local organisation.

² To be inserted if the organisation is registered in PADOR. This number is allocated to an organisation which registers its data in PADOR. For more information and to register, please visit <http://ec.europa.eu/europeaid/online-services/pador>

³ E.g. non profit making, governmental body, international organisation

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THE ACTION

1. DESCRIPTION

1.1 Title

Council of Europe Facility

1.2 Location(s)

Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine

1.3 Cost of the action and amount requested from the Contracting Authority

Total eligible cost of the action	Amount requested from the Contracting Authority	% of total eligible cost of action
€4 000 000	€4 000 000	100%

1.4 Summary

Duration of the action	30 months (1 March 2011-31 August 2013)
Objectives of the action	Overall objective The overall objective of the Council of Europe Facility is to provide support, in order to enhance the reform processes in the six partner countries through a multilateral approach and to bring them closer to Council of Europe and EU standards in core areas covered by the Eastern Partnership Platform 1 “Democracy, good governance and stability” such as 1) public administration - electoral standards; 2) support to the judiciary and respect for Human Rights in the delivery of criminal justice; 3) support measures against serious forms of cybercrime; 4) good governance and the fight against corruption. The Council of Europe Facility will also strengthen the follow-up to the findings of Council of Europe monitoring and advisory bodies in selected priority areas, by providing the necessary resources to mobilise expertise and peer advice, as well as an exchange of best practices among participants. Specific objectives The specific objectives are (i) to mobilise Council of Europe expertise, peer to peer advice and the exchange of best practices among participating countries and (ii) to serve as a framework for multilateral activities such as capacity building and training, in order to improve electoral standards, to

	enhance the on-going process of reform of the judiciary, to strengthen the capacities of criminal justice authorities for the fight against cybercrime and to enhance good governance and strengthen the capacities of the public administration and criminal justice to prevent and fight corruption and (iii) consequently, to ensure technical assistance and advice through regional co-operation and multilaterally approached activities, in order to sustain the current reforms and further strengthen capacities in the region with regard to Democracy, good governance and stability.
Partner(s)	Governmental bodies at all levels, notably ministries of justice, interior, ministries responsible for public administration; parliaments; public structures with specific responsibilities in the relevant areas, such as anti-corruption and anti-money laundering bodies, central electoral commissions, ombudsmen; the judiciary, judicial professions and judiciary supervisory bodies; media professions; civil society of the beneficiary countries.
Target group(s) ⁴	Public servants, parliamentarians, administrative staff of the state bodies and electoral commissions, judges and lawyers, courts staff, prosecutors, journalists, civil society.
Final beneficiaries ⁵	Entire population of the beneficiary countries.
Expected results	The expected results are: 1. On electoral standards: Better compliance with and awareness of European electoral standards in the participating countries: - Electoral administrations are better prepared to fulfil their tasks; - NGOs are better prepared to fulfil their role as observers and provide constructive criticism about the electoral process; - voters are better aware of their role in the functioning of democratic elections and increase their participation; 2. On enhancing judicial reform: - the legal and practical obstacles to the implementation of the applicable European standards as regards judicial reform in the beneficiary countries are identified through intensive information exchange and best practice sharing. Recommendations to address these obstacles are formulated;

⁴ “Target groups” are the groups/entities who will be directly positively affected by the project at the Project Purpose level

⁵ “Final beneficiaries” are those who will benefit from the project in the long term at the level of the society or sector at large

	- dissemination of the Project's recommendations and best practice among the authorities and other stakeholders at the national level with a view to adjusting national judicial reform policies. 3. On the good governance and the fight against corruption: - Eastern Partnership countries have defined and are committed to applying policy and prevention measures concerning enhancement of good governance and the fight against corruption; - the countries are provided with the tools for effective law enforcement and implementation of legal frameworks when fighting economic crime; - the countries efficiently apply and implement European and international standards on good governance and the fight against corruption when addressing their specific needs. 4. On the fight against cybercrime: - Eastern Partnership countries have defined strategic priorities regarding cybercrime and assess measures taken; - the countries are provided with the tools for action against cybercrime; - the countries participate more actively in international cybercrime efforts.
Main activities	1. On electoral standards: Review of electoral legislation and election-related legislation; training activities for election administrators and observers are organised on a needs-specific basis; production of training and information material in the local language(s) on elections; actions with the media specific to election campaigns. 2. On enhancing judicial reform: Peer to peer advice and exchange of best practice in the form of round tables and seminars led by the Council of Europe among the participating countries and other European countries; round tables and seminars to enhance quality standards and best practice as regards working methods in courts and the good functioning of courts; exchanges of best practice as regards decision-making processes and hearing management addressing the participation of the media in the process of the delivery of justice.

	3. On the good governance and the fight against corruption: Assessments and provision of advice and training on preventive measures related to conflict of interests; anti-corruption policies and legislation addressing issues such as prosecutorial capacities to investigate and prosecute corruption, inspection and background check systems in the appointment, dismissal, transfers of judges and prosecutors, use of special investigative means, especially for white collar defendants/alleged corrupt public officials. 4. On the fight against cybercrime Regional review of legislation against relevant standards, providing advice to countries in strengthening legislation; regional law enforcement training needs assessment; training activities; support for the development of co-operation agreements based on the guidelines for co-operation between law enforcement agencies and internet service providers (LEA/ISP guidelines); support for regional meetings to assess progress made in terms of legislation, institutional capacities and international co-operation against cybercrime. Transversal activities: Kick – off, mid-term and wrap-up Steering Committee meetings, combined with visibility events, other visibility actions (creation and maintenance of the website), evaluation exercise.
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2. RATIONALE

2.1 Sector context:

The Eastern Partnership was launched by the EU at a Summit meeting with the Eastern European partners on 7 May 2009 in Prague. It sets out an ambitious path for deeper relations with Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine, through both bilateral and multilateral dimensions. It is based on mutual commitments to the rule of law, good governance, respect for human rights, respect for the rights of minorities, the principles of market economy and sustainable development. The level of ambition of the EU's relationship with the Eastern European partners will take into account the extent to which these values are reflected in national practices and policy implementation.⁶

The new Council of Europe Facility responds to the need to further enhance co-operation with Eastern European partner countries facing similar challenges in complying with commitments originating from their Council of Europe membership. It will contribute to supporting the reform processes in the six partner countries through a multilateral approach and to facilitating approximation to the Council of Europe and EU standards in core areas covered by the Eastern Partnership. The Facility aims at strengthening the follow-up to the findings of Council of Europe monitoring and advisory bodies in selected priority areas. It will allow for the mobilisation of Council of Europe expertise, peer to peer advice and the exchange of best practices among participating countries. It will also serve as a framework for multilateral activities (e.g. capacity building, training) implemented by the Council of Europe and co-financed by the European Union in view to responding to the priorities mentioned in the Joint Declaration of the Prague Eastern Partnership Summit and notably identified in the work programmes of Platform 1 (*“Democracy, good governance and stability”* - such as improved functioning of the judiciary and protection of human rights, public administration reform including the electoral standards as well as fight against corruption and cybercrime) and, to a lesser extent, Platform 4 (*“Contacts between people”*).

The Council of Europe has specific expertise in most of the areas to be addressed by Platforms 1 (and 4) of the Eastern Partnership, and has been invited as a permanent participant in these Platforms. Bilaterally, full co-operation with the Council of Europe is a precondition for starting negotiations on an Association Agreement between the EU and partner countries and for deepening relations thereafter. According to different CoE monitoring bodies, the participating countries are characterised by different degrees of democratic consolidation and respect for human rights, while often facing similar challenges in complying with commitments stemming from their Council of Europe membership⁷. Through the present action it is, therefore, envisaged to organise multilateral activities (e.g. capacity building, trainings), involving several or all Eastern partners, to address common issues of concern in the area of democracy, human rights and rule of law.

⁶ Communication on the Eastern Partnership, COM (2008) 823.

⁷ Belarus is not a member of the Council of Europe but has vocation to join the Organisation as soon as it fulfils the required conditions.

The current state of implementation of commitments undertaken upon accession to the Council of Europe by each of the Eastern Partnership countries, and of the situation in Belarus can be summarised as follows:

- **Armenia**

Since Armenia's accession in January 2001, the main objective of Council of Europe co-operation activities has been to support the country in fulfilling its accession commitments and statutory obligations as a member state. In spite of some progress achieved, the country faces challenges as regards the functioning of its democratic institutions, particularly in terms of overcoming, in the long term, the consequences of the political crisis and events of March 2008 following the presidential elections. Key priority areas that still need to be addressed, as identified by Council of Europe monitoring mechanisms, are: the functioning of the judiciary; freedom of expression and of the media; electoral legislation and practice; the fight against ill-treatment of detainees and persons in police custody; impunity; penitentiary reform; and the fight against corruption; as well as follow-up to constitutional reform through legal co-operation between Armenia, the Council of Europe and the EU. Council of Europe co-operation actions are highly relevant for the implementation of the EU-Armenia Action Plan, adopted under the European Neighbourhood Policy (ENP) in November 2006. The Facility will actively co-ordinate and build upon activities under the €18 million Sector Policy Support Programme “Support to Justice Reform” financed from the ENPI Annual Action Programme (AAP) 2008 for Armenia.

Where appropriate, the activities under the facility will seek synergies with the work of the EU Advisory Group to Armenia.

- **Azerbaijan**

Since Azerbaijan's accession in January 2001, the focus of Council of Europe assistance has been on supporting the country's efforts to fulfil its accession commitments and statutory obligations as a member state. A number of projects have been designed to support domestic efforts in implementing the National Action Plan on Protection of Human Rights 2007-2010, adopted in December 2006. Ongoing and proposed Council of Europe assistance is also highly relevant for the implementation of the EU-Azerbaijan Action Plan, adopted under the ENP in November 2006. A number of projects are or will be implemented as part of the EU/Council of Europe regional or multilateral Joint Programmes. Thus, the scope of the co-operation programme with Azerbaijan during the period 2009-2010 will encompass virtually all the Council of Europe's areas of competence. Co-operation and assistance aimed at the reform of the justice system is, however, a particular priority, along with fighting corruption and impunity. Outstanding unfulfilled commitments include the adoption of laws on minorities and on alternatives to military service, and the ratification of the European Charter for Regional or Minority Languages. The ENPI AAP 2008 sector policy support programme on “Justice Reform Support Programme Azerbaijan” will be taken into account in the implementation of the Facility.

- **Georgia**

Upon its accession to the Council of Europe in April 1999, Georgia accepted the incumbent obligations and entered into a number of specific commitments which it agreed to honour. In recent years the country has made noticeable progress in meeting a number of its commitments, in particular in areas such as the judiciary, law enforcement, the fight against corruption and the functioning of democratic institutions. Signature and ratification of the

European Charter for Regional or Minority Languages remains an outstanding commitment. A set of important constitutional amendments which significantly reduce the powers of the President in favour of those of Prime Minister and the Government were approved by the Georgian Parliament last year (and shall enter into force after the next Presidential elections). The Venice Commission provided its Opinion on the draft amendments, wherein it recommended to further strengthen the powers of the parliament, in particular those related to the formation of the government and the parliament's powers in budget matters. The new Code of Criminal Procedure and the new Imprisonment Code entered into force on 1 October 2010 and their implementation is now to be closely followed. The local elections which took place on 30 May 2010 demonstrated a high degree of progress in respect of Democracy, Rule of Law and self government. The election campaign was largely characterised by a competitive atmosphere and lively and substantive debates. For the first time in the country's history, a mayor of Tbilisi was directly elected by popular vote. The electoral reform will continue to be on the agenda in the coming months, in particular in view of the Parliamentary elections (Spring 2012) and Presidential elections (January 2013).

The country benefits from a sector policy support programme from ENPI AAP 2008 on "Support to the reform of the criminal justice system in Georgia" (€16 million).

- **Moldova**

Since the accession of the Republic of Moldova in July 1995, the main objective of Council of Europe co-operation activities has been to support the country in fulfilling its accession commitments and statutory obligations as a Council of Europe Member State. The country faces major challenges as regards the functioning of its democratic institutions, particularly in terms of overcoming, in the long term, the consequences of the political crisis and events of April 2009. Following the early parliamentary elections, which were held at the end of 2010, and the establishment of a new Cabinet in the course of January 2011, the country will have to face yet another presidential election at the beginning of the year, as well as local elections, probably in the late part of the spring. Key priority areas that still need to be addressed by the new government coalition ("Alliance for European Integration"), as identified by Council of Europe monitoring mechanisms, are: the electoral legal framework, in line with recommendations of the Venice Commission, and the question of the accuracy of the voters' lists, and, in general, follow-up to the Council of Europe experts' recommendations; reinforcement of efforts leading to the improved functioning of the judicial system, the fight against corruption and the development of local and regional democracy; the establishment of a genuinely independent public broadcasting service and guaranteeing the independence of the media, as well as the ratification of the European Charter for Regional or Minority Languages. The Facility will actively coordinate with the ambitious Joint Programme known as the "Democracy Support Package" (€4 million from the Instrument for Stability), which was signed with the Council of Europe in December 2009.

- **Ukraine**

Since Ukraine's accession in November 1995, the main objective of Council of Europe co-operation activities has been to support the country in fulfilling its accession commitments and statutory obligations as a member state. In its last Resolution 1549 (2007), on the functioning of democratic institutions in Ukraine, the Parliamentary Assembly of the Council of Europe (PACE) recognised a number of achievements of the country and at the same time underlined major structural challenges (such as reforms in the constitutional, electoral, media and judiciary fields). The complex political situation in the country had, to some extent, a slowing effect on the pace of reforms. The EU Delegation in Kiev is currently working on an

action “Support to the Justice Sector Policy Reforms in Ukraine” in the ENPI Annual Action Programme (AAP) 2010, and this Council of Europe Facility will actively link with activities under ENPI bilateral programmes.

- **Belarus**

At the Warsaw Summit in 2005 Council of Europe heads of state and government declared that they were looking forward to the day when Belarus would be ready to join the Council of Europe. The PACE, at its June 2009 session, took a decision to unfreeze the special guest status⁸ of the Belarusian Parliament once a moratorium on the death penalty had been introduced in the country. Over recent years, successive Council of Europe Committee of Ministers’ Chairmanships have made substantial efforts to promote dialogue with Belarus on core issues. This has led to some specific results. One of the achievements is the opening of the Council of Europe Information Point in Minsk, in June 2009, which pursues work on Council of Europe campaigns (in favour of the abolition of the death penalty, and the children’s rights campaign), and on the organisation of open lectures on the Council of Europe and related awareness-raising activities. Other actions related to encouraging the abolition of the death penalty (seminars, open lectures, book publications) took place in 2010. Support continues to be provided to Belarusian civil society and journalists of both state and independent media. The question of accession of Belarus to some of the Council of Europe conventions is also under consideration (Belarus is a party to European Cultural Convention and has recently joined the Group of States against Corruption (GRECO)).

However, PACE decided on 29 April 2010 to suspend its activities involving high-level contacts with the Belarusian Parliament and/or governmental authorities, having noted a “lack of progress towards Council of Europe standards” and a “lack of political will” on the part of the authorities to adhere to the Council of Europe’s values. The Assembly recalled that it was still prepared to engage in a progressive dialogue with the Belarusian authorities “in response to positive developments”, while reiterating its conviction that “dialogue can be sustained only through Belarus’ continuous progress towards Council of Europe standards”. In reaction to the developments in the aftermath of the presidential elections of 19 December, the Committee of Ministers of the Council of Europe reiterated that the Committee of Ministers will continue to support the establishment of closer relations between the Council of Europe and Belarus only on the basis of respect for European values and principles.

In its Resolution 1790 (2011) on the situation in Belarus in the aftermath of the presidential election, adopted on 27 January 2011, the PACE resolved “to strengthen dialogue with Belarus’ democratic forces, civil society, opposition groups, free media, and human rights defenders”, and reaffirmed its decision to put on hold its activities involving high-level contacts with the Belarusian authorities. It also called on the PACE Bureau not to lift the suspension of the special guest status for the Parliament of Belarus “until a moratorium on the execution of the death penalty has been decreed by the competent Belarusian authorities; [and] until there is substantial, tangible and verifiable progress in terms of respect for the democratic values and principles upheld by the Council of Europe”.

⁸ “The Bureau may grant special guest status to national parliaments of European non-member states which have signed the Helsinki Final Act of 1 August 1975 and the Charter of Paris for a New Europe of 21 November 1990; accepted the other instruments adopted at the OSCE conferences; and signed and ratified the two United Nations Covenants of 16 December 1966 on Civil and Political Rights and on Economic, Social and Cultural Rights.” (**Rule 58 § 58.1 of the Rules of procedure of the Parliamentary Assembly of the Council of Europe**)

2.2 Lessons learnt

Since their accession to the Council of Europe, Eastern Partnership countries have been monitored in their efforts to implement European standards, and have received extensive support in implementing the recommendations resulting from the Council of Europe monitoring mechanisms. This work has contributed to facilitating their relations with the EU, making them better aware of the requirements for co-operation with it. New EU member states and applicant states have worked with the Council of Europe to fulfil criteria for accession to the EU, notably in the fields of Democracy, Human Rights and Rule of Law.

Belarus can greatly benefit from multilateral activities with neighbouring countries which have undertaken greater commitments to Human Rights, Democracy and Rule of Law.

The European Union regularly supports joint management programmes with the Council of Europe, within the framework of a strategic partnership which has been recalled in the Memorandum of Understanding between the EU and the Council of Europe, signed in 2007. This co-operation has led to positive experiences in a number of areas, such as in awareness raising with regard to the culture of Human Rights and in capacity building of the judicial system. A horizontal evaluation of the joint projects between the EU and the Council of Europe, commissioned by the EU is being carried out.

This action builds on the results of previous European Instrument for Democracy and Human Rights (EIDHR)-funded projects that also targeted Armenia, Azerbaijan, Georgia, Moldova and Ukraine. Despite varying degrees of progress, a significant amount of work remains to be done in all five countries to guarantee free and fair elections, freedom of expression, freedom of information and freedom of the media, the independence of the judiciary, the effective fight against crime, cybercrime and corruption. As the problems and challenges are not the same throughout the region, the assistance and co-operation must be tailored to the needs of each country.

2.3 Complementary actions

The Council of Europe Facility will seek complementarities with ongoing as well as planned initiatives from the EU and the Council of Europe and bilateral ENP assistance in the partner countries, including the Comprehensive Institution-Building programme. Consistency with EU-Council of Europe Joint Programmes, particularly in relation to institution-building and legal approximation measures (such as “Setting an active network of independent non-judicial human rights structures”, “Freedom of expression and information and freedom of the media”, “Project against Money Laundering and Terrorist Financing”, “Support to Free and Fair Elections”), will also be ensured through prior consultation between the Council of Europe and the European Commission, both at respective headquarters and in-country, via EU Delegations and Council of Europe field offices. During the design and implementation of the projects, the Council of Europe will have to ensure avoidance of overlaps and double-financing with other bilateral and multilateral projects, as well as initiatives of other donors.

2.4 Donor coordination

When designing the various possible activities, the Council of Europe has taken into account other donors' interventions in the areas covered by the Council of Europe Facility. Further donors' co-ordination will be ensured, both in the field through the Council of Europe's field offices and from headquarters. In the framework of the reform of its external presence the Council of Europe is opening new Offices in the five Eastern Partnership countries that are Council of Europe member states. One of their main tasks will be to ensure overall co-

ordination with other international organisations and the Council of Europe member states present and active in the field in the same areas of competence as the Council of Europe. For Belarus, and for international organisations and Council of Europe member states which do not have a presence in Eastern Partnership countries, co-ordination is ensured via the respective headquarters through regular meetings organised for mutual information and co-operation. The Committee of Ministers of the Council of Europe, and in particular its Group on democracy, allows for exchanges with other member states, as well as on co-ordination issues.

3. DESCRIPTION

3.1 Objectives

The overall objective of the Council of Europe Facility is to provide support in order to enhance the reform processes in the six partner countries through a multilateral approach and to bring them closer to Council of Europe and EU standards in core areas covered by the Eastern Partnership Platform 1 “Democracy, good governance and stability” such as 1) public administration - electoral standards; 2) enhancing judicial reform; 3) strengthening capacities in the fight against cybercrime; 4) good governance and fight against corruption. The Council of Europe Facility will also strengthen the follow-up to the findings of Council of Europe monitoring and advisory bodies in selected priority areas, by providing the necessary resources to mobilise expertise and peer advice, as well as an exchange of best practices among participants.

The specific objectives are (i) to mobilise Council of Europe expertise, peer to peer advice and the exchange of best practices among participating countries and (ii) to serve as a framework for multilateral activities such as capacity building and training, in order to improve the electoral standards, enhancing judicial reform, strengthening capacities in the fight against cybercrime and for good governance and fight against corruption and (iii) consequently, to ensure technical assistance and advice through regional cooperation and multilaterally approached activities, in order to sustain the current reforms and further strengthen capacities in the region with regard to Democracy, good governance and stability.

3.2 Expected results and main activities

The overall expected result is better compliance with European standards concerning democracy, human rights and rule of law, both in legislation and practice in the different proposed areas. Eastern Partnership countries willing to overcome deficiencies identified by Council of Europe monitoring bodies in the implementation of its key conventions relevant for Platform 1⁹, will have access to targeted special advice and co-operation.

Activities to be financed will include training and seminars led by Council of Europe experts, expert meetings, networking activities or other kinds of capacity-building activities – such as activities requested by one or more of the countries concerned and considered as valuable or identified during the implementation of the Facility. In general, the activities will take place on a multilateral level, i.e. including participants from as many partner countries as possible, various publications and distribution of training material. In principle, “one-off” events will be avoided. Most of the events will gather participants from the six Eastern Partnership

⁹ CETS nos. 5, 126, 157, 173, 174, 185, 197 and 198 covering Human Rights, prevention of torture, protection of minorities, criminal and civil law, the fight against cybercrime, trafficking, money laundering and terrorism.

countries, to foster as much networking and capacity-building as possible at regional level although stand-alone events responding to specific needs of a country cannot be excluded. The refusal to participate by one or more of the six countries should not prevent the others from working together.

The thematic scope of the Council of Europe Facility includes the following activity areas: i) support to free and fair elections ii) enhancing judicial reform, and iii) support to measures against serious forms of international crime (corruption and serious forms of cybercrime).

Activity area 1 – Electoral standards supported, especially in pre-electoral periods

The specific objective is to ensure better compliance with electoral standards in the partner countries. The expected results can be defined as follows:

- i) Electoral administrations are better prepared to fulfil their tasks;
- ii) NGOs are better prepared to fulfil their role as observers and provide constructive criticism about the electoral process;
- iii) voters are better aware of their role in the functioning of democratic elections and increase their participation;
- electoral legislation and its implementation is more in line with European standards (notably, the Code of Good Practice in Electoral Matters);
- media freedom is better respected during electoral periods and the rights of all candidates with respect to access to media are better taken into consideration.

Activities in this area would include: i) review of the electoral legislation and election related legislation with central electoral commissions, parliaments, competent ministries and, if necessary, representatives of political parties, mainly through legal appraisals provided by the Venice Commission; ii) training activities for election administrators and observers organised on a needs specific basis; iii) production of training and information material in the local language(s) on elections; iv) actions with the media specific to elections/campaigns.

Activity area 2 – Enhancing judicial reform

The objective of this thematic component is to support and enhance the on-going process of reform of the judiciary, with a view to increasing the independence , efficiency, transparency, accountability and accessibility of the judicial systems of the participating beneficiary countries, through intensive information exchange and best practice sharing.

Expected results include:

- i) legal and practical obstacles to the implementation of the applicable European standards as regards judicial reform in the beneficiary countries are identified through intensive information exchange and best practice sharing. Recommendations to address these obstacles are formulated.

ii) dissemination of the Project's recommendations and best practice among the authorities and other stakeholders at the national level with a view to adjusting national judicial reform policies

The project also aims to contribute to raising awareness and knowledge in all partner countries of European quality standards and best practice, as regards working methods in courts, decision-making processes, and hearing management to enhance capacity-building of institutions involved in justice administration with a view to helping them to carry out their duties more effectively.

Activities in this area will include: i) increasing awareness and knowledge of European quality standards and best practice, in particular as regards working methods in courts and the good functioning of courts, decision-making processes, hearing management, and the working methods of bailiffs through, notably, peer to peer advice and exchange of best practice in the form of round tables and seminars led by the Council of Europe among the participating countries and other European countries, to discuss the legal and factual obstacles to the implementation of such standards in the partner countries and seek to identify possible remedies, including the development of specific tools; ii) enhancing quality standards and best practice as regards working methods in courts and the good functioning of courts through a series of multilateral round tables and seminars; iii) enhancing quality standards and best practice as regards decision-making processes and hearing management addressing the following issues: participation of the media in the process of delivery of justice; participation of the public in the process of delivery of justice; and the opportunity to introduce flexible and effective legal mechanisms to avoid delay in hearing cases.

The proposed action varies according to the level of knowledge and implementation of such standards in the partner countries concerned. It takes into consideration the availability of bilateral EU/Council of Europe Joint Programmes addressing the identified issues in selected partner countries and intends to build upon the achievements of those programmes. With regard to Belarus, the action might be narrowed to a few specific objectives, to be determined following consultations with the national authorities and in line with overall Council of Europe policy.

Activity area 3 – Strengthening capacities in the fight against cybercrime

Objective: To strengthen the capacities of criminal justice authorities of Eastern Partnership countries to co-operate effectively against cybercrime.

Expected results are: i) Eastern Partnership countries have defined strategic priorities regarding cybercrime and assessed measures taken, ii) the countries are provided with the tools for action against cybercrime and iii) the countries participate more actively in international cybercrime efforts.

The project also aims to contribute to bringing criminal laws and other relevant legislation fully in line with the Convention on Cybercrime (CETS 185), the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (CETS 189), the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS 201), the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS 108); to provide training with regard to law enforcement, judges and prosecutors, in line with the training concept adopted by the Council of Europe in November 2009; to strength public-private co-operation through advice provided on co-operation between law enforcement and Internet service providers, in line with the guidelines adopted by the Council of Europe Project on

Cybercrime in 2008 (and now also reflected in the case law of the Court); to enhance the capacity for tracking criminal proceeds – capacities to follow criminal money through the internet based on the results of the typology exercise currently carried out by MONEYVAL¹⁰ and the Council of Europe Project on Cybercrime; to provide a process of mutual assessments on progress against cybercrime by Eastern Partnership countries.

Activities in this area can include: i) Regional review of legislation against the relevant standards (CETS 185, 189, 108, 201 and 196); ii) provide advice to countries in the strengthening of legislation and follow-up to recommendations from regional reviews; iii) assessment of regional law enforcement training needs in co-operation with the European Cybercrime Training and Education Group co-ordinated by Europol (www.ecteg.eu) and, based on this, support Eastern Partnership countries in the development of a training strategy; iv) support the integration of cybercrime and electronic evidence training for judges and prosecutors, as well as law enforcement, in the curricula of judicial and law enforcement training institutions; v) review of the co-operation between law enforcement and internet service providers (ISP) in the investigation of cybercrime; vi) support the development of co-operation agreements based on the guidelines for co-operation between law enforcement agencies and internet service providers (LEA/ISP guidelines) in the investigation of cybercrime developed by the Council of Europe in 2008; vii) support multi-stakeholder agreements to prevent and to search, seize and confiscate criminal money on the Internet; ix) support regional meetings to assess progress made in terms of legislation, institutional capacities and international co-operation against cybercrime.

Activity area 4 Good governance and the fight against corruption

The objective of this thematic component is to enhance good governance and to strengthen the capacities of public administration and criminal justice sector in order to effectively prevent and fight corruption, in line with CoE conventions and other international treaties

Expected results are: i) Eastern Partnership countries have defined and are committed to applying policy and prevention measures concerning enhancement of good governance and the fight against corruption, ii) the countries are provided with the tools for effective law enforcement and implementation of legal frameworks when fighting economic crime, iii) the countries efficiently apply and implement European and international standards on good governance and the fight against corruption when addressing their specific needs.

The project also aims to contribute to strengthening corruption prevention measures within public administration; to reinforce national institutions providing policy advice, co-ordinating and monitoring anti-corruption related reforms; and to improve preventive and investigative capacities of the criminal justice system.

Possible activities in this area include carrying out regional assessments and providing advice and training in a pragmatic manner on some of the following issues: i) preventive measures related to the conflict of interests; ii) anti-corruption policies; iii) legislation addressing the following issues: prosecutorial capacities to investigate and prosecute corruption, while safeguarding human rights aspects when collecting evidence; case proceedings when acquiring evidence and information concerning white collar crimes financial data evidence; inspection and background check systems in the appointment, dismissal, transfers of judges

¹⁰ MONEYVAL – Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism.

and prosecutors; use of special investigative means, especially when used for white collar defendants/alleged corrupt public officials.

A detailed description of the thematic projects is presented in section II.

Transversal activities

Transversal activities will aim at ensuring an overall co-ordination in the implementation of the thematic components as well as at giving an appropriate visibility to the CoE and EU action under the Facility as a whole. Such activities would notably include kick-off, mid-term and wrap-up transversal Steering Committee meetings combined with media events. Other visibility actions, notably creation and updating of the Facility's website, are also envisaged.

3.3 Risks and assumptions

Political instability in various forms, such as military or other conflicts and changes of government, may slow down or stop the implementation of activities under the Facility. This is the main risk in Eastern Partnership countries, as it can bring about changes in the authorities' approaches to reforms, their willingness to extend regional co-operation and adapt their standards in the fields of human rights and democracy, in line with EU and Council of Europe norms and standards. A lack of common goals and priorities in the identification of main issues to be addressed and covered under the Facility is an additional risk, as well as an inappropriate legal framework.

Economic instability can affect stakeholders' capacities to provide sufficient resources, both quantitatively and qualitatively, to implement the activities planned and ensure their follow-up. The lack of common goals or even contradictory interest among Eastern Partnership countries can also affect the implementation of the project, especially multilateral activities.

The Council of Europe has significant experience in such circumstances, and an adequate supply of expertise and staff availability to implement the Facility. This, coupled with commitment from partner countries to participate in all related activities organised under Platform 1, together with a reasonable degree of flexibility in the implementation of the Facility, should allow for effective risk management except in extreme situations.

The membership of five Eastern Partnership countries in the Council of Europe and the growing contacts that the Council of Europe has with Belarus will allow it to build the respective projects on a wider political basis and with closer political and technical contacts, thus minimising risks.

3.4 Crosscutting Issues

All the proposed areas of co-operation are central to the European Consensus on Development. In addition, they will have a direct positive influence on gender equality, the rights of the child and the rights of minorities which will be taken into consideration, for example, in the organisation of activities on justice, elections, functioning of public administration (see the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages). The enhancement of reform processes in the Eastern partner countries will improve the overall governance and capacity building within these countries. The Facility is expected to be neutral on the environment.

3.5 Stakeholders

The overall beneficiaries of the project and main stakeholders will be: governmental bodies at all levels, notably ministries of justice and of interior, ministries responsible for public administration; parliaments; public structures with specific responsibilities in the relevant areas, such as anti-corruption and anti-money laundering bodies, central electoral commissions, ombudsmen; the judiciary, judicial professions and judiciary supervisory bodies; media professions; civil society.

4. IMPLEMENTATION ISSUES

4.1 Method of implementation

Joint management through the signature of an agreement with the Council of Europe.

A Framework Agreement between the European Commission and the Council of Europe was signed in 2004. The Commission has ensured, on the basis of prior audit conclusions as foreseen in Article 53 d) of Council Regulation (EC, Euratom) No. 1605/2002, that the management system set up by the Council of Europe offers guarantees equivalent to internationally accepted standards in their accounting, audit, internal control and procurement procedures. Consequently, a joint management agreement with the Council of Europe can be envisaged.

The Facility will be implemented in close co-operation with the Eastern Partnership Platform 1 “*Democracy, good governance and stability*” and, to a lesser extent, Platform 4 “*Contacts between people*”, and has the necessary flexibility to react to emerging priorities/activities which may result from the Platforms’ discussions.

4.2 Management structure

The Facility Steering Committee will enable all the main partners involved (i.e. the CoE, the EU and the national authorities) to be provided with updated information on progress in projects’ implementation and to assess the impact of the CoE Facility’s projects in the targeted areas.

The mission of the Facility Steering Committee is to assess and to guide the CoE Facility’s projects’ implementation: ensuring that the deliverables meet the requirements which were set for the Facility, advising on decisions on the requirements for the Facility’s projects, assessing the monitoring and audit results and supervising a communication campaign following the visibility guidelines concerning, notably, acknowledgement of EU financing.

The Facility Steering Committee will be composed of: European Union representatives from Platform 1 “*Democracy, good governance and stability*”, National Co-ordinators for the CoE Facility of each EaP country, the CoE MAE involved in the Facility’s projects and the EaP CoE Country Delegations’ representatives to Platform 1 “*Democracy, good governance and stability*”.

Three Facility Steering Committee meetings will be organised during the implementation period, with the aim of evaluating the Facility’s projects’ implementation, assessing the results achieved, reviewing and adjusting (if necessary) the worklog frame for the Facility’s projects’ implementation.

The First Facility Steering Committee (Kick-off) will be organised at the end of the Facility's inception period and will be followed by the second SCM (mid-term), approximately 12 months after the end of the inception period. The final Facility SC (wrap-up) will be held at the final stage of the Facility's implementation period.

The Facility SC meetings' agenda will be synchronised with the calendar of the project-specific Steering meeting, organised on the Panel level, where relevant.

4.3 Procurement and grant award procedures

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

4.4 Budget and calendar

The total budget for the Facility is €4 million for an indicative duration of 30 months (2011-2013) as from signature of the Contribution Agreement with the Council of Europe.

An indicative breakdown of the overall amount follows, keeping in mind the possibility of financing emerging activities:

Projects	(€)
1) Electoral standards	935 900
2) Enhancing judicial reform	923 995
3) Good governance and the fight against corruption	1 126 365
4) Co-operation against cybercrime	724 040
5) Transversal component/General management (kick-off, mid-term and wrap-up Steering Committees, Communication/Visibility, Audit and Evaluation)	229 700
Administrative levy on external financial contributions	60 000
Total	4 000 000

4.5 Performance monitoring

The actions will be monitored according to standard procedures. Project monitoring and evaluation will be based on periodic assessment of progress on delivery of specified projects results towards achievement of project objectives.

4.6 Reporting requirements

Reports should be submitted in support of payment requests, in compliance with Article 2 and 15.1 (option 2) of the General Conditions applicable to European Union contribution agreements with international organisations, which are part of this contract (annex II). The Council of Europe will present the following formal reports:

1. An inception report – to be submitted three months after the commencement date of the contract.
2. Interim reports – to be submitted twelve and twenty four months after the commencement date of the contract.
3. Final report – to be submitted within six months of the end of the implementation period.

The inception, interim and final reports will be prepared in English and will respect the format recommended by the Contracting Authority.

Where the CoE fails to present an interim progress report and a request for payment by the end of each 12-month period following the start date of implementation period, the Organisation shall inform the Contracting Authority of the reasons why it is unable to do so, and shall provide a summary of the state of progress of the Action. Subsequent full interim progress report and the request for payment shall be submitted at the earliest possible opportunity. In any event, the CoE shall inform the Contracting Authority without delay of any circumstances likely to hamper or delay the implementation of the Action.

4.7 Evaluation and audit

Expenditures incurred must be certified, as part of the obligations of the contracting parties in the framework of the implementation of this project. Evaluations and audits will be carried out only if deemed necessary and in accordance with CoE relevant policies and practices. They will be entrusted to independent evaluators and/or auditors.

4.8 Communication and visibility

The proposed Facility will follow the latest visibility guidelines concerning acknowledgement of EU financing.

Key results under the Facility will be communicated to all governmental, non-governmental and other stakeholders. All reports and publications produced in the framework of the Facility shall be widely disseminated. For this purpose, a website of the Council of Europe Facility will be created and regularly updated. All activities will adhere to the European Union requirements for visibility on EU-funded activities, as described in the published “EU Visibility Guidelines”¹¹. This shall include, but not be limited to, press releases and briefings, reports, seminars, workshops, events, publications, websites and any promotional items.

II. DETAILED DESCRIPTION OF THEMATIC PROJECTS.

¹¹ http://ec.europa.eu/europeaid/work/visibility/index_en.htm.